

Title 44 - Health

CHAPTER 53

Poisons, Drugs, and Other Controlled Substances

ARTICLE 1

General Provisions

SECTION 44-53-10.General powers of Department of Health and Environmental Control regarding controlled substances.

The Department of Health and Environmental Control shall take cognizance of the interest of the public health as it relates to the sale of drugs and the adulteration thereof and shall make all necessary inquiries and investigations relating thereto. For such purpose it may appoint inspectors, analysts and chemists who shall be subject to its supervision and removal. The Department shall adopt such measures as it may deem necessary to facilitate the enforcement of this chapter. It shall prepare rules and regulations with regard to the proper method of collecting and examining drugs.

HISTORY: 1962 Code Section 32-1451; 1952 Code Section 32-1451; 1942 Code Section 5124; 1932 Code Section 5124; Civ. C. '22 Section 3451; Civ. C. '12 Section 2390; Civ. C. '02 Section 1578; 1898 (22) 804; 1972 (57) 2687.

SECTION 44-53-20."Food" and "drug" defined.

The term "food" as used in Section 44-53-10 shall include every article used for food or drink by man, including all candies, teas, coffees and spirituous, fermented and malt liquors. The term "drug" as used in Section 44-53-10 shall include all medicines for internal or external use.

HISTORY: 1962 Code Section 32-1452; 1952 Code Section 32-1452; 1942 Code Section 5127; 1932 Code Section 5127; Civ. C. '22 Section 3454; Civ. C. '12 Section 2393; Civ. C. '02 Section 1581; 1898 (22) 804.

SECTION 44-53-30.Persons selling certain articles to furnish samples for analysis.

Every person offering or exposing for sale or delivering to a purchaser any drug or article of food or spirituous, fermented or malt liquor included under the provisions of Section 44-53-10, shall furnish to any analyst, or other officer or agent appointed hereunder who shall apply to him for the purpose and shall tender to him the value of the same, a sample sufficient for the purpose of analysis of any such drug, article of food or drink which is in his possession.

HISTORY: 1962 Code Section 32-1453; 1952 Code Section 32-1453; 1942 Code Section 5126; 1932 Code Section 5126; Civ. C. '22 Section 3453; Civ. C. '12 Section 2392; Civ. C. '02 Section 1580; 1898 (22) 804.

SECTION 44-53-40.Obtaining certain drugs, devices, preparations, or compounds by fraud or deceit.

(A) It is unlawful for a person to obtain or attempt to obtain a drug or device as defined by Section 39-23-20, or any pharmaceutical preparation, chemical, or chemical compound that is restricted in regard to its sale at retail by:

(1) fraud, deceit, misrepresentation, or subterfuge;

- (2) forgery or alteration of a prescription;
- (3) falsification in any manner of any record of sale required by law;
- (4) use of a false name or the giving of a false address;
- (5) concealment of a material fact; or
- (6) falsely assuming the title of or representing himself to be a person authorized by the laws of this State to possess such drugs, pharmaceutical preparations, chemicals, chemical compound, or devices.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than two years, or both for a first offense. Conviction for a second or subsequent offense, is a felony and the person must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

A person must not be convicted of a criminal offense under this section unless it is shown by clear and convincing evidence that the drug, pharmaceutical preparation, chemical, chemical compound, or device would not have been obtained but for the fraud, deceit, misrepresentation, subterfuge, forgery, alteration, falsification, concealment, or other prohibited act allegedly practiced by the accused.

HISTORY: 1962 Code Section 32-1453.2; 1973 (58) 768; 1976 Act No. 679, Section 1; 1993 Act No. 184, Section 73.

SECTION 44-53-50. Sale of household and commercial laundry detergent and dishwashing detergent containing phosphorus prohibited.

(A) Except as otherwise provided in this section, a person may use, sell, manufacture, or distribute for use or sale in this State no cleaning agent that contains more than zero percent phosphorus by weight expressed as elemental phosphorus except for an amount not exceeding five-tenths of one percent. For the purposes of this section, "cleaning agent" means a household or commercial laundry detergent, dishwashing compound, household cleaner, household or commercial dishwashing detergent, metal cleaner, industrial cleaner, phosphate compound, or other substance that is intended to be used for cleaning purposes.

(B) A person may use, sell, manufacture, or distribute for use or sale a cleaning agent that contains greater than zero percent phosphorus by weight but does not exceed eight and seven-tenths percent phosphorus by weight that is a substance excluded from the zero percent phosphorus limitation of this section by regulations adopted by the Department of Health and Environmental Control which are based on a finding that compliance with this section would:

- (1) create a significant hardship on the user; or
- (2) be unreasonable because of the lack of an adequate substitute cleaning agent.

(C) This section does not apply to a cleaning agent that is:

- (1) used in dairy, beverage, or food processing equipment;
- (2) used in hospitals, veterinary hospitals, clinics, or health care facilities or in agricultural or dairy production or in the manufacture of health care supplies;
- (3) used by industry for metal, fabric, or fiber cleaning or conditioning;

(4) manufactured, stored, or distributed for use or sale outside of this State;

(5) used in a laboratory, including a biological laboratory, research facility, chemical laboratory, or engineering laboratory; or

(6) used as a water softening chemical, antiscaling chemical, or corrosion inhibitor intended for use in closed systems such as boilers, air conditioners, cooling towers, or hot water heating systems.

(D) The Department of Health and Environmental Control shall promulgate regulations to administer and enforce the provisions of this section. A cleaning agent held for sale or distribution in violation of this section may be seized by appropriate administrative or law enforcement personnel. The seized cleaning agents are considered forfeited.

(E) A person who knowingly sells, manufactures, or distributes any cleaning agent in violation of the provisions of this section shall receive a written warning from the Department of Health and Environmental Control for the first violation. For a subsequent violation, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than one year. Each unlawful sale constitutes a separate violation.

(F) The provisions of this section may not restrict sale by a retailer of a household dishwashing detergent product from inventory existing and in stock at the retailer on July 1, 2012.

HISTORY: 1991 Act No. 108, Section 1; 1993 Act No. 63, Section 1; 2012 Act No. 120, Section 1, (subject to multiple effective dates, see editor's note).

Editor's Note

2012 Act No. 120, Section 2, provides as follows:

"The provisions of this act relating to household dishwashing detergent take effect July 1, 2012. The provisions of this act relating to commercial dishwashing and laundry detergent and industrial cleaners take effect on July 1, 2013. All other provisions of this act take effect July 1, 2014."

ARTICLE 3

Narcotics and Controlled Substances

SECTION 44-53-110.Definitions.

As used in this article and Sections 44-49-10, 44-49-40, and 44-49-50:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) a practitioner (or, in his presence, by his authorized agent); or

(b) the patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser, except that this term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman, when acting in the usual or lawful course of the carrier's or warehouseman's business.

(3) "Bureau" means the Bureau of Narcotics and Dangerous Drugs, United States Department of Justice, or its successor agency.

(4) "Commission" means the South Carolina Department of Alcohol and Other Drug Abuse Services.

(5) "Confidant" means a medical practitioner, a pharmacist, a pharmacologist, a psychologist, a psychiatrist, a full-time staff member of a college or university counseling bureau, a guidance counselor or a teacher in an elementary school or in a junior or senior high school, a full-time staff member of a hospital, a duly ordained and licensed member of the clergy, accredited Christian Science practitioner, or any professional or paraprofessional staff member of a drug treatment, education, rehabilitation, or referral center who has received a communication from a holder of the privilege.

(6) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270.

(7) "Controlled substance analogue" means a substance that is intended for human consumption and that either has a chemical structure substantially similar to that of a controlled substance in Schedules I, II, or III or has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to that of a controlled substance in Schedules I, II, or III. Controlled substance analogue does not include a controlled substance; any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 301 et seq.; any substance for which there is an approved new drug application; or, with respect to a particular person, any substance if an exemption is in effect for investigational use for that person under Section 505 of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 355.

(8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who, in fact, manufactured, distributed, or dispensed such substance and which, thereby, falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser.

(9) "Cocaine base" means an alkaloidal cocaine or freebase form of cocaine, which is the end product of a chemical alteration whereby the cocaine in salt form is converted to a form suitable for smoking. Cocaine base is commonly referred to as "rock" or "crack cocaine".

(10) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled drug or paraphernalia whether or not there exists an agency relationship.

(11) "Department" means the State Department of Health and Environmental Control.

(12) "Depressant or stimulant drug" means:

(a) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid, or any derivative of barbituric acid which has been designated as habit forming by the appropriate federal agency or by the department;

(b) a drug which contains any quantity of amphetamine or any of its optical isomers, any salt of amphetamine or any salt of any optical isomer of amphetamine, or any other substance which the appropriate federal agency or the department, after investigation, has found to be capable of being, and by regulation designated as, habit forming because of its stimulant effect on the central nervous system; or

(c) lysergic acid diethylamide or mescaline, or any other substance which the appropriate federal agency or the department, after investigation, has found to have, and by regulation designates as having a potential for abuse because of its stimulant or depressant effect on the central nervous system or its hallucinogenic effect.

(13) "Detoxification treatment" means the dispensing, for a period not in excess of twenty-one days, of a narcotic drug in decreasing doses to an individual in order to alleviate adverse physiological or psychological effects incident to withdrawal from the continuous or sustained use of a narcotic drug and as a method of bringing the individual to a narcotic drug-free state within this period.

(14) "Director" means the Director of the Department of Narcotics and Dangerous Drugs under the South Carolina Law Enforcement Division.

(15) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for the delivery.

(16) "Dispenser" means a practitioner who delivers a controlled substance to the ultimate user or research subject.

(17) "Distribute" means to deliver (other than by administering or dispensing) a controlled substance.

(18) "Distributor" means a person who so delivers a controlled substance.

(19) "Drug" means a substance:

(a) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man and animals;

(c) other than food intended to affect the structure or any function of the body of man and animals; and

(d) intended for use as a component of any substance specified in subitem (a), (b), or (c) of this paragraph but does not include devices or their components, parts, or accessories.

(20) "Drug problem" means a mental or physical problem caused by the use or abuse of a controlled substance.

(21) "Holder of the privilege" means a person with an existing or a potential drug problem who seeks counseling, treatment, or therapy regarding such drug problem.

(22) "Imitation controlled substance" means a noncontrolled substance which is represented to be a controlled substance and is packaged in a manner normally used for the distribution or delivery of an illegal controlled substance.

(23) "Immediate precursor" means a substance which the appropriate federal agency or the department has found to be and by regulation has designated as being, or can be proven by expert testimony as being, the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, or is a reagent, solvent, or catalyst used in the manufacture of controlled substances, the control of which is necessary to prevent, curtail, or limit such manufacture.

(24) "Maintenance treatment" means the dispensing, for a period in excess of twenty-one days, of a narcotic drug in the treatment of an individual for dependence upon heroin or other morphine-like drugs.

(25) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

(a) by a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) by a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(26) "Manufacturer" means any person who packages, repackages, or labels any container of any controlled substance, except practitioners who dispense or compound prescription orders for delivery to the ultimate consumer.

(27)(a) "Marijuana" means:

(i) all species or variety of the marijuana plant and all parts thereof whether growing or not;

(ii) the seeds of the marijuana plant;

(iii) the resin extracted from any part of the marijuana plant; or

(iv) every compound, manufacture, salt, derivative, mixture, or preparation of the marijuana plant, marijuana seeds, or marijuana resin.

(b) "Marijuana" does not mean:

(i) the mature stalks of the marijuana plant or fibers produced from these stalks;

(ii) oil or cake made from the seeds of the marijuana plant, including cannabidiol derived from the seeds of the marijuana plant;

(iii) any other compound, manufacture, salt, derivatives, mixture, or preparation of the mature stalks (except the resin extracted therefrom), including cannabidiol derived from mature stalks;

(iv) the sterilized seed of the marijuana plant which is incapable of germination;

(v) for persons participating in a clinical trial or in an expanded access program related to administering cannabidiol for the treatment of severe forms of epilepsy pursuant to Article 18, Chapter 53, Title 44, a drug or substance approved for the use of those participants by the federal Food and Drug Administration; or

(vi) for persons, or the persons' parents, legal guardians, or other caretakers, who have received a written certification from a physician licensed in this State that the person has been diagnosed by a physician as having Lennox-Gastaut Syndrome, Dravet Syndrome, also known as "severe myoclonic epilepsy of infancy", or any other severe form of epilepsy that is not adequately treated by traditional medical therapies, the substance cannabidiol, a nonpsychoactive cannabinoid, or any compound, manufacture, salt, derivative, mixture, or preparation of any plant of the genus cannabis that contains nine-tenths of one percent or less of tetrahydrocannabinol and more than fifteen percent of cannabidiol.

(c) For purposes of this item, written certification means a document dated and signed by a physician stating that the patient has been diagnosed with Lennox-Gastaut Syndrome, Dravet Syndrome, also known as "severe myoclonic epilepsy of infancy", or any other severe form of epilepsy that is not adequately treated by traditional medical therapies and the physician's conclusion that the patient might benefit from the medical use of cannabidiol.

(d) A physician is not subject to detrimental action, including arrest, prosecution, penalty, denial of a right or privilege, civil penalty, or disciplinary action by a professional licensing board for providing written certification for the medical use of cannabidiol to a patient in accordance with this section.

(28) "Methamphetamine" includes any salt, isomer, or salt of an isomer, or any mixture or compound containing amphetamine or methamphetamine. Methamphetamine is commonly referred to as "crank", "ice", or "crystal meth".

(29) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) opium, coca leaves, and opiates;

(b) a compound, manufacture, salt, derivative or preparation of opium, coca leaves, or opiates;

(c) a substance (and any compound, manufacture, salt, derivative, or preparation thereof) which is chemically identical with any of the substances referred to in subitem (a) or (b). This term does not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine.

(30) "Noncontrolled substance" means any substance of chemical or natural origin which is not included in the schedules of controlled substances set forth in this article or included in the federal schedules of controlled substances set forth in Title 21, Section 812 of the United States Code or in Title 21, Part 1308 of the Code of Federal Regulations.

(31) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under this article, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include racemic and levorotatory forms.

(32) "Opium poppy" means the plant of the species *Papaver somniferum* L., except the seed thereof.

(33) "Paraphernalia" means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, manufacturing, or preparing a controlled substance and does not include cigarette papers and tobacco pipes but includes, but is not limited to:

(a) metal, wooden, acrylic, glass, stone, plastic, or ceramic marijuana or hashish pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) water pipes designed for use or intended for use with marijuana, hashish, hashish oil, or cocaine;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips;

(f) separation gins designed for use or intended for use in cleaning marijuana;

(g) cocaine spoons and vials;

(h) chamber pipes;

(i) carburetor pipes;

(j) electric pipes;

(k) air-driven pipes;

(l) chilams;

(m) bongs;

(n) ice pipes or chillers.

(34) "Peyote" means all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or extracts.

(35) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(36) "Practitioner" means:

(a) a physician, dentist, veterinarian, podiatrist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this State;

(b) a pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this State.

(37) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(38) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administration to an animal owned by him or a member of his household.

HISTORY: 1962 Code Section 32-1510.27; 1971 (57) 800; 1972 (57) 2621; 1973 (58) 289; 1974 (58) 2284, 2855; 1975 (59) 104; 1976 Act No. 672, Section 1; 1980 Act No. 361, Section 1; 1982 Act No. 400, Section 1; 1982 Act No. 427, Section 1; 1987 Act No. 128 Section 2; 1990 Act No. 604, Section 5; 2000 Act No. 355, Section 2; 2005 Act No. 127, Section 2, eff June 7, 2005; 2014 Act No. 221 (S.1035), Section 1, eff June 2, 2014.

SECTION 44-53-120.Duties of State Law Enforcement Division.

The State Law Enforcement Division shall:

(1) Cooperate with Federal and other State agencies in discharging its responsibilities concerning traffic in narcotics and controlled substances and in suppressing the abuse of dangerous substances;

(2) Coordinate and cooperate in training programs on controlled substances law enforcement at the local and State levels;

(3) Cooperate with the Federal Bureau of Narcotics and Dangerous Drugs by establishing a centralized unit within the South Carolina Law Enforcement Division which shall accept, catalogue, file and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the State, and make such information available for Federal, State, and local law-enforcement purposes; and collect and furnish statistics for other appropriate purposes;

(4) Coordinate and cooperate in programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(5) promulgate regulations to provide uniform procedures for the seizure, inventory, reporting, auditing, handling, testing, storage, preservation for evidentiary use, and destruction or other lawful disposition of controlled substances.

HISTORY: 1962 Code Section 32-1510.23; 1971 (57) 800; 1992 Act No. 387, Section 1.

SECTION 44-53-130.Coordination of law enforcement.

The State Law Enforcement Division shall formulate a plan to coordinate the controlled substance enforcement effort from the local to the State level.

HISTORY: 1962 Code Section 32-1510.24; 1971 (57) 800.

SECTION 44-53-140.Certain communications and observations privileged.

Whenever a holder of the privilege shall seek counselling, treatment, or therapy for any drug problem from a confidant, no statement made by such holder and no observation or conclusion derived from such confidant shall be admissible against such holder in any proceeding. The results of any examination to determine the existence of illegal or prohibited drugs in a holder's body shall not be admissible in any proceeding against such holder.

The privilege belongs to the holder and if he waives the right to claim the privilege the communication between the holder of the privilege and the confidant shall be admissible in evidence in any proceeding.

There is no privilege if the services of a confidant are sought to enable the holder of the privilege to commit or plan to commit a crime or a tort.

HISTORY: 1962 Code Section 32-1510.25; 1971 (57) 800; 1973 (58) 289.

SECTION 44-53-160.Manner in which changes in schedule of controlled substances made.

(A)(1) Annually, within thirty days after the convening of each regular session of the General Assembly, the department shall recommend to the General Assembly any additions, deletions, or revisions in the schedules of controlled substances enumerated in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 which the department deems necessary. Except as otherwise provided in this section, the department shall not make any additions, deletions, or revisions in the schedules until after notice and an opportunity for a hearing is afforded to all interested parties. In making a recommendation to the General Assembly regarding a substance, the department shall consider the following:

- (a) the actual or relative potential for abuse;
- (b) the scientific evidence of the substance's pharmacological effect, if known;
- (c) the state of current scientific knowledge regarding the substance;
- (d) the history and current pattern of abuse;
- (e) the scope, duration, and significance of abuse;
- (f) the risk to public health;
- (g) the potential of the substance to produce psychic or physiological dependence liability;
- (h) whether the substance is an immediate precursor of a substance already controlled pursuant to this chapter; and
- (i) whether the substance has an accepted or recognized medical use.

(2) After considering the factors listed in subsection (A)(1), the department shall make a recommendation to the General Assembly specifying to what schedule the substance should be added, deleted, or rescheduled, if the department finds that the substance has a potential for abuse.

(B) Except as otherwise provided in this section, during the time the General Assembly is not in session, the department may add, delete, or reschedule a substance as a controlled substance after providing notice and a hearing to all interested parties. The addition, deletion, or rescheduling of a substance pursuant to this subsection has the full force of law unless overturned by the General Assembly. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Medical, Military, Public and Municipal Affairs Committee, and the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(C) If a substance is added, deleted, or rescheduled as a controlled substance pursuant to federal law or regulation, the department shall, at the first regular or special meeting of the South Carolina Board of Health and Environmental Control within thirty days after publication in the federal register of the final order designating the substance as a controlled substance or rescheduling or deleting the substance, add, delete, or reschedule the substance in the appropriate schedule. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection has the full force of law unless overturned by the General Assembly. The addition, deletion, or rescheduling of a substance by the department pursuant to this subsection must be in substance identical with the order published in the federal register effecting the change in federal status of the substance. Upon the addition, deletion, or rescheduling of a substance, the department shall forward copies of the change to the Chairmen of the Medical Affairs Committee and the Judiciary Committee of the Senate, the Chairman of the Medical, Military, Public and Municipal Affairs Committee, the Chairman of the Judiciary Committee of the House of Representatives, the Clerks of the Senate and House, and the Code Commissioner, and shall post the schedules on the department's website indicating the change and specifying the effective date of the change.

(D) The department shall exclude any nonnarcotic substance from a schedule if the substance may, under the federal Food, Drug, and Cosmetic Act and the laws of this State, be lawfully sold over the counter without a prescription.

(E) The department's addition, deletion, or rescheduling of a substance as a controlled substance is governed by this section and is not subject to the promulgation requirements of Chapter 23, Title 1.

HISTORY: 1962 Code Section 32-1510.28; 1971 (57) 800; 1974 (58) 2228; 2010 Act No. 273, Section 36, eff June 2, 2010; 2012 Act No. 140, Section 1, eff April 2, 2012; 2018 Act No. 166 (H.3822), Section 1, eff May 3, 2018; 2018 Act No. 216 (H.4487), Section 1, eff May 18, 2018.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments to (B) and (C) made by 2018 Act No. 166 and 2018 Act No. 216 were read together.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

Effect of Amendment

2018 Act No. 166, Section 1, in (B), in the third sentence, substituted "the Clerks of the Senate and House, and the Code Commissioner," for "and to the Clerks of the Senate and House, "; and in (C), in the fourth sentence, substituted "the Clerks of the Senate and House, and the Code Commissioner," for "and to the Clerks of the Senate and House, ".

2018 Act No. 216, Section 1, in (C), in the fourth sentence, inserted "Chairman of the" in two places and made a nonsubstantive change; and in (E), substituted "Chapter 23, Title 1" for "Title 1, Chapter 23".

SECTION 44-53-170.Nomenclature of controlled substances in schedules.

The controlled substances listed, or to be listed, in the schedules in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250 and 44-53-270 are included by whatever official, chemical or trade name designated as well as the common or usual name designated.

HISTORY: 1962 Code Section 32-1510.29; 1971 (57) 800.

SECTION 44-53-180.Tests for inclusion of substance in Schedule I.

The Department shall place a substance in Schedule I if it finds that the substance has:

- (a) A high potential for abuse;
- (b) No accepted medical use in treatment in the United States; and
- (c) A lack of accepted safety for use in treatment under medical supervision.

HISTORY: 1962 Code Section 32-1510.30; 1971 (57) 800.

SECTION 44-53-190.Schedule I.

(A) The controlled substances listed in this section are included in Schedule I.

(B) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetylmethadol
2. Allylprodine
3. Alphacetylmethadol
4. Alphameprodine
5. Alphamethadol
6. Benzethidine
7. Betacetylmethadol
8. Betameprodine
9. Betamethadol
10. Betaprodine
11. Clonitazene
12. Dextromoramide
13. [Deleted]
14. Diampromide
15. Diethylthiambutene
16. Dimenoxadol
17. Dimepheptanol
18. Dimethylthiambutene
19. Dioxaphetyl butyrate
20. Dipipanone
21. Ethylmethylthiambutene

22. Etonitazene
23. Etoxadine
24. Furethidine
25. Hydroxypethidine
26. Ketobemidone
27. Levomoramide
28. Levophenacymorphan
29. Morpheridine
30. Noracymethadol
31. Norlevorphanol
32. Normethadone
33. Norpipanone
34. Phenadoxone
35. Phenampromide
36. Phenomorphan
37. Phenoperidine
38. Piritramide
39. Proheptazine
40. Properidine
41. Racemoramide
42. Trimeperidine
43. Propiram
44. Difenoxin
45. Alfentanyl
46. Tilidine

47. Alphamethylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl-4-(N-pro-panilido) piperidine).

48. Fentanyl-related substances. Unless specifically excepted, listed in another schedule, or contained within a pharmaceutical product approved by the United States Food and Drug Administration, any material, compound, mixture, or preparation, including its salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers, that is structurally related to fentanyl by one or more of the following modifications:

(a) replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;

(b) substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;

(c) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;

(d) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; or

(e) replacement of the N propionyl group by another acyl group or hydrogen.

This definition includes, but is not limited to, the following substances: Methylacetyl fentanyl, Alpha methylfentanyl, Methylthiofentanyl, Benzylfentanyl, Beta hydroxyfentanyl, Beta hydroxy 3 methylfentanyl, 3 Methylfentanyl, Methylthiofentanyl, Fluorofentanyl, Thenylfentanyl or Thienyl fentanyl, Thiofentanyl, Acetyl fentanyl, Butyryl fentanyl, Beta Hydroxythiofentanyl, Lofentanil, Ocfentanil, Ohmfentanyl, Benzodioxolefentanyl, Furanyl fentanyl, Pentanoyl fentanyl, Cyclopentyl fentanyl, Isobutyryl fentanyl, Remifentanil, Crotonyl fentanyl, Cyclopropyl fentanyl, Valeryl fentanyl, Fluorobutyryl fentanyl, Fluoroisobutyryl fentanyl, Methoxybutyryl fentanyl, Isobutyryl fentanyl, Chloroisobutyryl fentanyl, Acryl fentanyl, Tetrahydrofuran fentanyl, Methoxyacetyl fentanyl, Fluorocrotonyl fentanyl, Cyclopentenyl fentanyl, Phenyl fentanyl, Cyclobutyl fentanyl, Methylcyclopropyl fentanyl.

(C) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Acetorphine
2. Acetyldihydrocodeine
3. Benzylmorphine
4. Codeine methylbromide
5. Codeine-N-Oxide
6. Cyprenorphine
7. Desomorphine

8. Dihydromorphine
9. Etorphine
10. Heroin
11. Hydromorphenol
12. Methylidesorphine
13. Methylhydromorphine
14. Morphine methylbromide
15. Morphine methylsulfonate
16. Morphine-N-Oxide
17. Myrophine
18. Nicocodeine
19. Nicomorphine
20. Normorphine
21. Pholcodine
22. Thebacon
23. Drotebanol

(D) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 3,4-methylenedioxy amphetamine
2. 5-methoxy-3,4-methylenedioxy amphetamine
3. 3,4-methylenedioxymethamphetamine (MDMA)
4. 3,4,5-trimethoxy amphetamine
5. Bufotenine
6. Diethyltryptamine (DET)
7. Dimethyltryptamine (DMT)

8. 4-methyl-2,5-dimethoxyamphetamine (STP)

9. Ibogaine

10. Lysergic acid diethylamide (LSD)

11. Marijuana

12. Mescaline

13. Peyote

14. N-ethyl-3-piperidyl benzilate

15. N-methyl-3-piperidyl benzilate

16. Psilocybin

17. Psilocyn

18. Tetrahydrocannabinol (THC)

19. 2,5-dimethoxyamphetamine

20. 4-bromo-2,5-dimethoxyamphetamine

21. 4-Methoxyamphetamine

22. Thiophene analog of phencyclidine

23. Parahexyl

24. Synthetic cannabinoids.-Any material, compound, mixture, or preparation that is not listed as a controlled substance in Schedule I through V, is not an FDA-approved drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues, and salts of isomers and homologues, unless specifically excepted, whenever the existence of these salts, isomers, homologues, and salts of isomers and homologues is possible within the specific chemical designation:

a. Naphthoylindoles. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-2201, WIN 55-212, AM-2201 (C1 analog), AM-1220.

b. Naphthylmethylindoles. Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent.

c. Naphthoylpyrroles. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Including, but not limited to, JWH-307, JWH-370, JWH-176.

d. Naphthylmethylindenenes. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent.

e. Phenylacetylindoles. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to, SR-18, RCS-8, JWH-203, JWH-250, JWH-251.

f. Cyclohexylphenols. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent. Including, but not limited to, CP 47,497 (and homologues), cannabicyclohexanol, CP-55, 940.

g. Benzoylindoles. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, AM-630, AM-1241, AM-2233.

h. 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de]-1, 4-benzoxazin-6-yl]-1-naphthalenylmethanone (WIN 55,212-2).

i. 9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol 7370 (HU-210, HU-211).

j. Adamantoylindoles. Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent.

(E) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers if possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone; or

(3) Gamma Hydroxybutyric Acid.

(F) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) Fenethylamine;
- (2) N-ethylamphetamine;
- (3) Cathinone; or
- (4) Substituted Cathinones.

Any compound (not being bupropion) structurally derived from 2-amino-1-phenyl-1-propanone by modification in any of the following ways:

- (a) by substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
- (b) by substitution at the 3-position with an alkyl substituent;
- (c) by substitution at the nitrogen atom with alkyl or dialkyl groups, benzyl or methoxybenzyl groups; or
- (d) by inclusion of the nitrogen atom in a cyclic structure.

Including, but not limited to: Mephedrone, Mephedrone, 3,4-Methylenedioxypyrovalerone (MDPV), Butylone, Methedrone, 4-Methylethcathinone, Flephedrone, Pentylone, Pentedrone, Buphedrone.

HISTORY: 1962 Code Section 32-1510.31; 1971 (57) 800; 1974 (58) 2228; 1976 Act No. 672 Sections 2-4; 1978 Act No. 452 Section 1; 1981 Act No. 72, Section 1; 1982 Act No. 423 Sections 1, 2; 1985 Act No. 59 Sections 1-3; 2000 Act No. 355, Section 3; 2002 Act No. 267, Section 1, eff May 20, 2002; 2012 Act No. 140, Section 2, eff April 2, 2012; 2023 Act No. 72 (H.3503), Section 1, eff June 15, 2023.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

Effect of Amendment

2023 Act No. 72, Section 1, in (B), added (48).

SECTION 44-53-200.Tests for inclusion of substance in Schedule II.

The Department shall place a substance in Schedule II if it finds that:

- (a) It has a high potential for abuse;

(b) It has a currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(c) Abuse may lead to severe psychic or physical dependence.

HISTORY: 1962 Code Section 32-1510.32; 1971 (57) 800.

SECTION 44-53-210.Schedule II.

(a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding Apomorphine, Nalbuphine, Naloxone, and Naltrexone, and their respective salts;

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Alphaprodine

2. Anileridine

3. Bezitramide

4. Dihydrocodeine

5. Diphenoxylate

6. Fentanyl

7. Isomethadone

8. Levomethorphan

9. Levorphanol

10. Metazocine

11. Methadone
12. Methadone - Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane
13. Moramide - Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid
14. Pentazocine (to be administered by injection only)
15. Pethidine (meperidine).
16. Pethidine - Intermediate-A, 4-cyano-1-methyl-4-phenyl-piperidine
17. Pethidine - Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate
18. Pethidine - Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid
19. Phenazocine
20. Piminodine
21. Racemethorphan
22. Racemorphan
23. Dextropropoxyphene [α -(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane], in bulk form.
24. Sufentanil

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

1. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
2. Methamphetamine, its salts, and salts of isomers.
3. Phenmetrazine and its salts.
4. Methylphenidate.

(e) [Deleted]

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

1. Amobarbital
2. Secobarbital

3. Pentobarbital

4. Phencyclidine

5. Phencyclidine immediate precursors:

(a) 1-phenylcyclohexylamine

(b) 1-piperidinocyclohexanecarbonitrile (PCC).

(g) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone, also known as phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

HISTORY: 1962 Code Section 32-1510.33; 1971 (57) 800; 1973 (58) 349; 1974 (58) 2228, 2284; 1976 Act No. 672 Section 5; 1978 Act No. 452 Section 2; 1979 Act No. 118 Section 1; 1980 Act No. 388, Section 1; 1981 Act No. 72, Section 2; 1982 Act No. 423, Section 3; 1985 Act No. 59 Sections 4, 5; 1994 Act No. 456, Section 1.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-220.Tests for inclusion of substance in Schedule III.

The Department shall place a substance in Schedule III if it finds that:

(a) It has a potential for abuse less than the substances listed in Schedules I and II;

(b) It has a currently accepted medical use in treatment in the United States; and

(c) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

HISTORY: 1962 Code Section 32-1510.34; 1971 (57) 800.

SECTION 44-53-230.Schedule III.

(a) The controlled substances listed in this section are included in Schedule III.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

1. Benzphetamine

2. Chlorphentermine

3. Clortermine

4. (Deleted)

5. Phendimetrazine

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

1. any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active ingredients which are not listed in any schedule;

2. any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the United States Food and Drug Administration for marketing only as a suppository;

3. any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

4. Chlorhexadol;

5. Gamma Hydroxybutyric Acid, and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug and Cosmetic Act;

6. Glutehimide;

7. Lysergic Acid;

8. Lysergic Acid Amide;

9. Methypylon;

10. Sulfondiethylmethane;

11. Sulfonethylmethane;

12. Sulfonmethane;

13. Xylazine.

(d) Nalorphene

(e) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

3. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

7. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

8. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

HISTORY: 1962 Code Section 32-1510.35; 1971 (57) 800; 1974 (58) 2228, 2284; 1975 (59) 104; 1979 Act No. 118, Section 2; 1982 Act No. 423, Section 4; 2000 Act No. 355, Section 4; 2024 Act No. 177 (H.4617), Section 1, eff May 20, 2024.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

Effect of Amendment

2024 Act No. 177, Section 1, in (c), added 13.

SECTION 44-53-240.Tests for inclusion of substance in Schedule IV.

The Department shall place a substance in Schedule IV if it finds that:

(a) It has a low potential for abuse relative to the substances in Schedule III;

(b) It has a currently accepted medical use in treatment in the United States; and

(c) Abuse of the substance may lead to limited physical or psychological dependence relative to substances in Schedule III.

HISTORY: 1962 Code Section 32-1510.36; 1971 (57) 800.

SECTION 44-53-250.Schedule IV.

The controlled substances in this section are included in Schedule IV.

(a) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers (whether position, geometric, or optical), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam

(2) Barbital

(3) Bromazepam

(4) Camazepam

(5) Chloral Betaine

(6) Chloral Hydrate

(7) Chlordiazepoxide

(8) Clobazam

(9) Clonazepam

(10) Clorazepate

(11) Clotiazepam

(12) Cloxazolam

(13) Delorazepam

(14) Diazepam

(15) Estazolam

(16) Ethchlorvynol

(17) Ethinamate

(18) Ethyl Loflazepate

(19) Fludiazepam

(20) Flunitrazepam

- (21) Flurazepam
- (22) Halazepam
- (23) Haloxazolam
- (24) Ketazolam
- (25) Loprazolam
- (26) Lorazepam
- (27) Lormetazepam
- (28) Mebutamate
- (29) Medazepam
- (30) Meprobamate
- (31) Methohexital
- (32) Methylphenobarbital
- (33) Nimetazepam
- (34) Nitrazepam
- (35) Nordiazepam
- (36) Oxazepam
- (37) Oxazolam
- (38) Paraldehyde
- (39) Petrichloral
- (40) Phenobarbital
- (41) Pinazepam
- (42) Prazepam
- (43) Temazepam
- (44) Tetrazepam

(45) Triazolam.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether position, geometric, or optical), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion

(2) Mazindol

(3) Phentermine

(4) Pemoline, including organometallic complexes and chelates thereof

(5) Pipradol

(6) SPA [(-)-1-Dimethylamino-1, 2-diphenylethane].

(c) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts, isomers (whether position, geometric, or optical) and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts;

(1) [Blank]

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(2) Dosage forms of Dextropropoxyphene [Alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane].

(f) Pentazocine hydrochloride and acetaminophen, pentazocine hydrochloride and aspirin, and pentazocine and naloxone hydrochloride (all for oral administration only).

(g) Butorphanol

HISTORY: 1962 Code Section 32-1510.37; 1971 (57) 800; 1974 (58) 2228; 1976 Act No. 672 Section 6; 1978 Act No. 452 Sections 3, 4; 1979 Act No. 118 Section 3; 1981 Act No. 72, Section 3; 1982 Act No. 423 Section 5; 1985 Act No. 59 Sections 6, 7; 1994 Act No. 456, Section 2; 2000 Act No. 355, Section 9.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-260.Tests for inclusion of substance in Schedule V.

The Department shall place a substance in Schedule V if it finds that:

- (a) It has a low potential for abuse relative to the substances listed in Schedule IV;
- (b) It has a currently accepted medical use in treatment in the United States; and
- (c) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances listed in Schedule IV.

HISTORY: 1962 Code Section 32-1510.38; 1971 (57) 800.

SECTION 44-53-270.Schedule V.

- (a) The controlled substances listed in this section are included in Schedule V.
- (b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which shall include one or more non-narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:
 - (1) Not more than 200 milligrams of codeine per 100 milliliter or per 100 grams;
 - (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;
 - (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;
 - (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;
 - (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - (6) Not more than one-half milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

HISTORY: 1962 Code Section 32-1510.39; 1971 (57) 800; 1978 Act No. 452 Section 5; 1979 Act No. 118 Section 4; 1985 Act No. 59 Section 8.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of

controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-280.Promulgation of rules and regulations; requirement of professional license; expiration of registration; failure to renew registration; reinstatement; fees and penalties.

(A) The department may promulgate regulations and may charge reasonable fees relating to the license and control of the manufacture, distribution, and dispensing of controlled substances.

(B) No person engaged in a profession or occupation for which a license is required by law may be registered under this article unless the person holds a valid license of that profession or occupation.

(C) A class 20-28 registration, as provided for by the board in regulation, expires October first of each year. The registration of a registrant who fails to renew by October first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(D) All registrations other than class 20-28, as provided for by the board in regulation, expire on April first of each year. The registration of a registrant who fails to renew by April first is canceled. However, registration may be reinstated upon payment of the renewal fees due and a penalty of one hundred dollars if the registrant is otherwise in good standing and presents a satisfactory explanation for failure to renew.

(E) Refusal by the department to reinstate a canceled registration after payment of the renewal fee and penalty and presentation of an explanation constitutes a refusal to renew and the procedures under Section 44-53-320 apply.

(F) For class 20-28 registrants, initial registrations issued before July first expire October first of that same year, and initial registrations issued on or after July first expire October first of the following year. For classes other than class 20-28, initial registrations issued before January first expire April first of the following year, and initial registrations issued on or after January first expire April first of the following year.

HISTORY: 1962 Code Section 32-1510.40; 1971 (57) 800; 1974 (58) 2228; 1977 Act No. 73, Section 1; 1981 Act No. 79, Section 1; 1994 Act No. 457, Section 1; 2018 Act No. 216 (H.4487), Section 2, eff May 18, 2018.

Effect of Amendment

2018 Act No. 216, Section 2, rewrote (C) and (D), eliminating registration renewal grace periods.

SECTION 44-53-290.Requirement of and authority granted by registration; individuals exempt from registration; registration for maintenance and detoxification treatment.

(a) Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance, shall obtain a registration issued by the Department in accordance with its rules and regulations.

(b) Persons registered by the Department under this article to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this article.

(c) The following persons need not register and may lawfully possess controlled substances under this article:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he is acting in the usual course of his business or employment;

(2) A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a Schedule V substance.

(d) The Department may, by regulation, waive the requirement for registration of certain manufacturers, distributors or dispensers if it finds it consistent with the public health and safety.

(e) A separate registration shall be required at each principal place of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(f) The Department is authorized to inspect the establishment of a registrant or an applicant for a registration in accordance with the rules and regulations promulgated by it.

(g) The Department may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(h) The Department may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from State prosecution for possession and distribution of controlled substances to the extent of the authorization.

(i) Practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment shall obtain annually a separate registration for that purpose. The board shall register an applicant to dispense but not prescribe narcotic drugs to individuals for maintenance treatment or detoxification treatment, or both:

(1) if the applicant is a practitioner who is otherwise qualified to be registered under the provisions of this article to engage in the treatment with respect to which registration has been sought;

(2) if the board determines that the applicant will comply with standards established by the board respecting security of stocks of narcotic drugs for such treatment, and the maintenance of records in accordance with Section 44-53-340 and the rules issued by the board on such drugs; and

(3) if the board determines that the applicant will comply with standards established by the board respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

(j) Pursuant to the procedures set forth in Section 44-53-300, the department may issue a registration to a licensed nurse practitioner, certified nurse-midwife, or clinical nurse specialist authorized to prescribe controlled substances by the State Board of Nursing for South Carolina, consistent with such prescription authorization. The department also may issue a registration, pursuant to the procedures set forth in Section 44-53-300, to a licensed physician assistant authorized to prescribe controlled substances by the State Board of Medical Examiners, consistent with such prescription authorization. A nurse practitioner, certified nurse-midwife, clinical nurse specialist, or physician assistant registered by the department pursuant to this subsection may not acquire, possess, or dispense, other than by prescription, a controlled substance except as provided by law.

HISTORY: 1962 Code Section 32-1510.41; 1971 (57) 800; 1975 (59) 104; 1993 Act No. 124, Section 3; 2018 Act No. 216 (H.4487), Section 3, eff May 18, 2018.

Effect of Amendment

2018 Act No. 216, Section 3, in (i), substituted "board" for "Board" throughout, in (3), deleted "after consultation with the South Carolina Methadone Council" following "established by the board", and made a nonsubstantive change; and rewrote (j).

SECTION 44-53-300.Granting of registration.

(a) The Department shall register an applicant to manufacture, distribute, or dispense controlled substances included in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250 and 44-53-270 if it determines that the issuance of such registration is consistent with the public interest. In determining the public interest, the following factors shall be considered:

- (1) Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
- (2) Compliance with applicable state or federal law;
- (3) Promotion and technical advances in the art of manufacturing these substances and the development of new substances;
- (4) Prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution or dispensing of such substances;
- (5) Past experience in the manufacture, distribution, and dispensing of controlled substances and the existence in the establishment of effective controls against diversion;
- (6) Such other factors as may be relevant to and consistent with the public health and safety; and
- (7) Licensing by a federal agency.

(b) A registration granted under subsection (a) of this section shall not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

(c) Within the discretion of the Department, practitioners may be registered to dispense one or more controlled substances in Schedules II through V if they are authorized to dispense drugs under the law of this State. Such practitioners, properly registered with the Department to dispense controlled substances, may also conduct research with non-narcotic controlled substances in Schedules II through V without additional registration as a researcher, provided that prior to engaging in such research, the practitioner shall notify the Department in writing of the scope of such research and the name of the controlled substances to be utilized. Practitioners desiring to conduct research with Schedule I controlled substances or with narcotic controlled substances in Schedules II through V shall first obtain a separate researcher registration from the Department.

(d) The Department shall permit persons to apply for registration within sixty days after June 17, 1971 who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substances prior to June 17, 1971 and who are registered by the State.

(e) Compliance by manufacturers and distributors with the provisions of the Federal law respecting registration (excluding fees) entitles them to be registered under this article.

HISTORY: 1962 Code Section 32-1510.42; 1971 (57) 800; 1981 Act No. 79, Sections 2, 3.

SECTION 44-53-310. Grounds for denial, revocation, or suspension of registration; civil fine.

(a) An application for a registration or a registration granted pursuant to Section 44-53-300 to manufacture, distribute, or dispense a controlled substance, may be denied, suspended, or revoked by the Board upon a finding that the registrant:

(1) Has materially falsified any application filed pursuant to this article;

(2) Has been convicted of a felony or misdemeanor under any State or Federal law relating to any controlled substance;

(3) Has had his Federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) Has failed to comply with any standard referred to in Section 44-53-290(i).

(b) The department may place a registrant who violates this article on probation or levy a civil fine of not more than two thousand five hundred dollars, or both. Fines generated pursuant to this section must be remitted to the State Treasurer for deposit to the benefit of the Department of Mental Health to be used exclusively for the treatment and rehabilitation of drug addicts within the department's addiction center facilities.

(c) The Department may suspend, deny, or revoke the registration of any registrant or applicant for the conviction of any felony or misdemeanor involving moral turpitude.

(d) The Department may suspend, deny, or revoke the registration of any registrant or applicant for violation of any of the rules and regulations issued by the Department relating to controlled substances.

(e) The Department may suspend, deny, or revoke the registration of any registrant or applicant if it finds that the security provided for the storage of controlled substances is inadequate to the extent that repeated diversions by theft have occurred.

(f) The Department may suspend, deny, or revoke the registration of any registrant or applicant upon a finding by the Department that the registrant or applicant has violated any statutory provision of this article.

HISTORY: 1962 Code Section 32-1510.43; 1971 (57) 800; 1974 (58) 2228; 1975 (59) 104; 1981 Act No. 79, Sections 4, 5; 1994 Act No. 497, Part II, Section 36L.

SECTION 44-53-320. Procedure for denial, revocation, or suspension of registration; administrative consent order.

(a) Order to show cause.-Before denying, suspending or revoking a registration, or refusing a renewal of registration, the Department shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the Department at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted without regard to any criminal prosecution or other proceeding. Proceedings

to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

(b) The Department, without an order to show cause, may suspend any registration simultaneously with the institution of proceedings under Section 44-53-310, or where renewal of registration is refused if it finds that there is an imminent danger to the public health or safety which warrants this action. A failure to comply with a standard referred to in Section 44-53-290(i) may be treated under this subsection as grounds for immediate suspension of a registration granted under such section. The suspension shall continue in effect until withdrawn by the Board or dissolved by a court of competent jurisdiction.

(c) In the event the Department suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the suspension or revocation is withdrawn by the Department or dissolved by a court of competent jurisdiction, unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all such controlled substances shall be forfeited to the State.

(d) After proper hearing of either a formal or informal nature, the Department, upon its own motion or otherwise, may tender to any respondent in an action brought under subsection (a) of this section, an offer of an administrative consent order if it is found that such administrative consent order properly serves the interests of justice. Such order may contain total or partial revocation of a portion or all of the registration to be affected; assessment of a civil fine and a probationary registration period as provided in Section 44-53-310; terms of any probationary registration; and any other terms affecting such registration as may be agreed upon and consented to by the parties to the order. Such order shall become effective on the date signed by the administrative hearing officer designated by the department unless another date is specified within the order. Violation of such order by the respondent thereto at any time subsequent to the effective date of the order and prior to the expiration of the order or the probationary registration period set forth therein shall cause the registration affected by such order to be revoked, after notice of such revocation is mailed to the respondent at his last known address.

HISTORY: 1962 Code Section 32-1510.44; 1971 (57) 800; 1975 (59) 104; 1978 Act No. 546 Section 1.

SECTION 44-53-330.Copy of judgment sent to licensing board upon conviction.

Upon the conviction of any person of the violation of any provision of this article, a certified copy of the judgment of conviction shall be sent by the clerk of the court to the licensing board by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. Upon final order of the Department suspending, denying, modifying, or revoking the controlled substances registration of any registrant or applicant under this article, or upon the execution and approval of an administrative consent order provided for by Section 44-53-320, the Department shall forward a copy thereof to the licensing board by whom the affected registrant or applicant has been licensed or registered to practice his profession or carry on his business, if such licensing board be in existence.

HISTORY: 1962 Code Section 32-1510.45; 1971 (57) 800; 1981 Act No. 79, Section 6.

SECTION 44-53-340.Records and inventories of registrants.

Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of Federal law and with any additional rules the Department issues.

HISTORY: 1962 Code Section 32-1510.46; 1971 (57) 800.

SECTION 44-53-350.Order forms for distribution of controlled substances.

(a) Controlled substances in Schedules I and II shall be distributed by a registrant to another registrant only pursuant to an order form prescribed by the Department. Compliance with the provisions of Federal law respecting order forms shall be deemed compliance with this section.

(b) Nothing contained in subsection (a) shall apply:

(1) To the administering or dispensing of such substances to a patient by a practitioner in the course of his professional practice, however, such practitioner shall comply with the requirements of Section 44-53-340;

(2) To the distribution or dispensing of such substances by a pharmacist to an ultimate user pursuant to a written prescription issued by a practitioner authorized to issue such prescription, however, such pharmacist shall comply with the requirements of Section 44-53-340.

HISTORY: 1962 Code Section 32-1510.47; 1971 (57) 800.

SECTION 44-53-360.Prescriptions.

(a) Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, or in emergency situations as prescribed by the department by regulation, no controlled substance included in Schedule II may be dispensed without the written or electronic prescription of a practitioner. Prescriptions shall be retained in conformity with the requirements of Section 44-53-340. No prescription for a controlled substance in Schedule II may be refilled.

(b) A pharmacist may dispense a controlled substance included in Schedule III, IV, or V pursuant to either a written or electronic prescription signed by a practitioner, or a facsimile of a written, signed prescription, transmitted by the practitioner or the practitioner's agent to the pharmacy, or pursuant to an oral prescription, reduced promptly to writing and filed by the pharmacist. A prescription transmitted by facsimile must be received at the pharmacy as it was originally transmitted by facsimile and must include the name and address of the practitioner, the phone number for verbal confirmation, the time and date of transmission, and the name of the pharmacy intended to receive the transmission, as well as any other information required by federal or state law. Such prescription, when authorized, may not be refilled more than five times or later than six months after the date of the prescription unless renewed by the practitioner.

(c) No controlled substances included in any schedule may be distributed or dispensed for other than a medical purpose. No practitioner may dispense a Schedule II narcotic controlled substance for the purpose of maintaining the addiction of a narcotic dependent person outside of a facility or program approved by the Department of Health and Environmental Control. No practitioner may dispense a controlled substance outside of a bona fide practitioner-patient relationship.

(d) Unless specifically indicated in writing on the face of the prescription or noted in the electronic prescription that it is to be refilled, and the number of times specifically indicated, no prescription may be refilled. The indication of "PRN" or "ad lib" or phrases, abbreviations, or symbols of like meaning shall not be construed as to exceed five refills or six months, whichever shall first occur. Preprinted refill instructions on the face of a prescription shall be disregarded by the dispenser unless an affirmative marking or other indication is made by the prescriber.

(e) Prescriptions for controlled substances in Schedule II with the exception of transdermal patches and surgically implanted drug delivery systems, must not exceed a thirty-one-day supply. Prescriptions for Schedule II substances must be dispensed within ninety days of the date of issue, after which time they are void. Prescriptions for controlled substances in Schedules III through V, inclusive, must not exceed a ninety-day supply.

(f) Preprinted prescriptions for controlled substances in any schedule are prohibited.

(g) The Board shall, by rules and regulations, specify the manner by which prescriptions are filed.

(h) A prescription, in order to be effective in legalizing the possession of a controlled substance and eliminating the need for registration of the recipient, must be issued for legitimate medical purposes. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding liability rests with the pharmacist who fills and ultimately dispenses the prescription. An order purporting to be a prescription issued to a drug dependent person, not in the course of generally accepted medical treatment, but for the purpose of providing the user with controlled substances sufficient to maintain his dependence upon the substance, or to provide him with quantities of controlled substances in great excess of normal dosage ranges as recommended by the manufacturer of the substance, is not a prescription within the meaning and intent of this article; and the person filling or dispensing such an order, as well as the person issuing it, shall be deemed in violation of this section.

(i) Excepting a mail order prescription dispensed in compliance with Chapter 43 of Title 40 for which the dispenser requires proper identification of the recipient, a prescription for a controlled substance in Schedules II through V may not be filled unless the dispenser knows the recipient or requires the recipient to produce a government issued photo identification, and the dispenser notes the identification source and number on the prescription, or in a readily retrievable log including:

(1) prescription number;

(2) date prescription filled;

(3) number and type of identification;

(4) initials of person obtaining and recording information.

(j)(1) Initial opioid prescriptions for acute pain management or postoperative pain management must not exceed a seven-day supply, except when clinically indicated for cancer pain, chronic pain, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication-assisted treatment for substance use disorder. Upon any subsequent consultation for the same pain, the practitioner may issue any appropriate renewal, refill, or new opioid prescription.

(2) This subsection does not apply to opioid prescriptions issued by a practitioner who orders an opioid prescription to be wholly administered in a hospital, nursing home, hospice facility, or residential care facility.

(3) A practitioner who acts in accordance with the limitation on prescriptions as set forth in this subsection is immune from any civil liability or disciplinary action from the practitioner's professional licensing board.

(4) As used in this subsection:

(A) "Acute pain" means pain that a practitioner reasonably expects to last for three months or less, whether resulting from disease, accident, intentional trauma, or other cause. The term does not include "chronic pain" or pain being treated as part of cancer care, chronic care, hospice care, palliative care, major trauma, major surgery, treatment of sickle cell disease, treatment of neonatal abstinence syndrome, or medication-assisted treatment for substance use disorder.

(B) "Chronic pain" means pain that typically lasts for longer than three months or that lasts beyond the time of normal tissue healing.

(C) "Postoperative pain" means acute pain experienced immediately after a surgical procedure.

(D) "Surgical procedure" means a procedure performed for the purpose of altering the human body by incision or destruction of tissues as part of the practice of medicine such as diagnostic or therapeutic treatment of conditions or disease processes by use of instruments and includes lasers, ultrasound, ionizing, radiation, scalpels, probes, or needles that cause localized alteration or transportation of live human tissue by cutting, burning, vaporizing, freezing, suturing, probing, or manipulating by closed reduction for major dislocations and fractures, or otherwise altering by any mechanical, thermal, light-based, electromagnetic, or chemical means.

(k)(1) Unless otherwise exempted by this subsection, a practitioner shall electronically prescribe any controlled substance included in Schedules II, III, IV, and V. This subsection does not apply to prescriptions for a controlled substance included in Schedules II through V issued by any of the following:

(A) a practitioner, other than a pharmacist, who dispenses directly to the ultimate user;

(B) a practitioner who orders a controlled substance included in Schedules II through V to be administered in a hospital, nursing home, hospice care program, home infusion pharmacy, outpatient dialysis facility, or residential care facility;

(C) a practitioner who experiences temporary technological or electrical failure or other extenuating technical circumstances that prevent a prescription from being transmitted electronically; however, the practitioner must document the reason for this exception in the patient's medical record;

(D) a practitioner who writes a prescription for a controlled substance included in Schedules II through V to be dispensed by a pharmacy located on federal property; however, the practitioner must document the reason for this exception in the patient's medical record;

(E) a person licensed to practice veterinary medicine pursuant to Chapter 69, Title 40;

(F) a practitioner who writes a prescription for a controlled substance included in Schedules II through V for a patient who is being discharged from a hospital, emergency department, or urgent care or for a patient who is receiving services from a facility established pursuant to Section 44-11-10; or

(G) a practitioner who issues an oral authorization in the case of an emergency situation.

(2) A prescription for a controlled substance included in Schedules II, III, IV, and V that includes elements that are not supported by the most recently implemented version of the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard is exempt from this subsection.

(3) A dispenser is not required to verify that a practitioner properly falls under one of the exceptions specified in item (1) or (2) before dispensing a controlled substance included in Schedules II through V. A dispenser may continue to dispense a controlled substance included in Schedules II through V from valid written, oral, faxed, or electronic prescriptions that are otherwise consistent with applicable laws.

(4) A dispenser is immune from any civil or criminal liability or disciplinary action from the State Board of Pharmacy for dispensing a prescription written by a prescriber that is in violation of this subsection.

(l)(1) A written prescription for any Schedule II, III, IV, and V controlled substance must be written on tamper-resistant prescription pads which contain one or more industry-recognized features designed to prevent all of the following:

(A) unauthorized copying of a completed or blank prescription form;

(B) erasure or modification of information written on the prescription by the prescriber; and

(C) use of counterfeit prescription forms.

(2) Prescription orders transmitted by facsimile, orally, or electronically are exempt from the tamper-resistant prescription pad requirements of this section.

(3) The tamper-resistant prescription pad requirements do not apply to refill prescriptions of an original written prescription that was presented to a pharmacy before the effective date of this act.

(4) The exceptions set forth in Section 1927(k)(3) of the Social Security Act, 42 U.S.C. Section 1396r-8(k)(3), concerning nursing facilities, hospitals, and other institutional and clinical settings, are exempt from the tamper-resistant prescription pad requirements of this section.

(5) If a written prescription is not submitted on a tamper-resistant prescription form meeting the requirements of this section, a pharmacy may fill the prescription in full as written on an emergency basis as long as the pharmacy receives a verbal, facsimile, electronic, or compliant written prescription from the prescriber within seventy-two hours after the date on which the prescription was filled.

HISTORY: 1962 Code Section 32-1510.48; 1971 (57) 800; 1974 (58) 2228; 1975 (59) 104; 1981 Act No. 79, Section 7; 2000 Act No. 355, Section 10; 2002 Act No. 365, Sections 2, 3, eff September 26, 2002; 2006 Act No. 396, Section 2, eff June 14, 2006; 2007 Act No. 71, Sections 1 to 3, eff June 13, 2007; 2018 Act No. 201 (S.918), Section 1, eff May 15, 2018; 2018 Act No. 243 (H.3826), Section 1, eff July 16, 2018; 2019 Act No. 65 (H.3728), Sections 5, 6, eff January 1, 2021; 2020 Act No. 160 (H.4938), Section 1, eff January 1, 2021; 2021 Act No. 23 (H.3179), Section 1, eff April 26, 2021.

Editor's Note

2019 Act No. 65, preamble, provides as follows:

"Whereas, the South Carolina General Assembly is committed to combatting the opioid epidemic occurring within this State; and

"Whereas, the South Carolina General Assembly has enacted and is working to enact legislation aimed at stemming the misuse of opioids in South Carolina; and

"Whereas, collecting information related to opioid use and misuse helps those working to better understand the complexities of substance abuse disorders and enables those working with patients suffering from this disease to develop strategies for treatment, education, and care; and

"Whereas, the purpose of this legislation is to provide data to health care professionals treating patients who have been diagnosed with an opioid overdose and received an antidote in response to that overdose; and

"Whereas, the South Carolina General Assembly intends for the information collected pursuant to this law to be used by health care professionals to assist patients in getting appropriate treatment including, but not limited to, treatment for substance abuse disorder; and

"Whereas, the General Assembly intends further that the information collected pursuant to this law should not be used as the sole determining factor in a decision regarding whether to treat or refuse to treat a patient suffering from an opioid misuse. Now, therefore, [text of act]."

Effect of Amendment

2018 Act No. 201, Section 1, added (j), establishing limitations for initial opioid prescriptions.

2018 Act No. 243, Section 1, added (k), requiring written prescriptions for controlled substances to be written on tamper-resistant prescription pads, with exceptions.

2019 Act No. 65, Section 5, in (a), in the first sentence, substituted "department" for "Department" and inserted "or electronic" following "written"; in (b), in the first sentence, inserted "or electronic" following "written"; and in (d), in the first sentence, inserted "or noted in the electronic prescription".

2019 Act No. 65, Section 6, in (j), added (5), providing for the use of electronic prescriptions.

2020 Act No. 160, Section 1, in (j), redesignated (5) as (k) and rewrote (k), and redesignated former (k) as (l).

2021 Act No. 23, Section 1, in (e), in the first sentence, substituted "and surgically implanted drug delivery systems, must not exceed a thirty-one-day supply" for ", must not exceed a thirty-one day supply".

SECTION 44-53-361.Prescriptions for opioid antidotes.

(A) A prescriber shall:

(1) offer a prescription or provide consistent with the existing standard of care and the FDA for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to a patient if one or more of the following conditions are present:

(a) the prescription or offer consistent with the existing standard of care and the FDA dosage for the patient is fifty or more morphine milligram equivalents of an opioid medication per day;

(b) an opioid medication is prescribed or offered consistent with the existing standard of care and the FDA concurrently with a prescription for benzodiazepine; or

(c) the patient presents with an increased risk for overdose, including a patient with a history of overdose, a patient with a history of substance use disorder, or a patient at risk for returning to a high dose of opioid medication to which the patient is no longer tolerant;

(2) consistent with the existing standard of care, provide education to patients receiving a prescription pursuant to item (1) on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression; and

(3) consistent with the existing standard of care, provide education on overdose prevention and the use of naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid depression to one or more persons designated by the patient or, for a patient who is a minor, to the patient's parent or guardian.

This subsection does not apply in the following circumstances:

(a) patients who are receiving care for cancer or a cancer-related condition, patients in hospice, patients receiving palliative care; or

(b) any other patients who, in the prescriber's good faith medical judgment, would not benefit from a prescription for naloxone hydrochloride or another drug approved by the United States Food and Drug Administration for the complete or partial reversal of opioid-related respiratory and/or central nervous system depression.

(B) A prescriber who fails to offer a prescription, as required by subsection (A)(1), or fails to provide the education and use information required by subsections (A)(2) and (3) may be subject to discipline by the appropriate licensing board. This section does not create a private right of action against a prescriber and does not limit a prescriber's liability for negligent failure to diagnose or treat a patient.

(C) A prescriber is not subject to professional disciplinary actions including, but not limited to, disciplinary actions initiated by any board or licensing agency arising from the prescriber's compliance with the provisions of this section.

HISTORY: 2021 Act No. 22 (S.571), Section 1, eff July 25, 2021; 2023 Act No. 78 (S.407), Section 1, eff June 19, 2023.

Effect of Amendment

2023 Act No. 78, Section 1, rewrote (A) and added (C).

SECTION 44-53-362.Controlled substance take-back events and mail-back programs; collectors.

(A) A controlled substance manufacturer, distributor, or reverse distributor; a narcotic treatment program; a hospital or clinic with an onsite pharmacy; or a retail pharmacy operating in the State may apply to be registered as a collector by the federal Drug Enforcement Administration, pursuant to 21 C.F.R. 1317.40, to receive Schedule II, III, IV, and V controlled substances from an ultimate user, or a person entitled to dispose of an ultimate user decedent's property, as part of law enforcement take-back events or collector mail-back programs. A collector must comply with any state and federal requirements to ensure the safe disposal of controlled substances and to prevent diversion of collected controlled substances, including as provided in 21 C.F.R. Part 1317.

(B) The Department of Health and Environmental Control shall develop guidance for pharmacies and other entities qualified to register as a collector to encourage participation. The department shall coordinate with law enforcement, health care providers, and the U.S. Drug Enforcement Administration to encourage registration as a collector and to promote public awareness of controlled substance take-back events and mail-back programs.

HISTORY: 2017 Act No. 76 (H.3817), Section 1, eff May 19, 2017.

SECTION 44-53-363.Prerequisites to issuing opioid analgesics to minors.

(A) Except as provided in subsection (C), before issuing, for a minor, the first prescription in a single course of treatment for an opioid analgesic, regardless of whether the dosage is modified during that course of treatment, a prescriber shall:

(1) as part of the prescriber's examination of the minor, assess whether the minor has ever suffered from or is currently suffering from a mental health or substance abuse disorder and whether the minor has taken or is currently taking prescription drugs for treatment of a mental health or substance abuse disorder;

(2) discuss with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment all of the following:

(a) the risks of addiction and overdose associated with opioid analgesics;

(b) the increased risk of addiction to controlled substances of individuals suffering from both mental health and substance abuse disorders;

(c) the dangers of taking opioid analgesics with benzodiazepines, alcohol, or other central nervous system depressants;

(d) any other information in the patient counseling information section of the labeling for the opioid analgesic required pursuant to 21 C.F.R. 201.57(c)(18); and

(3) obtain written consent for the prescription from the minor's parent, guardian, or, subject to subsection (E), another adult authorized to consent to the minor's medical treatment.

(B) The prescriber shall record the consent required pursuant to subsection (A)(3) on a "Start Talking!" consent form developed by the State Board of Medical Examiners. The form must be separate from any other document the prescriber uses to obtain informed consent for other treatment provided to the minor and must contain:

(1) the name and quantity of the opioid analgesic being prescribed and the amount of the initial dose;

(2) a statement indicating that a controlled substance is a drug or other substance that the United States Drug Enforcement Administration has identified as having a potential for abuse;

(3) a statement certifying that the prescriber discussed with the minor and the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment the matters described in subsection (A)(2);

(4) the number of refills, if any, authorized by the prescription; and

(5) the signature of the minor's parent, guardian, or another adult authorized to consent to the minor's medical treatment and the date of signing.

(C)(1) The requirements set forth in subsection (A) do not apply if the minor's treatment with an opioid analgesic:

(a) is associated with or incident to a medical emergency;

(b) is associated with or incident to surgery, regardless of whether the surgery is performed on an inpatient or outpatient basis;

(c) is associated with pain management treatment for palliative care, cancer care, or hematological disorders including, but not limited to, sickle cell disease;

(d) is associated with the treatment of neonatal abstinence syndrome;

(e) in the prescriber's professional judgment, fulfilling the requirements of subsection (A) would be a detriment to the minor's health or safety;

(f) except as provided in subsection (D), the treatment is rendered in a hospital, emergency facility, ambulatory surgical facility, nursing home, pediatric respite care program, residential care facility, freestanding rehabilitation facility, or similar institutional facility;

(g) is ordered by a practitioner issuing a prescription for a Schedule II controlled substance to treat a hospice-certified patient;

(h) is ordered by a practitioner issuing a prescription for a Schedule II controlled substance that does not exceed a five-day supply for a patient; or

(i) is ordered by a practitioner prescribing a Schedule II controlled substance for a patient with whom the practitioner has an established relationship for the treatment of a chronic condition; however, the practitioner must review the patient's controlled substance history maintained in the prescription drug monitoring program at least every three months.

(2) The requirements of subsection (A) do not apply to a prescription for an opioid analgesic that a prescriber issues to a minor at the time of discharge from a facility or other location described in item (1)(f).

(D) The exemption provided pursuant to subsection (C)(1)(f) does not apply to treatment rendered in a prescriber's office that is located on the premises of or adjacent to a facility or other location described in that subsection.

(E) If the individual who signs the consent form required pursuant to subsection (A)(3) is another adult authorized to consent to the minor's medical treatment, the prescriber shall prescribe not more than a single, seventy-two hour supply and indicate on the prescription the quantity that is to be dispensed pursuant to the prescription.

(F) A signed "Start Talking!" consent form obtained pursuant to this section must be maintained in the minor's medical record.

(G)(1) As used in this section:

(a) "Another adult authorized to consent to the minor's medical treatment" means an adult to whom a minor's parent or guardian has given written authorization to consent to the minor's medical treatment.

(b) "Medical emergency" means a situation that in a prescriber's good faith medical judgment creates an immediate threat of serious risk to the life or physical health of a minor.

(c) "Minor" means an individual under eighteen years of age who is not emancipated.

(2) For purposes of this section, an individual under eighteen years of age is emancipated only if the individual has married, has entered the armed services of the United States, has become employed and self-sustaining, or otherwise has become independent from the care and control of the individual's parent, guardian, or custodian.

HISTORY: 2018 Act No. 242 (H.3819), Section 1, eff November 17, 2018.

SECTION 44-53-365.Theft of controlled substance; penalty.

(A) It is unlawful for a person to take or exercise control over a controlled substance, the immediate precursor of a controlled substance, or ephedrine, pseudoephedrine, or phenylpropanolamine belonging to another person or entity with the intent to deprive the person or entity of the controlled substance, the immediate precursor, or ephedrine, pseudoephedrine, or phenylpropanolamine.

(B) A person who knowingly and intentionally violates subsection (A):

(1) for a first offense, is guilty of a felony and, upon conviction, must be imprisoned for not more than five years or fined not more than five thousand dollars, or both; and

(2) for a second or subsequent violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years or fined not more than ten thousand dollars, or both.

HISTORY: 2002 Act No. 365, Section 1, eff September 26, 2002; 2005 Act No. 127, Section 3, eff June 7, 2005.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-370. Prohibited acts A; penalties.

(a) Except as authorized by this article it shall be unlawful for any person:

(1) to manufacture, distribute, dispense, deliver, purchase, aid, abet, attempt, or conspire to manufacture, distribute, dispense, deliver, or purchase, or possess with the intent to manufacture, distribute, dispense, deliver, or purchase a controlled substance or a controlled substance analogue;

(2) to create, distribute, dispense, deliver, or purchase, or aid, abet, attempt, or conspire to create, distribute, dispense, deliver, or purchase, or possess with intent to distribute, dispense, deliver, or purchase a counterfeit substance.

(b) A person who violates subsection (a) with respect to:

(1) a controlled substance classified in Schedule I (B) and (C) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both. For a second offense, the offender must be imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both. For a third or subsequent offense, the offender must be imprisoned not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(2) any other controlled substance classified in Schedule I, II, or III, flunitrazepam or a controlled substance analogue, is guilty of a felony and, upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not less than five years nor more than twenty years, or fined not more than twenty thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other

provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(3) a substance classified in Schedule IV except for flunitrazepam is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than three years or fined not more than three thousand dollars, or both. In the case of second or subsequent offenses, the person is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than six thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted;

(4) a substance classified in Schedule V is guilty of a misdemeanor and, upon conviction, for a first offense must be imprisoned not more than one year or fined not more than one thousand dollars, or both. In the case of second or subsequent offenses, the sentence must be twice the first offense. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first offense or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsections (c) and (d), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

(c) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice, or except as otherwise authorized by this article.

(d) A person who violates subsection (c) with respect to:

(1) a controlled substance classified in Schedule I (B) and (C) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(2) any other controlled substance classified in Schedules I through V is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not more than one thousand dollars, or both. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not more than two thousand dollars, or both, except as provided in subsection (d)(4). Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the

sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(3) cocaine is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense, the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(4) more than two grains of fentanyl or fentanyl-related substance is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years or fined not more than ten thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item for a first or second offense may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits;

(5) possession of more than: one gram of cocaine, one hundred milligrams of alpha- or beta-eucaine, four grains of opium, four grains of morphine, two grains of heroin, two grains of fentanyl or a fentanyl-related substance as described in Section 44-53-190 or 44-53-210, one hundred milligrams of isonipocaine, twenty-eight grams or one ounce of marijuana, ten grams of hashish, fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4-methylenedioxymethamphetamine (MDMA), or twenty milliliters or milligrams of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid, is prima facie guilty of violation of subsection (a) of this section. A person who violates this subsection with respect to twenty-eight grams or one ounce or less of marijuana or ten grams or less of hashish is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days or fined not less than one hundred dollars nor more than two hundred dollars. Conditional discharge may be granted in accordance with the provisions of Section 44-53-450 upon approval by the circuit solicitor to the magistrate or municipal judge. As a part of a sentence, a magistrate or municipal judge may require attendance at an approved drug abuse program. Persons charged with the offense of possession of marijuana or hashish under this item may be permitted to enter the pretrial intervention program under the provisions of Sections 17-22-10 through 17-22-160. For a second or subsequent offense, the offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than two hundred dollars nor more than one thousand dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this item may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

When a person is charged under this subsection for possession of controlled substances, bail shall not exceed the amount of the fine and the assessment provided pursuant to Section 14-1-206, 14-1-207, or 14-1-208, whichever is applicable. A person charged under this item for a first offense for possession of controlled substances may forfeit bail by nonappearance. Upon forfeiture in general sessions court, the fine portion of the bail must be distributed as provided in Section 14-1-205. The assessment portion of the bail must be distributed as provided in Section 14-1-206, 14-1-207, or 14-1-208, whichever is applicable.

(e) Any person who knowingly sells, manufactures, cultivates, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, cultivate, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of:

(1) ten pounds or more of marijuana is guilty of a felony which is known as "trafficking in marijuana" and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten pounds or more, but less than one hundred pounds:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
2. for a second offense, a term of imprisonment of not less than five years nor more than twenty years, no part of which may be suspended nor probation granted, and a fine of fifteen thousand dollars;
3. for a third or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred pounds or more, but less than two thousand pounds, or one hundred to one thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) two thousand pounds or more, but less than ten thousand pounds, or more than one thousand marijuana plants, but less than ten thousand marijuana plants regardless of weight, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) ten thousand pounds or more, or ten thousand marijuana plants, or more than ten thousand marijuana plants regardless of weight, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(2) ten grams or more of cocaine or any mixtures containing cocaine, as provided in Section 44-53-210(b)(4), is guilty of a felony which is known as "trafficking in cocaine" and, upon conviction, must be punished as follows if the quantity involved is:

(a) ten grams or more, but less than twenty-eight grams:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;
2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty-eight grams or more, but less than one hundred grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(3) four grams or more of any morphine, opium, salt, isomer, or salt of an isomer thereof, including heroin, as described in Section 44-53-190 or 44-53-210, or four grams or more of any mixture containing any of these substances, is guilty of a felony which is known as "trafficking in illegal drugs" and, upon conviction, must be punished as follows if the quantity involved is:

(a) four grams or more, but less than fourteen grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(b) fourteen grams or more but less than twenty-eight grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(c) twenty-eight grams or more, a mandatory term of imprisonment of not less than twenty-five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(4) fifteen grams or more of methaqualone is guilty of a felony which is known as "trafficking in methaqualone" and, upon conviction, must be punished as follows if the quantity involved is:

(a) fifteen grams but less than one hundred fifty grams:

1. for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

2. for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred fifty grams but less than fifteen hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) fifteen hundred grams but less than fifteen kilograms, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) fifteen kilograms or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(5) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of lysergic acid diethylamide (LSD) is guilty of a felony which is known as "trafficking in LSD" and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;
2. for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended or probation granted, and a fine of forty thousand dollars;
3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
2. for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;
3. for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(6) one gram or more of flunitrazepam is guilty of a felony which is known as "trafficking in flunitrazepam" and, upon conviction, must be punished as follows if the quantity involved is:

(a) one gram but less than one hundred grams:

1. for a first offense a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;
2. for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) one hundred grams but less than one thousand grams, a mandatory term of imprisonment of twenty years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(c) one thousand grams but less than five kilograms, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) five kilograms or more, a term of imprisonment of not less than twenty-five years, nor more than thirty years, with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(7) fifty milliliters or milligrams or more of gamma hydroxybutyric acid or a controlled substance analogue of gamma hydroxybutyric acid is guilty of a felony which is known as "trafficking in gamma hydroxybutyric acid" and, upon conviction, must be punished as follows:

(a) for a first offense, a term of imprisonment of not less than one year nor more than ten years, no part of which may be suspended nor probation granted, and a fine of ten thousand dollars;

(b) for a second or subsequent offense, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars.

A person convicted and sentenced under this subsection to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release, as provided in Section 24-13-610, or supervised furlough, as provided in Section 24-13-710. Notwithstanding Section 44-53-420, a person convicted of conspiracy pursuant to this subsection must be sentenced as provided in this section with a full sentence or punishment and not one-half of the sentence or punishment prescribed for the offense.

The weight of any controlled substance in this subsection includes the substance in pure form or any compound or mixture of the substance.

The offense of possession with intent to distribute described in Section 44-53-370(a) is a lesser included offense to the offenses of trafficking based upon possession described in this subsection.

(8) one hundred tablets, capsules, dosage units, or the equivalent quantity, or more of 3, 4-methalenedioxymethamphetamine (MDMA) is guilty of a felony which is known as "trafficking in MDMA or ecstasy" and, upon conviction, must be punished as follows if the quantity involved is:

(a) one hundred dosage units or the equivalent quantity, or more, but less than five hundred dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of forty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) five hundred dosage units or the equivalent quantity, or more, but less than one thousand dosage units or the equivalent quantity:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one thousand dosage units or the equivalent quantity, or more, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(9) four grams or more of any fentanyl or fentanyl-related substance, as described in Section 44-53-190 or 44-53-210, or four grams or more of any mixture containing fentanyl or any fentanyl-related substance, is guilty of a felony which is known as "trafficking in fentanyl" and, upon conviction, must be punished as follows if the quantity involved is:

(a) four grams or more, but less than fourteen grams:

1. for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

2. for a second or subsequent offense, a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(b) fourteen grams or more but less than twenty-eight grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars;

(c) twenty-eight grams or more, a mandatory term of imprisonment of not less than twenty-five years nor more than forty years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(f) It shall be unlawful for a person to administer, distribute, dispense, deliver, or aid, abet, attempt, or conspire to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit one of the following crimes against that individual:

(1) kidnapping, Section 16-3-910;

(2) trafficking in persons, Section 16-3-2020;

(3) criminal sexual conduct in the first, second, or third degree, Sections 16-3-652, 16-3-653, and 16-3-654;

(4) criminal sexual conduct with a minor in the first, second, or third degree, Section 16-3-655;

(5) criminal sexual conduct where victim is legal spouse (separated), Section 16-3-658;

(6) spousal sexual battery, Section 16-3-615;

(7) engaging a child for a sexual performance, Section 16-3-810;

(8) petit larceny, Section 16-13-30 (A); or

(9) grand larceny, Section 16-13-30 (B).

(g) A person who violates subsection (f) with respect to:

(1) a controlled substance classified in Schedule I (B) or (C) which is a narcotic drug or lysergic acid diethylamide (LSD), or in Schedule II which is a narcotic drug is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than fifteen years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted;

(2) any other controlled substance or gamma hydroxybutyrate is guilty of a felony and, upon conviction, must be:

(a) for a first offense, imprisoned not more than fifteen years or fined not more than twenty-five thousand dollars, or both;

(b) for a second offense, or if in the case of a first conviction of a violation of any provision of this subsection, the offender previously has been convicted of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not more than twenty years or fined not more than thirty thousand dollars, or both;

(c) for a third or subsequent offense, or if the offender previously has been convicted two or more times in the aggregate of a violation of the laws of the United States or of any state, territory, or district relating to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drugs, imprisoned not less than five years nor more than twenty-five years, or fined not more than forty thousand dollars, or both.

Except in the case of conviction for a first offense, the sentence in this item must not be suspended and probation must not be granted.

HISTORY: 1962 Code Section 32-1510.49; 1971 (57) 800, 2056; 1974 (58) 2284; 1979 Act No. 118 Section 5; 1981 Act No. 33 Sections 1, 2; 1984 Act No. 482, Section 1; 1988 Act No. 565, Section 1; 1990 Act No. 604, Sections 6, 7; 1993 Act No. 58, Section 1; 1993 Act No. 184, Sections 236-238; 1994 Act No. 497, Part II, Sections 36M, 36N; 1995 Act No. 7, Part I, Section 17; 1998 Act No. 372, Sections 1, 2, 5; 2000 Act No. 355, Sections 5 to 8; 2002 Act No. 267, Sections 2, 3, eff May 20, 2002; 2005 Act No. 127, Section 4, eff June 7, 2005; 2010 Act No. 273, Section 37, eff June 2, 2010; 2010 Act No. 289, Section 12, eff June 11, 2010; 2012 Act No. 255, Section 12, eff June 18, 2012; 2015 Act No. 7 (S.196), Section 6.G, eff April 2, 2015; 2016 Act No. 154 (H.3545), Section 8, eff April 21, 2016; 2023 Act No. 72 (H.3503), Sections 2, 3, eff June 15, 2023.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Schedule I (b) and (c)" were changed to "Schedule I (B) and (C)" to reflect the amendment of Section 44-53-190 by 2012 Act No. 140, Section 2.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

Effect of Amendment

2023 Act No. 72, Section 2, in (d), inserted (4), redesignated former (4) as (5), and in (5), in the first sentence, inserted "two grains of fentanyl or a fentanyl-related substance as described in Section 44-53-190 or 44-53-210,".

2023 Act No. 72, Section 3, in (e), added (9).

SECTION 44-53-372. Prohibited acts relating to xylazine; penalties.

(A)(1) It is unlawful for any person to knowingly or intentionally produce, manufacture, distribute, or possess with intent to produce, manufacture, or distribute xylazine for a use other than a nonhuman use.

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than fifteen thousand dollars, or both.

(B)(1) It is unlawful for any person to knowingly or intentionally possess xylazine.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one hundred eighty days or fined not more than five hundred dollars, or both.

(C) The provisions of this section do not apply to any of the following:

(1) the production, manufacturing, distribution, or possession of xylazine for use in legitimate veterinary practice;

(2) the production, manufacturing, distribution, or possession of a xylazine bulk chemical for pharmaceutical compounding by a licensed pharmacist or veterinarian for use in a nonhuman species;

(3) the possession of xylazine pursuant to a valid prescription from a licensed veterinarian for use in a nonhuman species; or

(4) the possession of xylazine in an injectable form for use in a nonhuman species.

(D) For purposes of this section, "xylazine" means xylazine and any salt, sulfate, isomer, homologue, analogue, or other preparation of xylazine, and any salt, isomer, compound, derivative, precursor, homologue, analogue, or other preparation thereof that is substantially chemically equivalent or identical to xylazine.

HISTORY: 2024 Act No. 177 (H.4617), Section 2, eff May 20, 2024.

SECTION 44-53-373.Authorized users of xylazine.

Nothing in this article applies to veterinarians in connection with the practice of their profession and the legitimate use of xylazine within the veterinary practice, including:

- (A) the distribution or possession of xylazine by a licensed veterinarian for use in legitimate veterinary practice;
- (B) the possession of xylazine pursuant to a valid prescription from a licensed veterinarian; or
- (C) the possession of xylazine in an injectable form for use in nonhuman species.

HISTORY: 2024 Act No. 177 (H.4617), Section 3, eff May 20, 2024.

SECTION 44-53-375.Possession, manufacture, and trafficking of methamphetamine and cocaine base and other controlled substances; penalties.

(A) A person possessing less than one gram of methamphetamine or cocaine base, as defined in Section 44-53-110, is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both. For a first offense the court, upon approval of the solicitor, may require as part of a sentence, that the offender enter and successfully complete a drug treatment and rehabilitation program. For a second offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than seven thousand five hundred dollars, or both. For a third or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twelve thousand five hundred dollars, or both. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits.

(B) A person who manufactures, distributes, dispenses, delivers, purchases, or otherwise aids, abets, attempts, or conspires to manufacture, distribute, dispense, deliver, or purchase, or possesses with intent to distribute, dispense, or deliver methamphetamine or cocaine base, in violation of the provisions of Section 44-53-370, is guilty of a felony and, upon conviction:

(1) for a first offense, must be sentenced to a term of imprisonment of not more than fifteen years or fined not more than twenty-five thousand dollars, or both;

(2) for a second offense, the offender must be imprisoned for not less than five years nor more than thirty years, or fined not more than fifty thousand dollars, or both;

(3) for a third or subsequent offense, the offender must be imprisoned for not less than ten years nor more than thirty years, or fined not more than fifty thousand dollars, or both.

Possession of one or more grams of methamphetamine or cocaine base is prima facie evidence of a violation of this subsection. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a first offense or second offense may have the sentence suspended and probation granted, and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. Notwithstanding any other provision of law, a person convicted and sentenced pursuant to this subsection for a third or subsequent offense in which all prior offenses were for possession of a controlled substance pursuant to subsection (A), may have the sentence suspended and probation granted and is eligible for parole, supervised furlough, community supervision, work release, work credits, education credits, and good conduct credits. In all other cases, the sentence must not be suspended nor probation granted.

(C) A person who knowingly sells, manufactures, delivers, purchases, or brings into this State, or who provides financial assistance or otherwise aids, abets, attempts, or conspires to sell, manufacture, deliver, purchase, or bring into this State, or who is knowingly in actual or constructive possession or who knowingly attempts to become in actual or constructive possession of ten grams or more of methamphetamine or cocaine base, as defined and otherwise limited in Section 44-53-110, 44-53-210(d)(1), or 44-53-210(d)(2), is guilty of a felony which is known as "trafficking in methamphetamine or cocaine base" and, upon conviction, must be punished as follows if the quantity involved is:

(1) ten grams or more, but less than twenty-eight grams:

(a) for a first offense, a term of imprisonment of not less than three years nor more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(b) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(2) twenty-eight grams or more, but less than one hundred grams:

(a) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(3) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(4) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(5) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(D) Possession of equipment or paraphernalia used in the manufacture of cocaine, cocaine base, or methamphetamine is prima facie evidence of intent to manufacture.

(E)(1) It is unlawful for any person, other than a manufacturer, practitioner, dispenser, distributor, or retailer to knowingly possess any product that contains nine grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances. A person who violates this subsection is guilty of a felony known as "trafficking in ephedrine, pseudoephedrine, or

phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of these substances" and, upon conviction, must be punished as follows if the quantity involved is:

(a) nine grams or more, but less than twenty-eight grams:

(i) for a first offense, a term of imprisonment of not more than ten years, no part of which may be suspended nor probation granted, and a fine of twenty-five thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(b) twenty-eight grams or more, but less than one hundred grams:

(i) for a first offense, a term of imprisonment of not less than seven years nor more than twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(ii) for a second offense, a term of imprisonment of not less than seven years nor more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(iii) for a third or subsequent offense, a mandatory minimum term of imprisonment of not less than twenty-five years and not more than thirty years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(c) one hundred grams or more, but less than two hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of fifty thousand dollars;

(d) two hundred grams or more, but less than four hundred grams, a mandatory term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of one hundred thousand dollars;

(e) four hundred grams or more, a term of imprisonment of not less than twenty-five years nor more than thirty years with a mandatory minimum term of imprisonment of twenty-five years, no part of which may be suspended nor probation granted, and a fine of two hundred thousand dollars.

(2) This subsection does not apply to:

(a) a consumer who possesses products:

(i) containing ephedrine, pseudoephedrine, or phenylpropanolamine in a manner consistent with typical medicinal or household use, as indicated by storage location, and possession of the products in a variety of strengths, brands, types, purposes, and expiration dates; or

(ii) for agricultural use containing anhydrous ammonia if the consumer has reformulated the anhydrous ammonia by means of additive so as effectively to prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors' salts, isomers, or salts of isomers, or a combination of any of these substances; or

(b) products labeled for pediatric use pursuant to federal regulations and according to label instructions primarily intended for administration to children under twelve years of age; or

(c) products that the Drug Enforcement Administration and the Department of Health and Environmental Control, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, its salts, isomers, salts of isomers, or its precursors, or the precursors' salts, isomers, or salts of isomers, or a combination of any of these substances.

(3) This subsection preempts all local ordinances or regulations governing the possession of any product that contains ephedrine, pseudoephedrine, or phenylpropanolamine.

(F) Sentences for violation of the provisions of subsections (C) or (E) may not be suspended and probation may not be granted. A person convicted and sentenced under subsection (C) or (E) to a mandatory term of imprisonment of twenty-five years, a mandatory minimum term of imprisonment of twenty-five years, or a mandatory minimum term of imprisonment of not less than twenty-five years nor more than thirty years is not eligible for parole, extended work release as provided in Section 24-13-610, or supervised furlough as provided in Section 24-13-710.

(G) A person eighteen years of age or older may be charged with unlawful conduct toward a child pursuant to Section 63-5-70, if a child was present at any time during the unlawful manufacturing of methamphetamine.

HISTORY: 1987 Act No. 128 Section 1; 1990 Act No. 604, Section 8; 1993 Act No. 58, Section 2; 1993 Act No. 184, Section 74; 1995 Act No. 7, Part I, Section 18; 2005 Act No. 127, Section 5, eff June 7, 2005; 2010 Act No. 273, Section 38, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 9, eff April 21, 2016.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-376. Disposal of waste from production of methamphetamine; penalty; emergency or environmental response restitution; exemptions.

(A) It is unlawful for a person to knowingly cause to be disposed any waste from the production of methamphetamine or knowingly assist, solicit, or conspire with another to dispose of methamphetamine waste.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction for a first offense, must be imprisoned not more than five years or fined not more than five thousand dollars, or both. Upon conviction for a second or subsequent offense, a person must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both.

(C) If a person is convicted of a violation of this section, in a manner that requires an emergency or environmental response, the person convicted must be required to make restitution to all public entities involved in the emergency response, to cover the reasonable cost of their participation in the emergency response. The convicted person shall make the restitution in addition to any other fine or penalty required by law.

(D) Exempt from the provisions of this section are the individuals, entities, agencies, law enforcement groups, and those otherwise authorized, who are lawfully tasked with the proper disposal of the waste created from methamphetamine production.

HISTORY: 2006 Act No. 275, Section 3, eff 6 months after approval (became law without the Governor's signature on May 4, 2006).

SECTION 44-53-378.Exposing child to methamphetamine.

(A) It is unlawful for a person who is eighteen years of age or older to:

(1) either directly or by extraction from natural substances, or independently by means of chemical processes, or both, unlawfully manufacture amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of its isomers in the presence of a minor child; or

(2) knowingly permit a child to be in an environment where a person is selling, offering for sale, or having in such person's possession with intent to sell, deliver, distribute, prescribe, administer, dispense, manufacture, or attempt to manufacture amphetamine or methamphetamine; or

(3) knowingly permit a child to be in an environment where drug paraphernalia or volatile, toxic, or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture amphetamine or methamphetamine.

(B) A person who violates subsection (A)(1), (2), or (3), upon conviction, for a first offense must be imprisoned not more than five years or fined not more than five thousand dollars, or both. Upon conviction for a second or subsequent offense, the person must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both.

HISTORY: 2008 Act No. 361, Section 5, eff June 16, 2008.

Editor's Note

This section was formerly Section 20-7-105.

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-379.Felony possession of a firearm.

(A) It is unlawful for a person who has been convicted of possession with intent to distribute, distribution or delivery of, manufacturing of, or trafficking in a controlled substance as defined in Sections 44-53-370 and 44-53-375, to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or

ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The court with jurisdiction over an offense, as defined by subsections (A) or (B), shall make a specific finding on the record that the conviction is for possession with intent to distribute, distribution or delivery of, manufacturing of, or trafficking in a controlled substance as defined in Sections 44-53-370 and 44-53-375, and the person would be subject to the prohibitions of this section. A judge's failure to make a specific finding on the record does not bar or otherwise affect prosecution pursuant to this subsection and does not constitute a defense to prosecution pursuant to this subsection.

HISTORY: 2023 Act No. 72 (H.3503), Section 6, eff June 15, 2023.

SECTION 44-53-380. Prohibited acts B; penalties.

(a) It shall be unlawful for any person:

(1) Who is subject to the requirements of Sections 44-53-280 to 44-53-360 to distribute or dispense a controlled substance in violation of Section 44-53-360;

(2) Who is a registrant to manufacture, distribute, or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) To omit, remove, alter, or obliterate a symbol required by the Federal Controlled Substances Act or this article;

(4) To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this article;

(5) To refuse any entry into any premises or inspection authorized by this article;

(6) Knowingly to keep or maintain any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by persons using controlled substances in violation of this article for the purpose of using such substances, or which is used for the keeping or selling of the same in violation of this article; or

(7) Who is subject to the requirements of this article to fail to register as provided in Section 44-53-280 to manufacture, distribute, or dispense controlled substances prior to his engaging in such manufacturing, distribution, or dispensing.

(b) Any person who violates this section is punishable by a civil fine of not more than one thousand dollars; provided, that, if the violation is prosecuted by an information or indictment which alleges that the violation was committed knowingly or intentionally, and the trier of fact specifically finds that the violation was committed knowingly or intentionally, such person shall be deemed guilty of a felony and, upon conviction, shall be imprisoned for not more than five years, or fined not more than ten thousand dollars, except that if such person is a corporation it shall be subject to a civil penalty of not more than one hundred thousand dollars. Imposition of a civil penalty pursuant to this item shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

HISTORY: 1962 Code Section 32-1510.50; 1971 (57) 800; 1975 (59) 104.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-390. Prohibited acts C; penalties.

(a) It is unlawful for a person knowingly or intentionally to:

(1) distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by Section 44-53-350;

(2) use in the course of the manufacture or distribution of a controlled substance a registration number which is fictitious, revoked, suspended, or issued to another person;

(3) acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

(4) furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this article, or any record required to be kept by this article;

(5) make, distribute, or possess any punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render the drug a counterfeit substance;

(6) distribute or deliver a noncontrolled substance or an imitation controlled substance:

(A) with the expressed or implied representation that the substance is a narcotic or nonnarcotic controlled substance, or with the expressed or implied representation that the substance is of such nature or appearance that the recipient of the distribution or delivery will be able to dispose of the substance as a controlled substance;

(B) when the physical appearance of the finished product is substantially similar to a specific controlled substance, or if in a tablet or capsule dosage form as a finished product it is similar in color, shape, and size to any controlled substances' dosage form, or its finished dosage form has similar, but not necessarily identical, markings on each dosage unit as any controlled substances' dosage form, or if its finished dosage form container bears similar, but not necessarily identical, markings or printed material as any controlled substances which is commercially manufactured and commercially packaged by a manufacturer or repackager registered under the provisions of Title 21, Section 823

of the United States Code. In any prosecution for unlawful delivery of a noncontrolled substance, it is no defense that the accused believed the noncontrolled substance to actually be a controlled substance.

(b) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years, or fined not more than ten thousand dollars, or both. If such person is a corporation, it is subject to a civil penalty of not more than one hundred thousand dollars.

(c) The provisions of Section 44-53-390(a)(6) do not apply to any transaction in the ordinary course of professional practice of a practitioner registered to dispense controlled substances under this article, nor do they apply to a pharmacy acting in the normal course of business, or pursuant to the lawful order of a placebo prescription.

HISTORY: 1962 Code Section 32-1510.51; 1971 (57) 800; 1982 Act No. 427, Section 2; 1993 Act No. 184, Section 75.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-391. Unlawful to advertise for sale, manufacture, possess, sell or deliver, or to possess with intent to sell or deliver, paraphernalia.

(a) It shall be unlawful for any person to advertise for sale, manufacture, possess, sell or deliver, or to possess with the intent to deliver, or sell paraphernalia.

(b) In determining whether an object is paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) The proximity of the object to controlled substances;

(3) The existence of any residue of controlled substances on the object;

(4) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of law; the innocence of an owner, or of anyone in control of the object, as to a direct violation of law shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

(5) Instructions, oral or written, provided with the object concerning its use;

(6) Descriptive materials accompanying the object which explain or depict its use;

(7) National and local advertising concerning its use;

(8) The manner in which the object is displayed for sale;

(9) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(10) Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise;

(11) The existence and scope of legitimate uses for the object in the community;

(12) Expert testimony concerning its use.

(c) Any person found guilty of violating the provisions of this section shall be subject to a civil fine of not more than five hundred dollars except that a corporation shall be subject to a civil fine of not more than fifty thousand dollars. Imposition of such fine shall not give rise to any disability or legal disadvantage based on conviction for a criminal offense.

HISTORY: 1982 Act No. 400, Section 2.

SECTION 44-53-392.Weight of controlled substance.

Notwithstanding any other provision of this article, the weight of any controlled substance referenced in this article is the weight of that substance in pure form or any compound or mixture thereof.

HISTORY: 1990 Act No. 604, Section 9.

SECTION 44-53-393.Drug paraphernalia.

Notwithstanding any provision of law to the contrary, the term "drug paraphernalia" as defined in Section 44-53-110 shall not include rapid fentanyl test strips or any testing equipment or devices solely used, intended for use, or designed to determine whether a substance contains fentanyl or its analogues.

HISTORY: 2023 Act No. 72 (H.3503), Section 4, eff June 15, 2023.

SECTION 44-53-395.Prohibited acts; penalties.

(A) It shall be unlawful:

(1) for any practitioner to issue any prescription document signed in blank. The issuance of such document signed in blank shall be prima facie evidence of a conspiracy to violate this section. The possession of prescription document signed in blank by a person other than the person whose signature appears thereon shall be deemed prima facie evidence of a conspiracy between the possessor and the signer to violate the provisions of this section;

(2) for any person other than a practitioner registered with the Department under this article to possess a blank prescription not completed and signed by the practitioner whose name appears printed thereon;

(3) for any person to withhold the information from a practitioner that such person is obtaining controlled substances of like therapeutic use in a concurrent time period from another practitioner.

(B) Any person who knowingly and intentionally violates this section a first time shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a term of imprisonment for not more than two years or by a fine of not more than two thousand dollars, or both. Any person who knowingly and intentionally violates this section a

second or subsequent time shall be deemed guilty of a felony and upon conviction shall be punished by a term of imprisonment for not more than five years.

HISTORY: 1978 Act No. 546, Section 2.

SECTION 44-53-398. Sale of products containing ephedrine or pseudoephedrine; penalties; training of sales personnel.

(A) Nonprescription products whose sole active ingredient is ephedrine, pseudoephedrine, or phenylpropanolamine may be offered for retail sale only if sold in blister packaging. The retailer shall ensure that such products are not offered for retail sale by self-service but only from behind a counter or other barrier so that such products are not directly accessible by the public but only by an employee or agent of the retailer.

(B)(1) A retailer may not sell to an individual in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine; and a retailer may not sell to an individual in a thirty-day period a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

(2) An individual may not purchase in any single day a nonprescription product or a combination of nonprescription products containing more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine; and an individual may not purchase in a thirty-day period a nonprescription product or a combination of nonprescription products containing more than nine grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

(C) It is unlawful for a retailer to purchase any product containing ephedrine, pseudoephedrine, or phenylpropanolamine from any person or entity other than a manufacturer or a wholesale distributor registered by the United States Drug Enforcement Administration.

(D)(1) A retailer selling nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine shall require the purchaser to produce a government issued photo identification showing the date of birth of the person and require the purchaser to sign an electronic log showing the date and time of the transaction, the person's name and address, the type, issuing governmental entity, identification number, and the amount of the compound, mixture, or preparation. The retailer shall determine that the name entered in the log corresponds to the name on the identification and that the date and time entered are correct and shall enter in the log the name of the product and the quantity sold. The retailer shall ensure that the product is delivered directly into the custody of that purchaser. The log must include a notice to purchasers that entering false statements or misrepresentations in the log may subject the purchaser to criminal penalties.

(2) Before completing a sale of a product regulated by this section, the retailer electronically shall transmit the information entered in the log to a data collection system provided by the National Association of Drug Diversion Investigators, or a successor or similar entity. The system must collect this data in real time and generate a stop sale alert if the sale would result in a violation of subsection (B) or a federal quantity restriction, which must be assessed on the basis of sales or purchases made in any state to the extent that information is available in the data collection system. If the retailer receives a stop sale alert, the retailer must not complete the sale unless the retailer, upon notifying the purchaser the sale cannot be completed, reasonably fears bodily harm if he denies the sale due to the stop sale alert. A product regulated by this section may not be sold without being reported to the data collection system unless the system is experiencing temporary technical difficulties that prevent a retailer from reporting the information to the system, and in that case, the retailer shall enter the necessary information in a written log, which must subsequently be entered into the electronic log within three business days of each business day that the electronic log was not operational. A retailer using a written log under these circumstances is immune from liability during the time the system is temporarily disabled.

(3) Any information entered in the electronic log that is retained by a retailer, or information maintained by a retailer pursuant to subsection (J)(2), is confidential and not a public record as defined in Section 30-4-20(C) of the Freedom of Information Act. A retailer or an employee or agent of a retailer who in good faith releases information in a log to federal, state, or local law enforcement authorities is immune from civil liability for the release unless the release constitutes gross negligence or intentional, wanton, or wilful misrepresentation.

(E) Except as authorized by this section, it is unlawful for any person to possess, have under his or her control, manufacture, deliver, distribute, dispense, administer, purchase, sell, or possess with intent to distribute, any substance containing any amount of ephedrine, pseudoephedrine, or phenylpropanolamine or any of their salts, optical isomers, or salts of optical isomers which have been altered from their original condition so as to be powdered, liquefied, dissolved, solvated, or crushed. This subsection does not apply to any of the substances identified within this subsection which are possessed or altered for a legitimate medical purpose as directed by a person licensed under Title 40 and authorized to prescribe legend drugs.

(F) It is unlawful for a person to enter false statements or misrepresentations on the log required pursuant to subsection (D)(1).

(G) This section preempts all local ordinances or regulations governing the retail sale or purchase of nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine except such local ordinances or regulations that existed on or before December 31, 2004.

(H)(1) Except as otherwise provided in this section, it is unlawful for a retailer knowingly to violate subsection (A), (B)(1), (C), (D)(1), or (D)(2), and it is unlawful for a person knowingly to violate subsection (B)(2), (E), or (F).

(2) A retailer convicted of a violation of subsection (A) or (B)(1) is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than five thousand dollars and, upon conviction for a second or subsequent offense, must be fined not more than ten thousand dollars.

(3) A retailer convicted of a violation of subsection (C) is guilty of a misdemeanor and, upon conviction for a first offense, must be imprisoned not more than one year or fined not more than one thousand dollars, or both and, upon conviction for a second or subsequent offense, must be imprisoned not more than three years or fined not more than five thousand dollars, or both.

(4) A retailer convicted of a violation of subsection (D)(1), (D)(2), or (J)(2) is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than one thousand dollars and not less than five hundred dollars. Upon conviction for a second offense, a retailer must be fined not more than five thousand dollars and not less than one thousand dollars. Upon conviction for a third or subsequent offense, a person must be fined not more than ten thousand dollars and not less than five thousand dollars.

(5) A person convicted of a violation of subsection (B)(2) or (E) is guilty of a felony and, upon conviction for a first offense, must be imprisoned not more than five years and fined not more than five thousand dollars. The court, upon approval from the solicitor, may request as part of the sentence, that the offender enter and successfully complete a drug treatment program. For a second or subsequent offense, the offender is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not less than ten thousand dollars.

(6) A person convicted of a violation of subsection (F), upon conviction for a first offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars and, upon conviction for a second or subsequent offense, is guilty of a felony and must be fined not more than five thousand dollars.

(7) It is an affirmative defense to a violation of subsection (A), (C), or (D)(1) if a retailer provided the training, maintained records, and obtained employee and agent statements of agreement required by subsection (I) for all employees and agents at the retail location where the violation occurred and at the time the violation occurred.

(8) It is an affirmative defense to completing a sale following receipt of a stop sale alert received pursuant to subsection (D)(2) if the retailer, upon notifying the purchaser the sale cannot be completed, reasonably fears bodily harm if he denies the sale due to the stop sale alert.

(I) A retailer shall provide training on the requirements of this section to all agents and employees who are responsible for delivering the products regulated by this section into the custody of purchasers or who deal directly with purchasers by obtaining payments for the products. A retailer shall obtain a signed, written agreement from each employee or agent that the employee or agent agrees to comply with the requirements of this section. The retailer shall maintain records demonstrating that these employees and agents have been provided this training and the documents executed by the retailer's employees and agents agreeing to comply with this section.

(J)(1) The following are exempt from the electronic log requirements of this section but shall maintain a written log containing the information required to be entered in the electronic log, as provided for in subsection (D)(1):

(a) a retailer that only sells single dose packages of nonprescription ephedrine, pseudoephedrine, or phenylpropanolamine;

(b) a pharmacy that does not have a compatible point of sale system.

(2) A retailer who maintains a written log pursuant to this subsection shall retain the written log for two years after which the log may be destroyed. The log must be made available for inspection within twenty-four hours of a request made by a local, state, or federal law enforcement officer.

(3) A retailer who violates the requirements of maintaining a written log as provided for in subsection (J)(2) is subject to the penalties provided for in subsection (H)(4).

(K) The sheriff or chief of police shall monitor and determine if retailers, other than licensed pharmacies, are in compliance with the provisions of this section by ensuring that a retailer:

(1) is entering all sales of a product regulated by this section in an electronic log as required by this section;

(2) if not maintaining an electronic log, is exempt as provided for in subsection (J)(1), and is continuing to maintain the written log as provided for in subsection (J);

(3) is not selling products regulated by this section.

(L) This section does not apply to:

(1) pediatric products labeled pursuant to federal regulation as primarily intended for administration to children under twelve years of age according to label instructions;

(2) products that the Board of Pharmacy, upon application of a manufacturer, exempts because the product is formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine or its salts or precursors; and

(3) a purchase of a single sales package containing not more than sixty milligrams of pseudoephedrine.

(M) For purposes of this section "retailer" means a retail distributor, including a pharmacy, where ephedrine, pseudoephedrine, or phenylpropanolamine products are available for sale and does not include an employee or agent of a retailer.

HISTORY: 2006 Act No. 275, Section 1, eff 6 months after approval (became law without the Governor's signature on May 4, 2006); 2010 Act No. 242, Section 1, eff July 1, 2010.

Editor's Note

2010 Act No. 242, Section 3, provides as follows:

"Before January 1, 2011, the State Law Enforcement Division (SLED) shall enter into a memorandum of agreement with the National Association of Drug Diversion Investigators (NADDI), or a successor or other entity, to identify the roles and responsibilities of SLED and NADDI, or a successor or other entity, in carrying out the collection of sales and purchase data of ephedrine, pseudoephedrine, or phenylpropanolamine products and the transference of this information to the State Law Enforcement Division as provided for in this act. The memorandum must provide that the data and information in SLED's electronic monitoring system is property of the State and that NADDI will provide SLED with that data and information at least four times a year in a format agreed to by SLED and NADDI and that is consistent with the most recent standards adopted by the American Society for Automation in Pharmacy (ASAP), as well as the most recent standards adopted by the National Information Exchange Model (NIEM)."

SECTION 44-53-400.Penalties in article in addition to those under other laws.

Any penalty imposed for violation of this article shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.

HISTORY: 1962 Code Section 32-1510.52; 1971 (57) 800.

SECTION 44-53-410.Prosecution in another jurisdiction shall be bar to prosecution.

If a violation of this article is a violation of a Federal law or the law of another state, the conviction or acquittal under Federal law or the law of another state for the same act is a bar to prosecution in this State.

HISTORY: 1962 Code Section 32-1510.53; 1971 (57) 800.

SECTION 44-53-420.Attempt and conspiracy; attempt to possess; penalties.

(A) Except as provided in subsection (B), a person who attempts or conspires to commit an offense made unlawful by the provisions of this article, upon conviction, be fined or imprisoned in the same manner as for the offense planned or attempted; but the fine or imprisonment shall not exceed one half of the punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(B) A person who attempts to possess a substance made unlawful by the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 32-1510.54; 1971 (57) 800; 2005 Act No. 127, Section 7, eff June 7, 2005.

SECTION 44-53-430.Appeals from orders of Department.

Any person may appeal from any order of the Department within thirty days after the filing of the order, to the court of common pleas of the county in which the aggrieved party resides or in which his place of business is located. The Department shall thereupon certify to the court the record in the hearing. The court shall review the record and the regularity and the justification for the order, on the merits, and render judgment thereon as in ordinary appeals in

equity. The court may order or permit further testimony on the merits of the case, in its discretion such testimony to be given either before the judge or referee by him appointed. From such judgment of the court an appeal may be taken as in other civil actions.

HISTORY: 1962 Code Section 32-1510.55; 1971 (57) 800.

SECTION 44-53-440.Distribution to persons under eighteen.

Any person eighteen years of age or over who violates Section 44-53-370(a) by distributing a controlled substance classified in Schedule I (B) and (C) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, or who violates Section 44-53-375(B) by distributing crack cocaine to a person under eighteen years of age is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years or fined not more than thirty thousand dollars, or both, and the sentence may not be suspended and probation may not be granted. Any person eighteen years of age or over who violates Section 44-53-370(a) and (b) by distributing any other controlled substance listed in Schedules I through V to a person under eighteen years of age is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than ten years or fined not more than ten thousand dollars, or both. Any violation of this section constitutes a separate offense.

HISTORY: 1962 Code Section 32-1510.56; 1971 (57) 800; 1974 (58) 2284; 1987 Act No. 128, Section 3.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Schedule I (b) and (c)" were changed to "Schedule I (B) and (C)" to reflect the amendment of Section 44-53-190 by 2012 Act No. 140, Section 2.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-445.Distribution of controlled substance within proximity of school.

(A) It is a separate criminal offense for a person to distribute, sell, purchase, manufacture, or to unlawfully possess with intent to distribute, a controlled substance while in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(B) For a person to be convicted of an offense pursuant to subsection (A), the person must:

(1) have knowledge that he is in, on, or within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university; and

(2) actually distribute, sell, purchase, manufacture, or unlawfully possess with intent to distribute, the controlled substance within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(C) A person must not be convicted of an offense pursuant to subsection (A) if the person is stopped by a law enforcement officer for the controlled substance offense within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university, but did not actually commit the controlled substance offense within a one-half mile radius of the grounds of a public or private elementary, middle, or secondary school; a public playground or park; a public vocational or trade school or technical educational center; or a public or private college or university.

(D)(1) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, or imprisoned not more than ten years, or both.

(2) When a violation involves only the purchase of a controlled substance, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(E) For the purpose of creating inferences of intent to distribute, the inferences set out in Sections 44-53-370 and 44-53-375 apply to criminal prosecutions under this section.

HISTORY: 1984 Act No. 504, Section 2; 1987 Act No. 128, Section 4; 1990 Act No. 579, Section 2; 1993 Act No. 184, Section 76; 1995 Act No. 83, Section 55; 2010 Act No. 273, Section 39, eff June 2, 2010.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-450.Conditional discharge; eligibility for expungement.

(A) Whenever any person who has not previously been convicted of any offense under this article or any offense under any state or federal statute relating to marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under Section 44-53-370(c) and (d), or Section 44-53-375(A), the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that such person cooperate in a treatment and rehabilitation program of a state-supported facility or a facility approved by the commission, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record shall be forwarded to and retained by the Department of Narcotic and Dangerous Drugs under the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this article. Discharge and dismissal under this section may occur only once with respect to any person.

(B) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (A), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (A)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information.

No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(C) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

HISTORY: 1962 Code Section 32-1510.57; 1971 (57) 800; 1974 (58) 2284; 2009 Act No. 36, Section 7, eff June 2, 2009; 2010 Act No. 273, Section 40, eff June 2, 2010.

SECTION 44-53-460.Reduced sentence for accommodation offenses.

Any person who enters a plea of guilty to or is found guilty of a violation of Section 44-53-370(a) or (c) may move for and the court shall grant a further hearing at which evidence may be presented by the person, and by the prosecution if it so desires, relating to the nature of the act on the basis of which the person has been convicted. If the convicted person establishes by clear and convincing evidence that he delivered or possessed with intent to deliver a controlled substance, except a controlled substance classified in Schedule I (B) and (C) which is a narcotic drug or lysergic acid diethylamide (LSD) and in Schedule II which is a narcotic drug, only as an accommodation to another individual and not with intent to profit thereby nor to induce the recipient or intended recipient of the controlled or counterfeit substance to use or become addicted to or dependent upon the substance, the court shall sentence the person as if he had been convicted of a violation of Section 44-53-370(c).

HISTORY: 1962 Code Section 32-1510.58; 1971 (57) 800; 1974 (58) 2284.

Code Commissioner's Note

At the direction of the Code Commissioner, references to "Schedule I (b) and (c)" were changed to "Schedule I (B) and (C)" to reflect the amendment of Section 44-53-190 by 2012 Act No. 140, Section 2.

SECTION 44-53-470."Second or subsequent offense" defined; certain convictions considered prior offenses.

(A) An offense is considered a second or subsequent offense if:

(1) for an offense involving marijuana pursuant to the provisions of this article, the offender has been convicted within the previous five years of a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana possession;

(2) for an offense involving marijuana pursuant to the provisions of this article, the offender has at any time been convicted of a first, second, or subsequent violation of a marijuana offense provision of this article or of another state

or federal statute relating to marijuana offenses, except a first violation of a marijuana possession provision of this article or of another state or federal statute relating to marijuana offenses;

(3) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has been convicted within the previous ten years of a first violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs; and

(4) for an offense involving a controlled substance other than marijuana pursuant to this article, the offender has at any time been convicted of a second or subsequent violation of a controlled substance offense provision, other than a marijuana offense provision, of this article or of another state or federal statute relating to narcotic drugs, depressants, stimulants, or hallucinogenic drugs.

(B) In addition to the above provisions, a conviction of trafficking in marijuana or trafficking in any other controlled substance in violation of this article or of another state or federal statute relating to trafficking in controlled substances must be considered a prior offense for purposes of any prosecution pursuant to this article.

(C) If a person is sentenced to confinement as the result of a conviction pursuant to this article, the time period specified in this section begins on the date of the conviction or on the date the person is released from confinement imposed for the conviction, whichever is later. For purposes of this section, confinement includes incarceration and supervised release, including, but not limited to, probation, parole, house arrest, community supervision, work release, and supervised furlough.

HISTORY: 1962 Code Section 32-1510.59; 1971 (57) 800; 2005 Act No. 127, Section 6, eff June 7, 2005; 2010 Act No. 273, Section 41, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 10, eff April 21, 2016.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-475. Financial transactions, monetary instruments, or financial institutions involving property or proceeds of unlawful activities in narcotic drugs or controlled substances; penalties.

(A)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of, or is derived directly or indirectly from the proceeds of unlawful activity relating to narcotic drugs or controlled substances, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds:

(a) with the intent to promote the carrying on of unlawful activity relating to narcotic drugs or controlled substances; or

(b) knowing that the transaction is designed in whole or in part to conceal or disguise the nature, location, sources, ownership, or control of the proceeds of the unlawful activity is guilty of a felony and, upon conviction, must be punished by a fine of not more than five hundred thousand dollars or twice the value of the property involved in the transaction, whichever is greater, or by imprisonment for not more than twenty years, or both.

(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in South Carolina to or through a place outside the United States or to a place in South Carolina from or through a place outside the United States:

(a) with the intent to promote the carrying on of unlawful activity relating to narcotic drugs or to controlled substances; or

(b) knowing that the monetary instrument or funds involved in the transportation represent the proceeds of the unlawful activity and knowing that the transportation is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of the unlawful activity is guilty of a felony and, upon conviction, must be punished by a fine of five hundred thousand dollars or twice the value of the monetary instrument or funds involved in the transportation, whichever is greater, or by imprisonment for not more than twenty years, or both.

(3) Whoever, with the intent:

(a) to promote the carrying on of unlawful activity relating to narcotic drugs or to controlled substances; or

(b) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of the unlawful activity, conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of the unlawful activity, or property used to conduct or facilitate the unlawful activity is guilty of a felony and, upon conviction, must be punished by a fine of five hundred thousand dollars or twice the value of the property involved, whichever is greater, or by imprisonment for not more than twenty years, or both. For purposes of this subitem, the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a state official authorized to investigate or prosecute violations of this section.

(B) Whoever conducts or attempts to conduct a transaction described in subsection (A)(1), or transportation described in subsection (A)(2), is liable to the State for a civil penalty of not more than the greater of:

(1) the value of the property, funds, or monetary instruments involved in the transaction; or

(2) ten thousand dollars.

(C) As used in this section:

(1) the term "conducts" includes initiating, concluding, or participating in initiating or concluding a transaction;

(2) the term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition and, with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

(3) the term "financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments;

(4) the term "monetary instruments" means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in that form that title to it passes upon delivery, and negotiable instruments in bearer form or otherwise in that form that title to it passes upon delivery;

(5) the term "financial institution" has the definition given that term in Section 5312(a)(2) of Title 31, United States Code, and the regulations promulgated thereunder.

(D) Nothing in this section supersedes any provision of law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

HISTORY: 1990 Act No. 604, Section 10.

SECTION 44-53-480.Enforcement.

(a) The South Carolina Law Enforcement Division shall establish within its Division a Department of Narcotics and Dangerous Drugs, which shall be administered by a director and shall be primarily responsible for the enforcement of all laws pertaining to illicit traffic in controlled and counterfeit substances. The Department of Narcotics and Dangerous Drugs, in discharging its responsibilities concerning illicit traffic in narcotics and dangerous substances and in suppressing the abuse of controlled substances, shall enforce the State plan formulated in cooperation with the Narcotics and Controlled Substance Section as such plan relates to illicit traffic in controlled and counterfeit substances.

As part of its duties the Department of Narcotics and Dangerous Drugs shall:

(1) Assist the Commission on Alcohol and Drug Abuse in the exchange of information between itself and governmental and local law-enforcement officials concerning illicit traffic in and use and abuse of controlled substances.

(2) Assist the commission in planning and coordinating training programs on law enforcement for controlled substances at the local and state level.

(3) Establish a centralized unit which shall accept, catalogue, file and collect statistics and make such information available for federal, state and local law enforcement purposes.

(4) Have the authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses.

(b) The Department of Health and Environmental Control shall be primarily responsible for making accountability audits of the supply and inventory of controlled substances in the possession of pharmacists, doctors, hospitals, health care facilities and other practitioners as well as in the possession of any individuals or institutions authorized to have possession of such substances and shall also be primarily responsible for such other duties in respect to controlled substances as shall be specifically delegated to the Department of Health and Environmental Control by the General Assembly. Drug inspectors and special agents of the Department of Health and Environmental Control as provided for in Section 44-53-490, while in the performance of their duties as prescribed herein, shall have:

(1) statewide police powers;

(2) authority to carry firearms;

(3) authority to execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses;

(4) authority to make investigations to determine whether there has been unlawful dispensing of controlled substances or the removal of such substances from regulated establishments or practitioners into illicit traffic;

(5) authority to seize property; and

(6) authority to make arrests without warrants for offenses committed in their presence.

HISTORY: 1962 Code Section 32-1510.60; 1971 (57) 800; 1972 (57) 2396; 1974 (58) 2228; 1985 Act No. 143, Section 1; 1986 Act No. 404, Section 1; 2018 Act No. 216 (H.4487), Section 4, eff May 18, 2018.

Effect of Amendment

2018 Act No. 216, Section 4, deleted (c), eliminating the enforcement of drug laws as a function of the Department of Health and Environmental Control, and made nonsubstantive changes throughout.

SECTION 44-53-485. Handling of seized controlled substances; use of photographs or videotapes of substances at trial; admissibility of evidence.

(A) Controlled substances seized pursuant to this article must be inventoried, reported, audited, handled, tested, stored, preserved, or destroyed pursuant to procedures promulgated by the South Carolina Law Enforcement Division.

(B) The chief law enforcement official of the seizing agency, his designee, or the clerk of court, after one year following the conviction, guilty plea, plea by nolo contendere, or other disposition of the criminal case, may order the destruction or other lawful disposition of the substances unnecessary for evidentiary purposes in accordance with procedures promulgated by the division.

(C) The chief law enforcement official of the seizing agency or his designee, after a reasonable period of time following the seizure, may order the destruction or other lawful disposition of substances that do not come within the jurisdiction of court.

(D) When large amounts of substances are seized and storage is impractical, a law enforcement officer, only with the prior written approval and consent of the solicitor, may substitute photographs or videotapes of the substances at trial so long as a representative sample is analyzed for proof of the matter that the substances actually are present. When substitutions are used, the chief law enforcement official or his designee may authorize the destruction of the substances ten days following seizure.

(E) In all subsequent court proceedings following the disposition of the case, all evidence presented at the original proceedings is admissible through introduction of the certified record of the case.

HISTORY: 1992 Act No. 387, Section 2.

SECTION 44-53-490. Drug inspectors.

The Department of Health and Environmental Control shall designate persons holding a degree in pharmacy to serve as drug inspectors. Such inspectors shall, from time to time, but no less than once every three years, inspect all practitioners and registrants who manufacture, dispense, or distribute controlled substances, including those persons exempt from registration but who are otherwise permitted to keep controlled substances for specific purposes. The drug inspector shall submit an annual report by the first day of each year to the Department and a copy to the Commission on Alcohol and Drug Abuse specifying the name of the practitioner or the registrant or such exempt persons inspected, the date of inspection and any other violations of this article.

The Department may employ other persons as agents and assistant inspectors to aid in the enforcement of those duties delegated to the Department by this article.

HISTORY: 1962 Code Section 32-1510.61; 1971 (57) 800; 1974 (58) 2228.

SECTION 44-53-500. Procedure for issuance and execution of administrative inspection warrants.

(a) Issuance and execution of administrative inspection warrants shall be as follows:

(1) Any judge or magistrate of a court having jurisdiction where the inspection or seizure is to be conducted, may, upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this article or regulations thereunder, and seizures of property appropriate to such inspections. For the purposes of this section, "probable cause" means a valid public interest in the effective enforcement of this article or regulations sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of an officer or employee duly designated and having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall identify the item or types of property to be seized, if any. The warrant shall be directed to a person authorized by Section 44-53-480(b) to execute it. The warrant shall state the grounds for issuance and the name of the person or persons whose affidavit has been taken in support thereof. It shall command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified, and where appropriate, shall direct the seizure of the property specified. The warrant shall direct that it be served during normal business hours. It shall designate the judge or magistrate to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person executing the warrant. The clerk of the court, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant; and

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall cause them to be filed with the court which issued such warrant.

(b) The Department of Health and Environmental Control is authorized to make administrative inspections of controlled premises in accordance with the following provisions:

(1) For the purposes of this article only, "controlled premises" means:

(a) Places where persons registered or exempted from registration requirements under this article are required to keep records, and

(b) Places including factories, warehouses, establishments, and conveyances where persons registered or exempted from registration requirements under this article are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When so authorized by an administrative inspection warrant issued pursuant to this section an officer or employee designated by the Commission on Alcohol and Drug Abuse upon presenting the warrant and appropriate credentials

to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When so authorized by an administrative inspection warrant, an officer or employee designated by the Department may:

(a) Inspect and copy records required by this article to be kept;

(b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (b)(5) of this section, all other things therein including records, files, papers, processes, controls, and facilities bearing on violation of this article; and

(c) Inventory any stock of any controlled substance therein and obtain samples of any such substance.

(4) This section shall not be construed to prevent entries and administrative inspections (including seizures of property) without a warrant:

(a) With the consent of the owner, operator or agent in charge of the controlled premises;

(b) In situations presenting imminent danger to health or safety;

(c) In situations involving inspection of conveyances where there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; and

(e) In all other situations where a warrant is not constitutionally required.

(5) Except when the owner, operator, or agent in charge of the controlled premises so consents in writing, no inspection authorized by this section shall extend to:

(a) Financial data;

(b) Sales data other than shipment data;

(c) Pricing data;

(d) Personnel data; or

(e) Research data.

HISTORY: 1962 Code Section 32-1510.62; 1971 (57) 800.

SECTION 44-53-520.Forfeitures.

(a) The following are subject to forfeiture:

(1) all controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this article;

(2) all raw materials, products, and equipment of any kind which are used, or which have been positioned for use, in manufacturing, producing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this article;

(3) all property which is used, or which has been positioned for use, as a container for property described in items (1) or (2);

(4) All property, both real and personal, which in any manner is knowingly used to facilitate production, manufacturing, distribution, sale, importation, exportation, or trafficking in various controlled substances as defined in this article;

(5) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of this article;

(6) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels which are used or intended for use unlawfully to conceal, contain, or transport or facilitate the unlawful concealment, possession, containment, manufacture, or transportation of controlled substances and their compounds, except as otherwise provided, must be forfeited to the State. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of Section 44-53-370(a), involving at least one pound or more of marijuana, one pound or more of hashish, more than four grains of opium, more than two grains of heroin, more than four grains of morphine, more than ten grains of cocaine, more than fifty micrograms of lysergic acid diethylamide (LSD) or its compounds, more than ten grains of crack, or more than one gram of ice or crank, as defined in Section 44-53-110, or unless it is used, intended for use, or in any manner facilitates a violation of Section 44-53-370(e) or fifteen tablets, capsules, dosage units, or the equivalent quantity of 3, 4-methylenedioxymethamphetamine (MDMA);

(7) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange;

(8) all monies seized in close proximity to forfeitable controlled substances, drug manufacturing, or distributing paraphernalia, or in close proximity to forfeitable records of the importation, manufacturing, or distribution of controlled substances and all monies seized at the time of arrest or search involving violation of this article. If the person from whom the monies were taken can establish to the satisfaction of a court of competent jurisdiction that the monies seized are not products of illegal acts, the monies must be returned pursuant to court order.

(b) Any property subject to forfeiture under this article may be seized by the department having authority upon warrant issued by any court having jurisdiction over the property. Seizure without process may be made if:

(1) the seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this article;

(3) the department has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) the department has probable cause to believe that the property was used or is intended to be used in violation of this article.

(c) In the event of seizure pursuant to subsection (b), proceedings under Section 44-53-530 regarding forfeiture and disposition must be instituted within a reasonable time.

(d) Any property taken or detained under this section is not subject to replevin but is considered to be in the custody of the department making the seizure subject only to the orders of the court having jurisdiction over the forfeiture proceedings. Property described in Section 44-53-520(a) is forfeited and transferred to the government at the moment of illegal use. Seizure and forfeiture proceedings confirm the transfer.

(e) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this article are contraband and must be seized and summarily forfeited to the State. Controlled substances listed in Schedule I, which are seized or come into the possession of the State, the owners of which are unknown, are contraband and must be summarily forfeited to the State.

(f) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this article, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the State.

(g) The failure, upon demand by the department having authority to make the demand, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

(h) For the purposes of this section, whenever the seizure of any property subject to seizure is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

(i) Law enforcement agencies seizing property under this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Any monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for security in another manner.

(j) When property and monies of any value as defined in this section or anything else of any value is seized, the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecution agency.

(1) The report shall provide the following information with respect to the property seized:

(a) description;

(b) circumstances of seizure;

(c) present custodian and where the property is being stored or its location;

(d) name of owner;

(e) name of lienholder, if any;

(f) seizing agency; and

(g) the type and quantity of the controlled substance involved.

(2) If the property is a conveyance, the report shall include the:

(a) make, model, serial number, and year of the conveyance;

(b) person in whose name the conveyance is registered; and

(c) name of any lienholders.

(3) In addition to the report provided for in items (1) and (2), the law enforcement agency shall prepare for dissemination to the public upon request a report providing the following information:

(a) a description of the quantity and nature of the property and money seized;

(b) the seizing agency;

(c) the type and quantity of the controlled substance involved;

(d) the make, model, and year of a conveyance; and

(e) the law enforcement agency responsible for the property or conveyance seized.

(k) Property or conveyances seized by a law enforcement agency or department must not be used by officers for personal purposes.

HISTORY: 1962 Code Section 32-1510.64; 1971 (57) 800; 1980 Act No. 372, Section 6; 1984 Act No. 482, Section 3; 1986 Act No. 404, Section 2; 1986 Act No. 540, Part II, Section 40; 1990 Act No. 604, Sections 1, 11; 1992 Act No. 333, Sections 1, 2; 2002 Act No. 267, Section 4, eff May 20, 2002.

SECTION 44-53-530.Forfeiture procedures; disposition of forfeited items; disposition of proceeds of sales.

(a) Forfeiture of property defined in Section 44-53-520 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized. The petition must be submitted to the court within a reasonable time period following seizure and shall set forth the facts upon which the seizure was made. The petition shall describe the property and include the names of all owners of record and lienholders of record. The petition shall identify any other persons known to the petitioner to have interests in the property. Petitions for the forfeiture of conveyances shall also include: the make, model, and year of the conveyance, the person in whose name the conveyance is registered, and the person who holds the title to the conveyance. The petition shall set forth the type and quantity of the controlled substance involved. A copy of the petition must be sent to each law enforcement agency which has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with interests in the property listed in the petition, including law enforcement agencies which have notified the petitioner of their involvement in effecting the seizure. Owners of record and lienholders of record may be served by certified mail, to the last known address as appears in the records of the governmental agency which records the title or lien.

The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. If the judge finds a forfeiture, he shall then determine the lienholder's interest as provided in this article. The judge shall determine whether any property must be returned to a law enforcement agency pursuant to Section 44-53-582.

If there is a dispute as to the allocation of the proceeds of forfeited property among participating law enforcement agencies, this issue must be determined by the judge. The proceeds from a sale of property, conveyances, and equipment must be disposed of pursuant to subsection (e) of this section.

All property, conveyances, and equipment not reduced to proceeds may be transferred to the law enforcement agency or agencies or to the prosecution agency. Upon agreement of the law enforcement agency or agencies and the prosecution agency, conveyances and equipment may be transferred to any other appropriate agency. Property transferred must not be used to supplant operating funds within the current or future budgets. If the property seized and forfeited is an aircraft or watercraft and is transferred to a state law enforcement agency or other state agency pursuant to the provisions of this subsection, its use and retainage by that agency shall be at the discretion and approval of the Department of Administration.

If a defendant or his attorney sends written notice to the petitioner or the seizing agency of his interest in the subject property, service may be made by mailing a copy of the petition to the address provided and service may not be made by publication. In addition, service by publication may not be used for a person incarcerated in a South Carolina Department of Corrections facility, a county detention facility, or other facility where inmates are housed for the county where the seizing agency is located. The seizing agency shall check the appropriate institutions after receiving an affidavit of nonservice before attempting service by publication.

(b) If the property is seized by a state law enforcement agency and is not transferred by the court to the seizing agency, the judge shall order it transferred to the Division of General Services of the Department of Administration for sale. Proceeds may be used by the division for payment of all proper expenses of the proceedings for the forfeiture and sale of the property, including the expenses of seizure, maintenance, and custody, and other costs incurred by the implementation of this section. The net proceeds from any sale must be remitted to the State Treasurer as provided in subsection (g) of this section. The Division of General Services of the Department of Administration may authorize payment of like expenses in cases where monies, negotiable instruments, or securities are seized and forfeited.

(c) If the property is seized by a local law enforcement agency and is not transferred by the court to the agency, the judge shall order it sold at public auction by the seizing agency as provided by law. Notwithstanding any other provision of the law, proceeds from the sale may be used by the agency for payment of all proper expenses of the proceeding for the forfeiture and sale of the property, including the expenses of the seizure, maintenance, and custody and other costs incurred by the implementation of this section. The net proceeds from the sale must be disposed of as provided by this section.

(d) Any forfeiture may be effected by consent order approved by the court without filing or serving pleadings or notices provided that all owners and other persons with interests in the property, including participating law enforcement agencies, entitled to notice under this section, except lienholders and agencies, consent to the forfeiture. Disposition of the property may be accomplished by consent of the petitioner and those agencies involved. Persons entitled to notice under this section may consent to some issues and have the judge determine the remaining issues.

All proceeds of property and cash forfeited by consent order must be disposed of as provided in subsection (e) of this section.

(e) All real or personal property, conveyances, and equipment of any value defined in Section 44-53-520, when reduced to proceeds, any cash more than one thousand dollars, any negotiable instruments, and any securities which are seized and forfeited must be disposed of as follows:

(1) seventy-five percent to the law enforcement agency or agencies;

(2) twenty percent to the prosecuting agency; and

(3) five percent must be remitted to the State Treasurer and deposited to the credit of the general fund of the State.

(f) The first one thousand dollars of any cash seized and forfeited pursuant to this article remains with and is the property of the law enforcement agency which effected the seizure unless otherwise agreed to by the law enforcement agency and prosecuting agency.

(g) All forfeited monies and proceeds from the sale of forfeited property as defined in Section 44-53-520 must be retained by the governing body of the local law enforcement agency or prosecution agency and deposited in a separate, special account in the name of each appropriate agency. These accounts may be drawn on and used only by the law enforcement agency or prosecution agency for which the account was established. For law enforcement agencies, the accounts must be used for drug enforcement activities, or for drug or other law enforcement training or education. For prosecution agencies, the accounts must be used in matters relating to the prosecution of drug offenses and litigation of drug-related matters.

These accounts must not be used to supplant operating funds in the current or future budgets. Expenditures from these accounts for an item that would be a recurring expense must be approved by the governing body before purchase or, in the case of a state law enforcement agency or prosecution agency, approved as provided by law.

In the case of a state law enforcement agency or state prosecution agency, monies and proceeds must be remitted to the State Treasurer who shall establish separate, special accounts as provided in this section for local agencies.

All expenditures from these accounts must be documented, and the documentation made available for audit purposes and upon request by a person under the provisions of Chapter 4, Title 30, the Freedom of Information Act.

(h) The use of all property forfeited pursuant to Section 44-53-520 and retained by the law enforcement agency must be documented and the documentation available upon request by a person subject to the provisions of Chapter 4 of Title 30.

(i) An expenditure from these accounts must be made in accordance with the established procurement procedures of the jurisdiction where the account is established.

(j) A law enforcement agency may draw from the account an amount necessary to maintain a confidential financial account to be used in the purchase of information or evidence relating to an investigation, to purchase services, or to provide compensation in matters which are confidential and in support of law enforcement activity. The disbursement of funds from the confidential financial account must be made in accordance with procedures approved by the South Carolina Law Enforcement Division (division). All records of disbursement must be maintained and made available for audit purposes as provided in this section.

All expenditures from these accounts must be fully documented and audited annually with the general fund of the appropriate jurisdiction.

(k) In all cases where the criminal offense giving rise to the forfeiture of property described in Section 44-53-520 is prosecuted in a state court, the forfeiture proceeding must be accomplished in the court of common pleas for the jurisdiction where the items were seized.

HISTORY: 1962 Code Section 32-1510.64:1; 1973 (58) 429; 1979 Act No. 185 Section 1; 1980 Act No. 462, Section 1; 1984 Act No. 482, Section 4; 1986 Act No. 404, Section 3; 1990 Act No. 604, Section 2; 1992 Act No. 333, Section 3; 1995 Act No. 145, Part II, Section 45; 2006 Act No. 345, Section 5, eff June 12, 2006; 2009 Act No. 62, Section 1, eff upon approval (became law without the Governor's signature on June 3, 2009); 2014 Act No. 121 (S.22), Pt V, Section 7.CC, eff July 1, 2015.

SECTION 44-53-540.Burden of proof.

(a) It shall not be necessary for the State to negate any exemption or exception set forth in this article in any complaint, information, indictment or other pleading or in any trial, hearing, or other proceeding under this article, and the burden of proof of any such exemption or exception shall be upon the person claiming its benefit.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this article, he shall be presumed not to be the holder of such registration or form, and the burden of proof shall be upon him to rebut such presumption.

HISTORY: 1962 Code Section 32-1510.65; 1971 (57) 800; 1974 (58) 2284.

SECTION 44-53-550.Prosecutions prior to effective date of article.

Prosecution occurring prior to June 17, 1971 is not affected or abated by this article. However, if the offense being prosecuted is similar to one set forth in Sections 44-53-370 to 44-53-470, then the penalties under Sections 44-53-370 to 44-53-470 shall apply if they are less than under prior law.

Offenses occurring prior to June 17, 1971 may be prosecuted under the statute then in force, but shall be subject to penalty limitations in this section.

HISTORY: 1962 Code Section 32-1510.66; 1971 (57) 800; 1974 (58) 2228.

SECTION 44-53-560.Repealed.

HISTORY: Former Section, titled Transfer of agents from Department of Health and Environmental Control, had the following history: 1962 Code Section 32-1510.67; 1971 (57) 800. Repealed by 2018 Act No. 216, Section 5, eff May 18, 2018.

SECTION 44-53-570.Service of search warrants.

A search warrant relating to offenses involving controlled substances may be served at any time of the day or night if the magistrate or judge of any court of record of the State having jurisdiction over the area where the property sought is located is satisfied that there is probable cause to believe that grounds exist for the warrant and for its service at such time.

HISTORY: 1962 Code Section 32-1510.68; 1971 (57) 800.

SECTION 44-53-577.Illegal acts involving persons under seventeen years of age; penalties; separate offense.

(A) It is unlawful for any person at least seventeen years of age to knowingly and intentionally:

(1) use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under seventeen years of age to violate Section 44-53-370 or 44-53-375(B);

(2) receive a controlled substance from a person under seventeen years of age in violation of this chapter; or

(3) conspire to use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under seventeen years of age to violate Section 44-53-370 or 44-53-375(B).

(B) Any person who violates subsection (A)(1), (A)(2), or (A)(3) is guilty of a felony and, upon conviction, must be punished by a term of imprisonment of not less than five years nor more than fifteen years. A violation of this section constitutes a separate offense.

HISTORY: 1990 Act No. 604, Section 12.

Editor's Note

Section 44-53-160(B) authorizes the Department of Health and Environmental Control to add, delete, or reschedule a substance as a controlled substance when the General Assembly is not in session, and Section 44-53-160(C) requires the department to make such changes to conform to federal law. For a complete and accurate list of controlled substance schedules, please visit the department's website at <http://www.scdhec.gov/Health/FHPF/DrugControlRegisterVerify/ControlledSubstanceSchedule/>

SECTION 44-53-582.Return of monies used to purchase controlled substances.

All monies used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation must be returned to the state or local agency or unit of government furnishing the monies upon a determination by the court that the monies were used by law enforcement officers or agents, in the line of duty, to purchase controlled substances during a criminal investigation. The court may order a defendant to return the monies to the state or local agency or unit of government at the time of sentencing.

HISTORY: 1984 Act No. 482, Section 6; 1986 Act No. 404, Section 5; 2010 Act No. 273, Section 42, eff June 2, 2010.

SECTION 44-53-586.Return of seized items to innocent owners; notice of hearing or rule to show cause; continuation of liens of innocent persons.

(a) Any innocent owner or any manager or owner of a licensed rental agency or any common carrier or carrier of goods for hire may apply to the court of common pleas for the return of any item seized under the provisions of Section 44-53-520. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice under Section 44-53-530. If the judge denies the application, the hearing may proceed as a forfeiture hearing held pursuant to Section 44-53-530.

(b) The court may return any seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

(1) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(2) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that any agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(c) The lien of any innocent person or other legal entity, recorded in public records, shall continue in force upon transfer of title of any forfeited item, and any transfer of title is subject to the lien, if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

HISTORY: 1984 Act No. 482, Section 8; 1986 Act No. 404, Section 7.

SECTION 44-53-590.Penalty for use of property in manner which makes it subject to forfeiture.

Any person who uses property or a conveyance in a manner which would make the property or conveyance subject to forfeiture as provided for in Sections 44-53-520 or 44-53-530, except for innocent owners, rental agencies, lienholders, and the like as provided for in this article, is guilty of a misdemeanor and upon conviction must be imprisoned for not less than thirty days nor more than one year or fined not more than five thousand dollars, or both, in the discretion of the court. The penalties prescribed in this section are cumulative and must be construed to be in addition to any other penalty prescribed by any other provision of this article relating to controlled substances or harmful or illegal drugs.

HISTORY: 1984 Act No. 482, Section 10.

ARTICLE 4

Controlled Substances Therapeutic Research

SECTION 44-53-610.Short title.

This article may be cited as the "South Carolina Controlled Substances Therapeutic Research Act of 1980".

HISTORY: 1980 Act No. 323, Section 1.

SECTION 44-53-620.Definitions.

As used in this article unless the context clearly indicates otherwise:

- (a) "Director" means the Director of the Department of Health and Environmental Control;
- (b) "Marijuana" means marijuana, all tetrahydrocannabinols or a chemical derivative of any tetrahydrocannabinol;
- (c) "Practitioner" means a physician licensed to practice medicine in this State and licensed to prescribe and administer drugs which are subject to regulation under the provisions of Article 3, Chapter 53 of Title 44 of the 1976 Code.

HISTORY: 1980 Act No. 323, Section 3; 1993 Act No. 181, Section 1110.

SECTION 44-53-630.Establishment of therapeutic research program; regulations; limits as to patient eligibility.

(A) There is established in the Department of Health and Environmental Control a controlled substances therapeutic research program. The program shall be administered by the director. The program shall distribute to cancer chemotherapy and radiology patients and to glaucoma patients who are certified pursuant to this article marijuana under the terms and conditions of this article for the purpose of alleviating the patient's discomfort, nausea and other painful side effects of their disease or chemotherapy treatments. The department shall promulgate regulations

necessary for the proper administration of this article and in such promulgation, the department shall take into consideration those pertinent regulations promulgated by the Drug Enforcement Agency, U. S. Department of Justice; Food and Drug Administration; the National Institute on Drug Abuse, and the National Institutes of Health.

(B) Except as provided in subsection (c) of Section 44-53-640, the controlled substances therapeutic research program shall be limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the patient qualification review advisory board by a practitioner as being involved in a life-threatening or sense-threatening situation and who are not responding to conventional controlled substances or where the conventional controlled substances administered have proven to be effective but where the patient has incurred severe side effects.

HISTORY: 1980 Act No. 323, Section 4; 1993 Act No. 181, Section 1111.

SECTION 44-53-640. Patient Qualification Review Advisory Board; membership; compensation; duties.

(a) The director shall appoint a Patient Qualification Review Advisory Board to serve at his pleasure. The Patient Qualification Review Advisory Board shall be comprised of:

(1) a physician licensed to practice medicine in South Carolina and certified by the American Board of Ophthalmology;

(2) a physician licensed to practice medicine in South Carolina and certified by the American Board of Internal Medicine and also certified in the subspecialty of medical oncology;

(3) a physician licensed to practice medicine in South Carolina and certified by the American Board of Psychiatry; and

(4) a pharmacologist holding a Doctoral degree or its equivalent.

Members of the board shall be paid the usual per diem, mileage and subsistence as provided by law for members of boards, commissions and committees.

(b) The department shall review all applicants for the controlled substances therapeutic research program and their licensed practitioners and certify their participation in the program.

(c) The department, in its discretion, may include other disease groups for participation in the controlled substances therapeutic research program after pertinent medical data have been presented by a practitioner to both the director and the department and after necessary approval is received by the appropriate federal agencies.

HISTORY: 1980 Act No. 323, Section 5; 1993 Act No. 181, Section 1112.

SECTION 44-53-650. Director to obtain and distribute marijuana.

(a) The director shall obtain marijuana through whatever means he deems most appropriate consistent with federal law.

(b) The director shall cause such analyzed marijuana to be transferred to various locations throughout the State that provide adequate security as set forth in federal and state regulations for the purpose of distributing such marijuana to the certified patient in such manner as is consistent with federal law. The patient shall not be required to pay for such marijuana but the director may charge for ancillary medical services provided by the department to compensate the department for the cost, if any, of securing such marijuana, and providing it to the patient.

HISTORY: 1980 Act No. 323, Section 6; 1993 Act No. 181, Section 1113.

SECTION 44-53-660.Annual report.

The director shall annually report to the General Assembly his opinion as to the effectiveness of this program and his recommendations for any changes thereto.

HISTORY: 1980 Act No. 323, Section 7; 1993 Act No. 181, Section 1114.

ARTICLE 5

Methadone

SECTION 44-53-710.Exclusive control over methadone vested in Department of Health and Environmental Control.

The South Carolina Department of Health and Environmental Control has exclusive control over the controlled substance methadone.

HISTORY: 1962 Code Section 32-1510.81; 1972 (57) 2642; 1980 Act No. 439, Section 1; 1993 Act No. 181, Section 1115; 2000 Act No. 355, Section 11.

SECTION 44-53-720.Restrictions on use of methadone.

Methadone and its salts are restricted to:

(1) use in treatment, maintenance, or detoxification programs as approved by the Department of Health and Environmental Control, including narcotic treatment programs operating pursuant to Section 40-43-72.

(2) dispensing by a hospital for analgesia, pertussis, and detoxification treatment as approved by the Department of Health and Environmental Control.

(3) dispensing by a retail pharmacy for analgesia as provided for by R. 61-4, Section 507.5.

HISTORY: 1976 Code Section 44-53-730; 1962 Code Section 32-1510.83; 1972 (57) 2642; 1980 Act No. 439, Section 1; 2000 Act No. 355, Section 12; 2023 Act No. 43 (H.3870), Section 2, eff May 16, 2023.

Effect of Amendment

2023 Act No. 43, Section 2, in (1), inserted ", including narcotic treatment programs operating pursuant to Section 40-43-72" at the end.

SECTION 44-53-730.Restrictions on sale and distribution of methadone.

No supplier, distributor, or manufacturer may sell or distribute methadone or its salts to an entity for use, except as provided for in Section 44-53-720.

HISTORY: 1976 Code Section 44-53-740; 1962 Code Section 32-1510.84; 1972 (57) 2642; 1980 Act No. 439, Section 1; 2000 Act No. 355, Section 13.

SECTION 44-53-740.Promulgation of rules and regulations.

The Board of the Department of Health and Environmental Control shall promulgate regulations necessary to carry out the provisions of this article.

HISTORY: 1976 Code Section 44-53-750; 1962 Code Section 32-1510.85; 1972 (57) 2642; 1980 Act No. 439, Section 1; 1993 Act No. 181, Section 1116; 2000 Act No. 355, Section 14.

SECTION 44-53-750.Autopsy on person dying while enrolled in program.

An autopsy shall be performed on any person on a methadone program who dies while enrolled in such program. A report concerning the autopsy shall be filed with the Department of Health and Environmental Control. Each person enrolling in such program shall be notified of the autopsy provision as a part of such person's consent which is required prior to admission to such program.

HISTORY: 1976 Code Section 44-53-760; 1962 Code Section 32-1510.86; 1972 (57) 2642; 1980 Act No. 439, Section 1.

SECTION 44-53-760.Admission of minors to programs.

Parental consent shall be obtained for all persons under eighteen years of age prior to admission to a methadone maintenance program; provided, that if any court of competent jurisdiction declares a person under eighteen years of age an emancipated minor, then such person may be admitted to the program without parental consent.

HISTORY: 1976 Code Section 44-53-770; 1962 Code Section 32-1510.87; 1972 (57) 2642; 1980 Act No. 439, Section 1.

ARTICLE 6

Drug Awareness Resistance Education Fund

SECTION 44-53-810.Legislative findings.

The General Assembly finds:

(1) that the future of this State rests in the hands of school children;

(2) the Drug Abuse Resistance Education Program taught in this State and in many schools nationally provides an effective and proven awareness of instilling drug resistance skills in our school children, and promoting the hope of a secure and healthy future for these children.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-820.Establishment of DARE Fund; purpose.

There is established the Drug Awareness Resistance Education (DARE) Fund, an eleemosynary corporation, the resources of which must be used to promote and encourage the Drug Awareness and Resistance Education Program in this State. The trust fund supplements and augments services provided by government agencies and does not take the place of these services.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-830.Board of directors; membership; terms.

(A) The DARE Fund is to be administered by a board of directors appointed by the Governor, with the advice and consent of the Senate, and is composed of:

- (1) the Attorney General, ex officio, or his designee;
- (2) two county sheriffs, who shall serve ex officio;
- (3) two police chiefs;
- (4) two local law enforcement officers assigned to the DARE Program; and
- (5) two school principals.

Directors who are not elected officials serve by virtue of their position at the time of appointment.

(B) Members shall serve terms of four years and until successors are appointed and qualify. A board member may be removed by the Governor in accordance with Section 1-3-240(B). Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-840.Board members to be reimbursed for expenses.

Board members are not entitled to per diem but may be reimbursed for mileage and all necessary and reasonable expenses incurred in the performance of their duties under this article.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-850.Powers of board.

In administering this article, the board is authorized, but not limited to:

- (1) develop and implement educational programs and campaigns in support of the DARE Program in South Carolina;
- (2) make policy recommendations for the DARE Program in South Carolina;
- (3) assess the needs of DARE Programs;
- (4) determine how the monies in the fund are to be disbursed;
- (5) acquire and hold property;
- (6) invest trust monies, including pooled investment funds maintained by the State;
- (7) utilize local resources including volunteers when appropriate.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-860.Chairman; meetings; quorum.

The board shall elect a chairman from among its members and shall adopt rules for the governance of its operations. The board shall meet at least semiannually. Six members constitute a quorum.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-870.Director and staff; maximum administrative costs.

The board may employ a director and other staff as necessary to carry out the provisions of this article; however, administration of this article may not exceed twenty percent of the total funds credited to the trust fund, excluding the administrative fee paid to the Department of Revenue pursuant to Section 12-6-5080.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-880.Use of funds.

Funds credited to the trust fund, excluding the administrative fees paid to the Department of Revenue, may be used for, but are not limited to:

- (1) administration of this article including, but not limited to, personnel and board expenses;
- (2) development and promotion of the DARE Program in this State;
- (3) a reserve fund in an interest-bearing account with five percent of the funds received by the trust fund annually to be placed in this account. No withdrawals may be made from this account until the minimum balance has reached one hundred thousand dollars and then these funds may be used only in years in which donations do not meet the average normal operating cost incurred by the trust fund and funds are needed to meet expenses. Once the balance in the reserve funds reaches one hundred thousand dollars, excess fund earned by interest and yearly allocations may be used at the discretion of the board to cover operating costs and to provide additional funds.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

SECTION 44-53-890.Annual report.

The fund board annually by February first shall submit a report to the General Assembly concerning its expenditures of fund monies and activities.

HISTORY: 1997 Act No. 155, Part II, Section 64B.

ARTICLE 7

Hypodermic Needles and Syringes

SECTION 44-53-930.Retail sales shall be made only by registered pharmacists or assistant pharmacists; exception.

Sales at retail of hypodermic needles or syringes shall be made only by a registered pharmacist or registered assistant pharmacist through a permitted pharmacy as authorized by Section 40-43-370, except that syringes and

hypodermic needles may be sold by persons lawfully selling veterinary medicines as authorized by item (8) of Section 40-69-220 if they register annually with the Department of Health and Environmental Control and pay such registration fee as may be required by the Department and they shall be subject to the provisions of Section 44-53-920.

HISTORY: 1975 (59) 188; 1980 Act No. 383, Section 1.

SECTION 44-53-950.Veterinarians and licensed durable medical equipment providers exception.

Nothing in this article applies to veterinarians in connection with the practice of their profession or to certified or licensed durable medical equipment providers when selling hypodermic needles and syringes to insulin dependent diabetics.

HISTORY: 1975 (59) 188; 2000 Act No. 239, Section 1; 2002 Act No. 365, Section 4, eff September 26, 2002.

SECTION 44-53-960.Penalties.

Any person who sells or purchases at retail any hypodermic needles or syringes, except in accordance with the terms of this article, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than sixty days.

HISTORY: 1962 Code Section 32-1510.123; 1974 (58) 2399.

ARTICLE 9

Aromatic Hydrocarbons

SECTION 44-53-1110.Prohibition on aromatic hydrocarbons used as intoxicants.

No person shall, for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of his brain or nervous system, intentionally smell or inhale the fumes from any substance containing aromatic hydrocarbons; provided, that nothing in this section shall be interpreted as applying to the inhalation of any anesthesia for medical or dental purposes.

HISTORY: 1962 Code Section 32-1510.91; 1972 (57) 2766.

SECTION 44-53-1120.Unlawful use or possession of aromatic hydrocarbons.

No person shall, for the purpose of violating Section 44-53-1110, use or possess for the purpose of so using, any substance containing aromatic hydrocarbons.

HISTORY: 1962 Code Section 32-1510.92; 1972 (57) 2766.

SECTION 44-53-1130.Penalties.

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed one hundred dollars or imprisoned for a term not to exceed thirty days.

HISTORY: 1962 Code Section 32-1510.93; 1972 (57) 2766.

ARTICLE 11

Dangerous Caustic and Corrosive Substances

SECTION 44-53-1210.Definitions.

The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis and substances named below:

- (1) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCL) in a concentration of ten per cent or more;
- (2) Sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H₂SO₄) in a concentration of ten per cent or more;
- (3) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of five per cent or more;
- (4) Carboic acid, otherwise known as phenol, and any preparation containing carboic acid or phenol in a concentration of five per cent or more;
- (5) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of ten per cent or more;
- (6) Any salt or oxalic acid and any preparation containing any such salt in a concentration of ten per cent or more;
- (7) Acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC₂H₃O₂) in a concentration of twenty per cent or more;
- (8) Hypochlorous acid, either free or combined, including calx chlorinata, bleaching powder, chloride of lime, chlorinated soda, chlorinated potash and any preparation containing any of the aforesaid substances so as to yield a concentration of ten per cent or more of available chlorine;
- (9) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and vienna paste, in a concentration of ten per cent or more;
- (10) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten per cent or more;
- (11) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO₃) in a concentration of five per cent or more;
- (12) Ammonia water and any preparation yielding free or chemically uncombined ammonia (NH₃), including ammonium hydroxide and "hartshorn," in a concentration of five per cent or more; and
- (13) Any other alkali, acid, salt or preparation thereof having caustic or corrosive properties equivalent to those of any of the alkalis, acids, salts and preparations named above.

The term "misbranded parcel, package or container" means a retail parcel, package or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous easily legible label or sticker, containing:

(1) The name of the article;

(2) The name and place of business of the manufacturer, packer, seller or distributor;

(3) The word "POISON" running parallel with the main body of reading matter on the label or sticker, on a clear plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four-point size unless there is on the label no other type so large, in which event the type shall not be smaller than the largest type on the label; and

(4) Directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.

HISTORY: 1962 Code Section 32-1801; 1952 Code Section 32-1801; 1942 Code Section 5128-26; 1932 Code Section 1451; 1924 (33) 1127.

SECTION 44-53-1220. Sale of caustic or corrosive substance in misbranded parcel, package, or container prohibited.

No person shall sell, barter, exchange, receive, hold, pack or display or offer for sale, barter or exchange in the State any dangerous caustic or corrosive substance in a misbranded parcel, package or container designed for household use.

HISTORY: 1962 Code Section 32-1802; 1952 Code Section 32-1802; 1942 Code Section 5128-26; 1932 Code Section 1451; 1924 (33) 1127.

SECTION 44-53-1230. Confiscation of misbranded caustic or corrosive substance parcels, packages, or containers.

Any dangerous caustic or corrosive substance in a misbranded parcel, package or container for household use that is being sold, bartered or exchanged or held, displayed or offered for sale, barter or exchange shall be liable to be proceeded against in any magistrate's court and seized for confiscation in a manner provided by law. If such substance is condemned as misbranded by such court, it shall be disposed of by destruction or sale, as the court may direct, and, if sold, the proceeds less the actual costs and charges shall be paid over to the magistrate. But such substance shall not be sold contrary to the provisions of the laws of the State. Such proceedings shall conform as near as may be to the law providing for confiscating goods exposed for sale on Sunday.

But upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof.

HISTORY: 1962 Code Section 32-1803; 1952 Code Section 32-1803; 1942 Code Section 5128-26; 1932 Code Section 1451; 1924 (33) 1127.

SECTION 44-53-1240. Enforcement; approval of brands and labels.

The sheriff, deputy sheriffs and other peace officers shall enforce the provisions of this article and may approve and register such brands and labels intended for use under the provisions of this article as may be submitted to them for that purpose and as may in their judgment conform to the requirements of this article. But in any prosecution under this article the fact that any brand or label involved in the prosecution has not been submitted to the sheriff, a deputy sheriff or a peace officer to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of this article shall cause appropriate proceedings to be commenced and prosecuted, without delay, for the enforcement of the penalties in such cases herein provided.

HISTORY: 1962 Code Section 32-1804; 1952 Code Section 32-1804; 1942 Code Section 5128-26; 1932 Code Section 1451; 1924 (33) 1127.

SECTION 44-53-1250.Penalties.

Any person violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ninety days, or by both such fine and imprisonment, in the discretion of the court.

HISTORY: 1962 Code Section 32-1805; 1952 Code Section 32-1805; 1942 Code Section 5128-26; 1932 Code Section 1451; 1924 (33) 1127.

ARTICLE 13

Childhood Lead Poisoning Prevention and Control

SECTION 44-53-1310.Short title.

This article may be cited as the "Childhood Lead Poisoning Prevention and Control Act".

HISTORY: 1979 Act No. 78, Section 1; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1320.Definitions.

As used in this article, unless the context requires otherwise:

(1) "Accessible surface" means any protruding interior or exterior surface that a child can mouth or chew including, but not limited to, an interior windowsill.

(2) "Child" or "children" means a person under six years of age.

(3) "Childcare facility" means a structure or portion of a structure in which children are present on a regular basis, including a structure used as a school, nursery, childcare facility, or other facility catering to the needs of children, including an outbuilding, fencing, or other structure used in conjunction with the structure.

(4) "Department" means the Department of Health and Environmental Control.

(5) "Dwelling" means a structure, all or part of which is designed or used for human habitation, including a primary residence, secondary residence, outbuilding, fencing, or other structure used in conjunction with the structure.

(6) "Dwelling unit" means a room, group of rooms, or other areas of a dwelling.

(7) "Friction surface" means an interior or exterior surface subject to abrasion or friction including, but not limited to, a window or stair tread.

(8) "Householder" means the occupant of a dwelling or dwelling unit or the occupant's agent, the owner of an unoccupied dwelling unit or the owner's agent, or the owner or occupant of a childcare facility or the owner's or occupant's agent.

(9) "Impact surface" means an interior or exterior surface subject to damage by repeated impact on contact including, but not limited to, doors and door jambs.

(10) "Lead-based hazard" means a condition that causes exposure to lead from lead-contaminated paint, lead-contaminated dust, bare lead-contaminated soil, or other lead-based substance that is deteriorated in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.

(11) "Lead-base substance" means paint, lacquer, glaze, or other material containing more than six hundredths of one percent (0.06 percent) lead by weight, or seven-tenths or more milligrams per square centimeter (0.7 mg/cm²) of lead in the dried paint film applied. Standards for lead-contaminated dust and lead-contaminated soil must be the same as those established by the United States Environmental Protection Agency.

(12) "Person" means an individual, firm, corporation, association, trust, or partnership.

(13) "Lead poisoning" means a blood lead level at an elevation hazardous to health as established by the Department of Health and Environmental Control.

HISTORY: 1979 Act No. 78, Section 2; 1993 Act No. 181, Section 1117; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1350.Exemptions.

The provisions of this article do not apply to items that are exempt pursuant to federal law.

HISTORY: 1979 Act No. 78, Section 5; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1360.Program for early diagnosis of cases of childhood lead poisoning; examinations; records.

(A) The department may establish a program for the early diagnosis of cases of childhood lead poisoning. The program must provide for systematic examination for lead poisoning of children at risk residing within the State. Examinations must be made by such means and at such intervals as the department determines to be medically necessary.

The program must give priority in examinations to those children residing, or who have recently resided, in areas where significant numbers of lead poisoning cases have been reported recently or where other reliable evidence indicates that significant numbers of lead poisoning cases may be found.

(B) When the department is notified of a case of lead poisoning, the department shall examine or refer for examination within thirty days all other children under six years of age, and other children as the department finds advisable to examine, residing or recently residing in the household of the victim or in all other dwelling units in the dwelling of the victim or in a childcare facility occupied by the victim, unless the parents or guardian of the child objects to the examination because it conflicts with his or her religious beliefs or practices.

The department shall maintain comprehensive records of all examinations conducted pursuant to this section. These records are strictly confidential and may not be released except as required by law or by court order.

HISTORY: 1979 Act No. 78, Section 6; 1993 Act No. 181, Section 1119; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1370.Childhood lead poisoning prevention education program.

The department may institute a childhood lead poisoning prevention education program. The program shall emphasize the dangers and sources of lead poisoning and the methods of lead poisoning prevention and lead-based hazard remediation.

HISTORY: 1979 Act No. 78, Section 7; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1380.Notification of incidents of lead poisoning.

(A) If a physician, hospital, public health nurse, or other diagnosing person or agency knows or has reason to believe that a child he or she examines or treats has or is suspected of having lead poisoning, the person shall notify the department within seven days. The department shall specify the procedure to be followed and shall provide the necessary forms.

(B) A laboratory doing business in this State shall notify the department of the results of any blood lead analyses conducted on children under six years of age; this notification must be submitted to the department within thirty days of completion of the analysis.

HISTORY: 1979 Act No. 78, Section 8; 1993 Act No. 181, Section 1120; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1390.Investigation of lead poisoning case reports; right of entry.

When the department is notified of a lead poisoning case, the department, upon presentation of the appropriate credentials to the householder, and with the consent of the householder or his agent, may enter a dwelling, dwelling unit, or childcare facility at reasonable times and in a reasonable manner for the purpose of conducting a lead-based hazard investigation and may remove samples of objects necessary for laboratory analysis. If the householder refuses admission to the premises, the department may obtain an administrative warrant from a court of competent jurisdiction to investigate the premises. This section also applies to secondary residences and any other premises routinely occupied by the child.

HISTORY: 1979 Act No. 78, Section 9; 1993 Act No. 181, Section 1121; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1400.Warrants for purpose of conducting investigation; oath or affirmation showing probable cause; contents of warrant.

The issuance and execution of an administrative warrant to investigate must be as follows:

(1) A judge or magistrate of a court having jurisdiction where the investigation is to be conducted, upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting investigations authorized by this article or regulations promulgated pursuant to this article and removing samples of objects from the premises appropriate to the investigations. For the purpose of this section, "probable cause" exists when the circumstances indicate there is reason to believe a child has been exposed or is at risk of being exposed to a lead-based hazard at the premises specified in the warrant.

(2) A warrant must be issued only upon an affidavit of a department employee designated and having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, the judge or magistrate shall issue a warrant identifying the area, premises, building, or conveyance to be investigated, the purpose of the investigation, and, where appropriate, the type of property to be investigated. The warrant must authorize the removal of samples of objects for laboratory analysis, where appropriate. The warrant

must be directed to a designated department employee to execute it. The warrant must state the grounds for issuance and the name of the person or persons whose affidavit has been taken in support of the warrant. The warrant must command the person to whom it is directed to investigate the area, premises, building, or conveyance identified for the purpose specified and, where appropriate, authorize removal of samples of objects for laboratory analysis. The warrant must direct that it be served during reasonable hours and must designate the judge or magistrate to whom it must be returned.

(3) A warrant issued pursuant to this section must be executed and returned within ten days of the date of issuance.

(4) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection with the warrant and shall cause these papers to be filed with the court which issued the warrant.

HISTORY: 1979 Act No. 78, Section 10; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1430.Notice of identification of lead-based hazard; order that it be remediated; appeals.

(A) If a child resides in a dwelling or dwelling unit or is routinely present at a childcare facility in which a lead-based hazard has been identified, the department shall:

(1) post in or upon the dwelling, dwelling unit, or childcare facility, in a conspicuous place, notice of the existence of the hazard. The notice must not be removed until the department determines that the identified lead-based hazard has been remediated.

(2) give written notice of the existence of the lead-based hazard to the householder occupying the dwelling, dwelling unit, or childcare facility.

(3) give written notice of the existence of the lead-based hazard to the property owner and order that the hazard be remediated within a reasonable period of time.

(B) The property owner of a building subject to this article has the right to appeal the order of the department as a contested case.

HISTORY: 1979 Act No. 78, Section 13; 1993 Act No. 181, Section 1122; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1440.Restriction on rental; existing occupants.

A person must not rent or offer for occupancy a dwelling or dwelling unit to be occupied by children which has been posted and ordered remediated of lead-based hazards until the identified hazards have been remediated. If the presence of the lead-based hazard becomes known when the dwelling or dwelling unit is already rented to a family with children, the family of the children must not be evicted for that reason.

HISTORY: 1979 Act No. 78, Section 14; 1993 Act No. 181, Section 1123; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1450.Regulations.

The department may promulgate regulations as necessary to carry out the intent and provisions of this article.

HISTORY: 1979 Act No. 78, Section 15; 1993 Act No. 181, Section 1124; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1460.Legal actions not affected.

Nothing in this article may be interpreted or applied in any manner to defeat or impair the right of a person, municipality, or other political entity to maintain an action or suit for damages sustained, or equitable relief of, for violation of an ordinance by reason of, or in connection with, a violation of this article.

HISTORY: 1979 Act No. 78, Section 16; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1480.Penalties.

A person who knowingly violates a provision of this article or an order of the department issued pursuant to this article is guilty of a misdemeanor and, upon conviction, must be fined or imprisoned not more than the maximum allowed by the magistrates' courts in this State. Each day's violation constitutes a separate offense. Isolated lead-based hazard violations existing in dwellings, dwelling units, or childcare facilities must be considered separate violations.

HISTORY: 1979 Act No. 78, Section 18; 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1485.Civil penalties.

A person who violates a provision of this article or a final determination or order of the department issued pursuant to this article is subject to a civil penalty not to exceed one thousand dollars a day.

HISTORY: 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1490.Private causes of action; action by municipality.

(A) A violation of this article does not give rise to a private cause of action. However, this article does not prohibit a person from commencing an action for damages or injunctive relief pursuant to other law; and this article does not prohibit an action by a municipality or other governmental entity for damages or injunctive relief or an action authorized by other law or regulation.

(B) This section does not prohibit the introduction of evidence of failure to comply with the provisions of this article in establishing the appropriate standard of care in the other action.

HISTORY: 2005 Act No. 142, Section 1, eff June 7, 2005.

SECTION 44-53-1495.Funding contingency.

The provisions of this article are contingent upon the appropriation of state general funds or the availability of financial support from other sources.

HISTORY: 2005 Act No. 142, Section 1, eff June 7, 2005.

ARTICLE 14

Anabolic Steroids

SECTION 44-53-1510.Definition of "anabolic steroid"; exceptions.

(A) The term "anabolic steroid" includes any of the following or any isomer, ester, salt, or derivative of the following that acts in the same manner on the human body:

- (1) clostebol;
- (2) dehydrochlormethyltestosterone;
- (3) ethylestrenol;
- (4) fluoxymesterone;
- (5) mesterolone;
- (6) methandienone;
- (7) methandrostenolone;
- (8) methenolone;
- (9) methyltestosterone;
- (10) nandrolone;
- (11) norethandrolone;
- (12) oxandrolone;
- (13) oxymesterone;
- (14) oxymetholone;
- (15) stanozolol; and
- (16) testosterone.

(B) Anabolic steroids that are expressly intended for administration through implants to cattle or other nonhuman species, and that are approved by the federal Food and Drug Administration for this use, are not considered anabolic steroids as defined by this article and are not governed by its provisions.

HISTORY: 1989 Act No. 115, Section 1.

SECTION 44-53-1520.Unprofessional conduct to dispense under certain circumstances.

It is unprofessional conduct, and is not a valid medical purpose, for a practitioner or veterinarian to prescribe, dispense, or administer an anabolic steroid, or a pharmacist to dispense an anabolic steroid, for the purpose of the hormonal manipulation that is intended to increase muscle mass, strength, or weight without a medical necessity to do so, or for the intended purpose of improving performance in any form of exercise, sport, or game.

HISTORY: 1989 Act No. 115, Section 1.

SECTION 44-53-1530. Possessing anabolic steroids without a prescription, or prescribing anabolic steroids, by nonpractitioner, pharmacist, or veterinarian unlawful; penalties.

It is unlawful for any person who is not a practitioner, pharmacist, or veterinarian to knowingly or intentionally possess anabolic steroids as defined in this article unless the steroids were obtained directly from, or pursuant to a valid prescription or order of, a practitioner while acting in the course of his professional practice. It is unlawful for any person who is not a practitioner, pharmacist, or veterinarian to knowingly or intentionally prescribe, dispense, deliver, or administer anabolic steroids to a person. Any person who violates this article with respect to:

(1) prescription, dispensation, delivery, or administration of an anabolic steroid, or delivery of an anabolic steroid to a person for human use without any purpose other than a valid medical purpose, or the sale or delivery of an anabolic steroid to a person for human use without a valid prescription, or the prescription, dispensation, delivery, or administration of an anabolic steroid to a person by any person who is not a practitioner, pharmacist, or veterinarian, is guilty of a felony and, upon conviction, must be punished as follows:

(a) for a first offense, imprisoned for a term not to exceed five years or fined in an amount not to exceed five thousand dollars, or both;

(b) for a second or subsequent offense, imprisoned for a term not to exceed ten years or fined in an amount not to exceed ten thousand dollars, or both;

(2) possession of ten or fewer dosage units of anabolic steroids without a valid prescription is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, imprisoned for a term not to exceed six months or fined in an amount not to exceed one thousand dollars;

(b) for a second or subsequent offense, imprisoned for a term not to exceed one year or fined in an amount not to exceed two thousand dollars, or both;

(3) possession of more than ten but fewer than one hundred dosage-units of anabolic steroids without a valid prescription is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, imprisoned for a term not to exceed one year or fined in an amount not to exceed two thousand dollars, or both;

(b) for a second or subsequent offense, imprisoned for a term not to exceed two years or fined in an amount not to exceed three thousand dollars, or both;

(4) possession of more than one hundred dosage-units of anabolic steroids without a valid prescription is guilty of a felony and, upon conviction, must be punished as follows:

(a) for a first offense, imprisoned for a term not to exceed five years or fined in an amount not to exceed five thousand dollars, or both;

(b) for a second or subsequent offense, imprisoned for a term not to exceed ten years or fined in an amount not to exceed ten thousand dollars, or both.

HISTORY: 1989 Act No. 115, Section 1.

SECTION 44-53-1550.What constitutes a prior offense.

For purposes of determining whether or not a person has committed a second or subsequent offense under the provisions of this article, a violation of any other provision of this article or provision of law of the United States or any state, territory, or district, relating to an anabolic steroid, constitutes a prior offense.

HISTORY: 1989 Act No. 115, Section 1.

ARTICLE 15

Prescription Monitoring Program

SECTION 44-53-1610.Citation of article.

This article may be cited as the "South Carolina Prescription Monitoring Act".

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006.

SECTION 44-53-1620.Purpose.

This article is intended to improve the state's ability to identify and stop diversion of prescription drugs in an efficient and cost effective manner that will not impede the appropriate medical utilization of licit controlled substances.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006.

SECTION 44-53-1630.Definitions.

As used in this article:

- (1) "Authorized delegate" means an individual who is approved as having access to the prescription monitoring program and who is directly supervised by an authorized practitioner or pharmacist.
- (2) "Controlled substances" means those substances listed in Schedules II, III, and IV of the schedules provided for in Sections 44-53-210, 44-53-230, 44-53-250, and 44-53-270.
- (3) "Dispenser" means a person who delivers a Schedule II-IV controlled substance to the ultimate user, but does not include:
 - (a) a licensed hospital pharmacy that distributes controlled substances for the purpose of inpatient hospital care or dispenses prescriptions for controlled substances at the time of discharge from the hospital;
 - (b) a practitioner or other authorized person who administers these controlled substances; or
 - (c) a wholesale distributor of a Schedule II-IV controlled substance.
- (4) "Drug control" means the Department of Health and Environmental Control, Bureau of Drug Control.

(5) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed, or both.

(6) "Practitioner" means an individual authorized pursuant to state and federal law to prescribe controlled substances.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006; 2014 Act No. 244 (S.840), Section 1, eff June 6, 2014; 2017 Act No. 91 (H.3824), Section 2, eff May 19, 2017.

Effect of Amendment

2017 Act No. 91, Section 2, in the introductory paragraph, substituted "article" for "section"; redesignated (5), relating to the definition of authorized delegate, as (1), and redesignated accordingly; and added (6), relating to the definition of practitioner.

SECTION 44-53-1640. Authority to establish and maintain prescription monitoring program; electronic submission of information by dispensers; exemptions.

(A) The Department of Health and Environmental Control, Bureau of Drug Control shall establish and maintain a program to monitor the prescribing and dispensing of all Schedule II, III, and IV controlled substances by professionals licensed to prescribe or dispense these substances in this State and the administering of opioid antidotes pursuant to Sections 44-130-60 and 44-130-80.

(B)(1) A dispenser shall submit to drug control, by electronic means, information regarding each prescription dispensed for a controlled substance. The following information must be submitted for each prescription:

- (a) dispenser DEA registration number;
- (b) date drug was dispensed;
- (c) prescription number;
- (d) whether prescription is new or a refill;
- (e) NDC code for drug dispensed;
- (f) quantity dispensed;
- (g) approximate number of days supplied;
- (h) patient name;
- (i) patient address;
- (j) patient date of birth;
- (k) prescriber DEA registration number;
- (l) date prescription issued by prescriber.

(2) A dispenser shall submit daily to the department the information required pursuant to subsection (B)(1) in accordance with transmission methods and protocols provided in the latest edition of the "ASAP Telecommunications Format for Controlled Substances", developed by the American Society for Automation in Pharmacy.

(3) Drug control may issue a waiver to a dispenser who is unable to submit prescription information by electronic means. The waiver may permit the dispenser to submit prescription information by paper form or other means if all information required pursuant to subsection (B)(1) is submitted in this alternative format.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006; 2014 Act No. 244 (S.840), Section 2, eff June 6, 2014; 2017 Act No. 91 (H.3824), Section 3, eff May 19, 2017; 2019 Act No. 65 (H.3728), Section 3, eff January 1, 2021.

Editor's Note

2019 Act No. 65, preamble, provides as follows:

"Whereas, the South Carolina General Assembly is committed to combatting the opioid epidemic occurring within this State; and

"Whereas, the South Carolina General Assembly has enacted and is working to enact legislation aimed at stemming the misuse of opioids in South Carolina; and

"Whereas, collecting information related to opioid use and misuse helps those working to better understand the complexities of substance abuse disorders and enables those working with patients suffering from this disease to develop strategies for treatment, education, and care; and

"Whereas, the purpose of this legislation is to provide data to health care professionals treating patients who have been diagnosed with an opioid overdose and received an antidote in response to that overdose; and

"Whereas, the South Carolina General Assembly intends for the information collected pursuant to this law to be used by health care professionals to assist patients in getting appropriate treatment including, but not limited to, treatment for substance abuse disorder; and

"Whereas, the General Assembly intends further that the information collected pursuant to this law should not be used as the sole determining factor in a decision regarding whether to treat or refuse to treat a patient suffering from an opioid misuse. Now, therefore, [text of act]."

Effect of Amendment

2017 Act No. 91, Section 3, in (A), substituted "shall establish" for "may establish".

2019 Act No. 65, Section 3, in (A), added "and the administering of opioid antidotes pursuant to Sections 44-130-60 and 44-130-80" at the end.

SECTION 44-53-1645. Requirement to review patient's prescription history.

(A) A practitioner, or the practitioner's authorized delegate, shall review a patient's controlled substance prescription history and history of the administering of an opioid antidote to the patient pursuant to Section 44-130-60 or 44-130-80, as maintained in the prescription monitoring program, before the practitioner issues a prescription for a Schedule II controlled substance. If an authorized delegate reviews a patient's controlled substance prescription history and history of the administering of an opioid antidote to the patient as provided in this subsection, the practitioner must consult with the authorized delegate regarding the prescription and opioid antidote administering

history before issuing a prescription for a Schedule II controlled substance. The consultation must be documented in the patient's medical record.

(B) The requirements of this section do not apply to:

(1) a practitioner issuing a prescription for a Schedule II controlled substance to treat a hospice-certified patient;

(2) a practitioner issuing a prescription for a Schedule II controlled substance that does not exceed a five-day supply for a patient;

(3) a practitioner prescribing a Schedule II controlled substance for a patient with whom the practitioner has an established relationship for the treatment of a chronic condition; however, the practitioner must review the patient's controlled substance history maintained in the prescription monitoring program at least every three months;

(4) a practitioner approving the administration of a Schedule II controlled substance by a health care provider licensed in South Carolina;

(5) a practitioner prescribing a Schedule II controlled substance for a patient in a skilled nursing facility, nursing home, community residential care facility, or an assisted living facility and the patient's medications are stored, given, and monitored by staff; or

(6) a practitioner who is temporarily unable to access the prescription monitoring program due to exigent circumstances; however, the exigent circumstances and the potential adverse impact to the patient if the prescription is not issued timely must be documented in the patient's medical record.

(C) A practitioner is deemed to be in compliance with this section if the practitioner utilizes technology that automatically displays the patient's controlled substance prescription history from the prescription monitoring program in the practitioner's electronic medical record system. The practitioner must be able to demonstrate that this technology has been deployed in his practice, but no additional documentation is required in the patient's medical record.

HISTORY: 2017 Act No. 91 (H.3824), Section 1, eff May 19, 2017; 2019 Act No. 65 (H.3728), Section 4, eff January 1, 2021.

Editor's Note

2019 Act No. 65, preamble, provides as follows:

"Whereas, the South Carolina General Assembly is committed to combatting the opioid epidemic occurring within this State; and

"Whereas, the South Carolina General Assembly has enacted and is working to enact legislation aimed at stemming the misuse of opioids in South Carolina; and

"Whereas, collecting information related to opioid use and misuse helps those working to better understand the complexities of substance abuse disorders and enables those working with patients suffering from this disease to develop strategies for treatment, education, and care; and

"Whereas, the purpose of this legislation is to provide data to health care professionals treating patients who have been diagnosed with an opioid overdose and received an antidote in response to that overdose; and

"Whereas, the South Carolina General Assembly intends for the information collected pursuant to this law to be used by health care professionals to assist patients in getting appropriate treatment including, but not limited to, treatment for substance abuse disorder; and

"Whereas, the General Assembly intends further that the information collected pursuant to this law should not be used as the sole determining factor in a decision regarding whether to treat or refuse to treat a patient suffering from an opioid misuse. Now, therefore, [text of act]."

Effect of Amendment

2019 Act No. 65, Section 4, in (A), in the first sentence, inserted "and history of the administering of an opioid antidote to the patient pursuant to Section 44-130-60 or 44-130-80", and in the second sentence, inserted "and history of the administering of an opioid antidote to the patient as provided in this subsection" and "and opioid antidote administering".

SECTION 44-53-1650.Confidentiality; persons to whom data may be released.

(A) Prescription information submitted to drug control is confidential and not subject to public disclosure under the Freedom of Information Act or any other provision of law, except as provided in subsections (C) and (D).

(B) Drug control shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed, except as provided for in subsections (C) and (D).

(C) If there is reasonable cause to believe a violation of law or breach of professional standards may have occurred, drug control shall notify the appropriate law enforcement or professional licensure, certification, or regulatory agency or entity and shall provide prescription information required for an investigation.

(D) Drug control may provide data in the prescription monitoring program to the following persons:

(1) a practitioner or pharmacist or authorized delegate who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient;

(2) an individual who requests the individual's own prescription monitoring information in accordance with procedures established pursuant to state law;

(3) a designated representative of the South Carolina Department of Labor, Licensing and Regulation responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(4) a local, state, or federal law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of the laws governing licit drugs and who is involved in a bona fide specific drug-related investigation involving a designated person;

(5) the South Carolina Department of Health and Human Services regarding Medicaid program recipients;

(6) a properly convened grand jury pursuant to a subpoena properly issued for the records;

(7) personnel of drug control for purposes of administration and enforcement of this article;

(8) qualified personnel for the purpose of bona fide research or education; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser must be deleted or redacted from such information prior to disclosure. Further, release of the information only may be made pursuant to a written agreement between qualified personnel and the department in order to ensure compliance with this subsection;

(9) a coroner, deputy coroner, medical examiner, or deputy medical examiner who is involved in a specific inquiry into the cause and manner of death of a designated person pursuant to Chapter 5, Title 17;

(10) a practitioner in a prescription report card provided to practitioners in accordance with Section 44-53-1655; and

(11) the presiding judge of a drug court pertaining to a specific case involving a designated person.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006; 2014 Act No. 244 (S.840), Section 3, eff June 6, 2014; 2018 Act No. 168 (H.4488), Section 1, eff May 3, 2018; 2018 Act No. 201 (S.918), Section 3, eff May 15, 2018; 2018 Act No. 212 (H.4117), Section 1, eff May 18, 2018.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments to (D) made by 2018 Act No. 168, 2018 Act No. 201, and 2018 Act No. 212 were read together and renumbered appropriately.

Effect of Amendment

2018 Act No. 168, Section 1, in (D), added (9), authorizing drug control to provide coroners and medical examiners data maintained in the prescription drug monitoring program, and made nonsubstantive changes.

2018 Act No. 201, Section 3, in (D), added (10), authorizing drug control to provide practitioners in a prescription report card data maintained in the prescription drug monitoring program.

2018 Act No. 212, Section 1, in (D), added (11), authorizing drug control to provide presiding judges of drug courts data maintained in the prescription drug monitoring program.

SECTION 44-53-1655.Practitioner prescription report cards.

(A) The department shall develop and maintain as part of the prescription monitoring program a system to provide prescription report cards to practitioners to inform the practitioner about certain prescribing trends. The report card must provide, at a minimum:

(1) a comparison of the practitioner's number of prescriptions issued per month by therapeutic class code or by specific substances to peer averages by specialty throughout the State;

(2) a comparison of the practitioner's number of milligrams prescribed per month by therapeutic class code or by specific substances to peer averages by specialty throughout the State;

(3) the total number of patients receiving ninety morphine milligram equivalents (MMEs) or more a day;

(4) the total number of patients receiving opioid medications for thirty days or more;

(5) the total number of patients receiving opioids and benzodiazepines medications at the same time;

- (6) the total number of patients issued prescriptions from three or more practitioners;
- (7) the total number of patients filling prescriptions at three or more pharmacies;
- (8) the total number of patients with controlled substance prescriptions whose dispensing dates overlap;
- (9) the total number of patients obtaining refills on their prescriptions more than one week early; and
- (10) the total number of prescription drug monitoring program queries made by the practitioner and a ratio of the queries to the number of patients or prescriptions issued.

The report card also must provide data on the number of practitioners registered against which the comparisons of items (1) and (2) are being made and any other demographic data relating to the pool of practitioners and may include regional or nationwide prescribing comparison data that would be useful to the practitioner. Prescription report cards, data, documents, records, and any other information accessed or compiled in preparing prescription report cards, are confidential and not subject to discovery, subpoena, or introduction into evidence in any civil action, unless confidentiality is waived by the practitioner.

(B) The department shall coordinate with the Board of Medical Examiners and any other appropriate professional boards as part of the development and implementation of a prescription report card program. The department may contract with another agency of the State or with a private vendor, as necessary, to ensure effective operation of the report card program, as provided in Section 44-53-1660, and may apply for public or private grants or other funding to develop, implement, and maintain the program.

HISTORY: 2018 Act No. 201 (S.918), Section 2, eff November 15, 2018.

Editor's Note

2018 Act No. 201, Section 4, provides as follows:

"SECTION 4. SECTION 2 is effective six months after the effective date of this act. All other SECTIONS are effective upon approval by the Governor."

SECTION 44-53-1660.Contract for administration by other state agency or private vendor.

Drug control may contract with another agency of this State or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. A contractor shall comply with the provisions regarding confidentiality of prescription information in Section 44-53-1650 and is subject to the penalties specified in Section 44-53-1680 for unlawful acts.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006.

SECTION 44-53-1670.Promulgation of regulations.

Drug control may promulgate regulations setting forth the procedures and methods for implementing this article.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006.

SECTION 44-53-1680.Violations and penalties.

(A) A dispenser or authorized delegate who knowingly fails to submit prescription monitoring information to drug control as required by this article, or who knowingly submits incorrect prescription information, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(B) A person who knowingly discloses prescription monitoring information in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) A person who knowingly uses prescription monitoring information in a manner or for a purpose in violation of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A pharmacist or practitioner, licensed in Title 40, who knowingly discloses prescription monitoring information in a manner or for a purpose in violation of this article shall be reported to his respective board for disciplinary action.

(E) Nothing in this chapter requires a pharmacist to obtain information about a patient from the prescription monitoring program. A practitioner or authorized delegate of a practitioner who knowingly fails to review a patient's controlled substance prescription history, as maintained in the prescription monitoring program, or a practitioner who knowingly fails to consult with his authorized delegate regarding a patient's controlled substance prescription history before issuing a prescription for a Schedule II controlled substance, as required by this article, must be reported to his respective board for disciplinary action.

(F) A pharmacist or practitioner does not have a duty and must not be held liable in damages to any person in any civil or derivative criminal or administrative action for injury, death, or loss to person or property on the basis that the pharmacist or practitioner did or did not seek or obtain information from the prescription monitoring program. A pharmacist or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting or receiving information from the prescription monitoring program.

HISTORY: 2006 Act No. 396, Section 1, eff June 14, 2006; 2014 Act No. 244 (S.840), Section 4, eff June 6, 2014; 2017 Act No. 91 (H.3824), Section 4, eff May 19, 2017.

Effect of Amendment

2017 Act No. 91, Section 4, amended the section, establishing a penalty if a practitioner or authorized delegate fails to review a patient's controlled substance prescription history before prescribing a schedule II controlled substance.

ARTICLE 18

Julian's Law, Cannabidiol in Clinical Trials to Treat Patients with Epilepsy

SECTION 44-53-1810.Definitions.

As used in this article:

(1) "Academic medical center" means a research hospital that operates a medical residency program for physicians and conducts research that involves human subjects, and other hospital research programs conducting research as a subrecipient with the academic medical center as the prime awardee.

(2) "Approved source" means a provider approved by the United States Food and Drug Administration which produces cannabidiol that:

(a) has been manufactured and tested in a facility approved or certified by the United States Food and Drug Administration or similar national regulatory agency in another country which has been approved by the United States Food and Drug Administration; and

(b) has been tested in animals to demonstrate preliminary effectiveness and to ensure that it is safe to administer to humans.

(3) "Cannabidiol" means a finished preparation containing, of its total cannabinoid content, at least 98 percent cannabidiol and not more than 0.90 percent tetrahydrocannabinol by volume that has been extracted from marijuana or synthesized in a laboratory.

(4) "Designated caregiver" means a person who provides informal or formal care to a qualifying patient, with or without compensation, on a temporary or permanent or full-time or part-time basis and includes a relative, household member, day care personnel, and personnel of a public or private institution or facility.

(5) "Pharmacist" means an individual health care provider licensed by this State to engage in the practice of pharmacy.

(6) "Physician" means a doctor of medicine or doctor of osteopathic medicine licensed by the South Carolina Board of Medical Examiners.

(7) "Qualifying patient" means anyone who suffers from Lennox-Gastaut Syndrome, Dravet Syndrome, also known as severe myoclonic epilepsy of infancy, or any other form of refractory epilepsy that is not adequately treated by traditional medical therapies.

HISTORY: 2014 Act No. 221 (S.1035), Section 2, eff June 2, 2014.

SECTION 44-53-1820. FDA approved clinical trials to treat patients who have certain forms of epilepsy with cannabidiol; principal investigators; subinvestigators.

(A) A statewide investigational new drug application may be established in this State, if approved by the United States Food and Drug Administration to conduct expanded access clinical trials using cannabidiol on qualifying patients with severe forms of epilepsy.

(B) Any physician who is board certified and practicing in an academic medical center in this State and treating patients with severe forms of epilepsy may serve as the principal investigator for such clinical trials if such physician:

(1) applies to and is approved by the United States Food and Drug Administration as the principal investigator in a statewide investigational new drug application; and

(2) receives a license from the United States Drug Enforcement Administration.

(C) Such physician, acting as principal investigator, may include subinvestigators who are also board certified and who practice in an academic medical center in this State and treat patients with severe forms of epilepsy. Such subinvestigators shall comply with subsection (B)(2) of this section.

(D) The principal investigator and all subinvestigators shall adhere to the rules and regulations established by the relevant institutional review board for each participating academic medical center and by the United States Food and Drug Administration, the United States Drug Enforcement Administration, and the National Institute on Drug Abuse.

(E) Nothing in this article prohibits a physician licensed in South Carolina from applying for Investigational New Drug authorization from the United States Food and Drug Administration.

HISTORY: 2014 Act No. 221 (S.1035), Section 2, eff June 2, 2014.

SECTION 44-53-1830.Cannabidiol for use in clinical trials.

(A) Expanded access clinical trials conducted pursuant to a statewide investigational new drug application established pursuant to this chapter only shall utilize cannabidiol which is:

(1) from an approved source; and

(2) approved by the United States Food and Drug Administration to be used for treatment of a condition specified in an investigational new drug application.

(B) The principal investigator and any subinvestigator may receive cannabidiol directly from an approved source or authorized distributor for an approved source for use in the expanded access clinical trials.

HISTORY: 2014 Act No. 221 (S.1035), Section 2, eff June 2, 2014.

SECTION 44-53-1840.Immunity.

(A) A person acting in compliance with the provisions of this article must not be subject to arrest, prosecution, or any civil or administrative penalty, including a civil penalty or disciplinary action by a professional licensing board, or be denied any right or privilege, for the use, prescription, administration, possession, manufacture, or distribution of medical cannabis.

(B) The State must defend a state employee against a federal claim or suit that arises or by virtue of their good faith performance of official duties pursuant to this article.

HISTORY: 2014 Act No. 221 (S.1035), Section 2, eff June 2, 2014.

ARTICLE 19

Drug or Alcohol-Related Overdose Medical Treatment

SECTION 44-53-1910.Definitions.

As used in this article:

(1) "Controlled substance" has the same meaning as provided in Section 44-53-110.

(2) "Drug or alcohol-related overdose" means an acute condition, including mania, hysteria, extreme physical illness, coma, or death resulting from the consumption or use of a controlled substance, alcohol, or another substance with which a controlled substance or alcohol was combined, that a layperson would reasonably believe to be a drug or alcohol overdose that requires medical assistance.

(3) "Seeks medical assistance" means seeking medical assistance by contacting the 911 system, a law enforcement officer, or emergency services personnel.

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

SECTION 44-53-1920.Limited immunity for a person who seeks medical assistance for another.

(A) A person who seeks medical assistance for another person who appears to be experiencing a drug or alcohol-related overdose may not be prosecuted for any of the offenses listed in subsection (B), if the evidence for prosecution was obtained as a result of the person seeking medical assistance for the apparent overdose on the premises or immediately after seeking medical assistance and the person:

(1) acted in good faith when seeking medical assistance, upon a reasonable belief that he was the first person to call for assistance;

(2) provided his own name to the 911 system or to a law enforcement officer upon arrival; and

(3) did not seek medical assistance during the course of the execution of an arrest warrant, search warrant, or other lawful search.

(B) A person who seeks medical assistance for another person in accordance with the requirements of subsection (A) may not be prosecuted for:

(1) dispensing or delivering a controlled substance in violation of Section 44-53-370(a), when the controlled substance is dispensed or delivered directly to the person who appears to be experiencing a drug-related overdose;

(2) possessing a controlled substance in violation of Section 44-53-370(c);

(3) possessing less than one gram of methamphetamine or cocaine base in violation of Section 44-53-375(A);

(4) dispensing or delivering methamphetamine or cocaine base in violation of Section 44-53-375(B), when the methamphetamine or cocaine base is dispensed or delivered directly to the person who appears to be experiencing a drug-related overdose;

(5) possessing paraphernalia in violation of Section 44-53-391;

(6) selling or delivering paraphernalia in violation of Section 44-53-391, when the sale or delivery is to the person who appears to be experiencing a drug-related overdose;

(7) purchasing, attempting to purchase, consuming, or knowingly possessing alcoholic beverages in violation of Section 63-19-2440;

(8) transferring or giving to a person under the age of twenty-one years for consumption beer or wine in violation of Section 61-4-90; or

(9) contributing to the delinquency of a minor in violation of Section 16-17-490.

(C) If the person seeking medical assistance pursuant to this section previously has sought medical assistance for another person pursuant to this article, the court may consider the circumstances of the prior incidents and the related offenses to determine whether to grant the person immunity from prosecution.

(D) A person described in this section must use his or her own name when contacting authorities, fully cooperate with law enforcement and medical personnel, and must remain with the individual needing medical assistance until help arrives.

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

SECTION 44-53-1930.Limited immunity for overdose victim.

(A) A person who experiences a drug or alcohol-related overdose and is in need of medical assistance may not be prosecuted for any of the offenses listed in Section 44-53-1920 if the evidence for prosecution was obtained as a result of the drug or alcohol-related overdose and need for medical assistance.

(B) A person described in Section 44-53-1920 must use his or her own name when contacting authorities, and fully cooperate with law enforcement and medical personnel.

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

SECTION 44-53-1940.Decision to seek medical assistance a mitigating factor.

The court may consider a person's decision to seek medical assistance pursuant to Section 44-53-1920(A) or 44-53-1930 as a mitigating factor in a criminal prosecution or sentencing for a drug or alcohol-related offense that is not an offense listed in Section 44-53-1920(B).

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

SECTION 44-53-1950.Limitation of immunity to allow prosecution for other crimes arising out of the drug or alcohol-related overdose.

This article does not prohibit a person from being arrested, charged, or prosecuted, or from having his supervision status modified or revoked, based on an offense other than an offense listed in Section 44-53-1920(B), whether or not the offense arises from the same circumstances for which the person sought medical assistance.

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

SECTION 44-53-1960.Construction of article.

Nothing in this article may be construed to:

(1) limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of Section 44-53-1920(A) or with regard to other crimes committed by a person who otherwise qualifies for protection pursuant to Section 44-53-1920(A) or Section 44-53-1930;

(2) limit any seizure of evidence or contraband otherwise permitted by law; or

(3) limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effect an arrest for any offense, except as provided in Section 44-53-1920(A) or Section 44-53-1930.

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, in the introductory paragraph, "article" was substituted for "section" to correct a scrivener's error.

SECTION 44-53-1970.Civil and criminal immunity for law enforcement officers.

A law enforcement officer who arrests a person for an offense listed in Section 44-53-1920(B) is not subject to criminal prosecution, or civil liability, for false arrest or false imprisonment if the officer made the arrest based on probable cause.

HISTORY: 2017 Act No. 95 (S.179), Section 1, eff June 10, 2017.

Title 61 - Alcohol and Alcoholic Beverages

CHAPTER 2

General Provisions

SECTION 61-2-10.

Definitions.

(A) As used in Title 61, unless the context clearly requires otherwise:

(1) "Department" means the South Carolina Department of Revenue.

(2) "Director" means the director of the Department of Revenue.

(3) "Division" means the South Carolina Law Enforcement Division.

(4) "Regulation", unless otherwise specified, means a regulation promulgated by the department or division pursuant to (a) this title or (b) other provisions of the Code relating to beer, wine, and alcoholic liquors, and in accordance with Chapter 23 of Title 1.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-20.

Administration and enforcement.

The functions, duties, and powers set forth in this title are vested in the department and the division. The department must administer the provisions of this title, and the division must enforce the provisions of this title.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-30.

Personnel.

The department and the division must employ personnel necessary to administer and enforce the laws and regulations governing alcoholic liquors, beer, and wine. Salaries of these personnel must be set by the department and the division, as applicable.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-40.

Financial interest of employees.

(A) The chief of the division and the director of the department directly or indirectly (a) individually, (b) as a member of a partnership or of an association, (c) as a member or stockholder of a corporation, or (d) as a relative to a person by blood or marriage within the second degree shall not:

(1) have an interest in the manufacture of or dealing in alcoholic liquors or in an enterprise or industry in which alcoholic liquors are required;

(2) receive a commission or profit on the purchase or sale of alcoholic liquors by any person; or

(3) have an interest in or mortgage or deed of trust on any land or building where alcoholic liquors are manufactured for sale, offered for sale, or sold or in personal property used therein.

(B) No employee of the department may license, permit, or participate in the licensing or permitting of a person, business, or organization which requires a license or permit for lawful operation under the law and regulations governing alcoholic liquors, beer, and wine if the employee has an ownership interest in that person, business, or organization.

(C) No employee of the division may enforce any law or regulation governing alcoholic liquors, beer, and wine against any person, business, or organization which requires a license or permit for lawful operation under the law and regulations governing alcoholic liquors, beer, and wine if the employee has an ownership interest in that person, business, or organization.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-50.

Subpoena powers.

The department may issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents and administer oaths and take testimony thereunder.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-60.

Promulgation of regulations.

The department and the division are authorized to promulgate regulations necessary to carry out the duties imposed upon them by law for the proper administration and enforcement of, and consistent with this title including, but not limited to:

(1) regulations for the application and issuance of alcoholic liquor licenses, permits, and certificates;

(2) regulations to prevent the unlawful manufacture, bottling, sale, distribution, transportation, and importation of alcoholic liquors;

(3) regulations necessary to effect an equitable distribution of alcoholic liquors in this State;

(4) regulations for the analysis of alcoholic liquors sold in this State and for a procedure for obtaining the samples for this purpose;

(5) regulations governing the administration and enforcement of provisions relating to producers and wholesalers of beer and wine;

(6) regulations for application for and issuance of beer licenses, permits, or brewers' certificates of approval and the sale, distribution, promotion, and shipment of beer into and within the State;

(7) regulations for the operation of breweries and commercial wineries; and

(8) regulations governing the enforcement of provisions relating to brewpubs.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-70.

Authority to issue licenses, permits, and certificates.

The department has sole and exclusive power to issue all licenses, permits, and certificates provided for in this title.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-80.

Exclusive authority to regulate; construction.

The State, through the department, is the sole and exclusive authority empowered to regulate the operation of all locations authorized to sell beer, wine, or alcoholic liquors, is authorized to establish conditions or restrictions which the department considers necessary before issuing or renewing a license or permit, and occupies the entire field of beer, wine, and liquor regulation except as it relates to hours of operation more restrictive than those set forth in this title.

Nothing contained in this section may be considered as prohibiting judicial appeals from decisions of the Administrative Law Court, as authorized by Chapter 23 of Title 1, nor as limiting the authority of the courts in interpreting and applying the laws of this State relating to matters administered by the department.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 5.

SECTION 61-2-90.

Application for license or permit.

A person desiring a license or permit under this title must file with the department an application in writing on forms provided by the department containing a statement under oath setting forth:

- (1) the name, address, date of birth, race, and nationality of the person applying for the license or permit;
- (2) the exact location where the business is proposed to be operated;
- (3) a description of the type of business to be operated;
- (4) whether the applicant or an owner of the business has been involved in the sale of alcoholic liquors, beer, or wine in this or another state and whether he has had a license or permit suspended or revoked;
- (5) whether the applicant has been a legal resident of this State for at least thirty days before the date of application, and has maintained his principal place of abode in the State for at least thirty days before the date of application;
- (6) other information required by the department to determine if the application meets all statutory requirements for the license or permit and to determine the true owners of the business seeking the license or permit.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-100.

Persons entitled to be licensees or permittees.

(A) The department may issue licenses and permits authorized under this title to qualifying persons. Licenses and permits may be issued only to the person who is the owner of the business seeking the permit or license.

(B) The department shall initiate action to revoke any permit or license that is issued to any person who is not the owner of the licensed business or when the licensed individual or an individual principal of the licensed business is under twenty-one years of age.

(C) If application is made for a license or permit under this title by a person other than an individual, all principals are deemed to be the applicant under Section 61-2-160.

(D) The department may not issue a license or permit under this title to any person unless the person and all principals are of good moral character.

(E) The department may not issue a license or permit under this title to an individual under twenty-one years of age or a business with an individual principal under twenty-one years of age.

(F) Businesses licensed or permitted by the department under this title must designate with the department an agent and mailing address for service of notices. Any required notice may be given by handing it to the agent in person or leaving the notice at his office with a clerk or other person in charge of the office, or if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, leaving a copy at his dwelling place with a person of suitable age and discretion residing in the dwelling place; or by serving it on an employee at the licensed place of business; or by mailing it by first class mail to the agent at his last known address, postage prepaid. No person may act as agent for more than one business entity unless the person has an ownership interest in the business entities.

(G) Nothing in this section may be construed to alter the effect of Sections 61-6-140 and 61-6-150.

(H) As used in this title and unless otherwise required by the context:

- (1) "Person" includes an individual, a trust, estate, partnership, limited liability company, receiver, association, company, corporation, or any other group.
- (2) "Principal" of a business or entity means a person who is described in any one or more of the following terms:
 - (a) an officer of the business or entity which owns the business;
 - (b) a partner other than a limited partner who cannot exercise any management control;
 - (c) a manager of the limited liability company which is managed by managers;
 - (d) a member of the limited liability company which is not managed by managers;
 - (e) a fiduciary, including personal representatives, trustees, guardians, committees, and receivers, who manage, hold, or control title to or who is otherwise in direct or indirect control of the business;
 - (f) a person who owns twenty-five percent or more of the combined voting power of the business or entity;
 - (g) a person who owns twenty-five percent or more of the value of the business entity; or
 - (h) an employee who has day-to-day operational management responsibilities for the business or entity.

(i) a license or permit may be issued to a publicly held corporation, which is deemed the applicant under Section 61-2-160 and the corporation shall designate an officer or other employee of good moral character, over the age of twenty-one and a resident of this State in whose name the permit or license must be held on behalf of the corporation and the corporation may substitute an officer or employee if the individual is of good moral character, over the age of twenty-one, and a resident of this State, and upon notice in writing of the substitution to the department.

(I) The department may not issue a wholesale beer and wine permit pursuant to this title unless the applicant is a legal resident of the United States and has been a legal resident of this State and has maintained his principal place of abode in this State for at least thirty days before the date of the application.

(J) A misstatement or concealment of fact on an application for a license or permit pursuant to this title is sufficient grounds for the department to deny the application and to revoke a license or permit issued based on an application containing a misstatement or concealment of fact.

HISTORY: 1996 Act No. 415, Section 1; 1998 Act No. 442, Section 5A; 2005 Act No. 161, Section 23.B.

SECTION 61-2-105.

Inspection, investigation, and enforcement fees.

Notwithstanding another provision of law, all initial alcoholic liquor and beer and wine license application fees are increased by one hundred dollars, all biennial alcoholic liquor and beer and wine beverage fees and licenses are increased by two hundred dollars, and all local operation permit fees are increased by fifty dollars. These additional funds must be collected by the Department of Revenue and as soon as practicable allocated to the State Law Enforcement Division to offset the costs of inspections, investigations, and enforcement. SLED is authorized to receive, expend, and carry forward these funds.

HISTORY: 2007 Act No. 96, Section 3.

SECTION 61-2-110.

Payment of fees by check.

The department must accept checks, in addition to any other method of payment it considers appropriate, in payment of the fees due for a license or permit. If the check is dishonored, the department may suspend the license or permit without notice or a hearing until the applicant makes the payment in a form satisfactory to the department and pays a reinstatement fee of fifty dollars. The department may retain the reinstatement fee in order to offset the cost of this provision.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-120.

Biennial license and permit expiration dates.

Biennial licenses and permits issued under this title expire according to the county where the licensed location is situated. The expiration dates are the last day of:

(1) February in years which end in an:

(a) odd number for Allendale, Bamberg, Barnwell, Beaufort, and Berkeley Counties;

(b) even number for Charleston, Clarendon, Colleton, Dorchester, Georgetown, Hampton, Jasper, and Williamsburg Counties;

(2) May in years which end in an:

(a) odd number for Cherokee, Chester, Chesterfield, Darlington, Dillon, Fairfield, Florence, and Horry Counties;

(b) even number for Lancaster, Marion, Marlboro, Union, and York Counties;

(3) August in years which end in an:

(a) odd number for Calhoun, Kershaw, Lee, Orangeburg, and Sumter Counties;

(b) even number for Richland County;

(4) November in years which end in an:

(a) odd number for Abbeville, Aiken, Anderson, Edgefield, Greenville, and Greenwood Counties;

(b) even number for Laurens, Lexington, McCormick, Newberry, Oconee, Pickens, Saluda, and Spartanburg Counties.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-130.

Biennial license and permit refunds.

If a biennial licensee or permittee under this title closes the licensed or permitted business for any reason during the first year of the biennial license or permit period, the licensee or permittee or his estate must be refunded the amount of the license or permit fee attributable to the second year of the biennial license or permit period. No licensee or permittee is eligible for a refund under the provisions of this section if the license or permit has been canceled, relinquished, or revoked as a result of an enforcement action or a failure to adhere to the conditions of the license or permit.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-135.

Retention of liquor license when business moved within county.

When a person licensed to sell alcoholic liquor or beer and wine moves his business to a new location in the same county that was licensed in the same manner within ninety days of the time of the move, the person may use his current license and is not required to initiate a new application upon approval by the department.

HISTORY: 2003 Act No. 70, Section 3.

SECTION 61-2-136.

Relocation of licensed beer, wine, or liquor wholesale business.

Notwithstanding another provision of law, a currently licensed beer and wine wholesaler or currently licensed alcoholic liquor wholesaler who wishes to relocate the licensed business to a new location within the State must notify the department. This notice must be in writing, must precisely describe the premises to be licensed, must give the date of the move, and must be filed with the department at least thirty days prior to the move. Upon receipt of this notice, the department shall transfer the permit to the new premises effective on the date of the move.

HISTORY: 2005 Act No. 161, Section 23.A.1.

SECTION 61-2-140.

Suspension or revocation of licenses and permits.

(A) A person promptly must surrender a license or permit issued under the provisions of this title upon request of the department.

(B) Licenses and permits are the property of the department and are not transferable. Licenses and permits must be surrendered immediately to the department upon the termination of a business, upon a change of ownership, possession, or control of a corporation or business entity, or upon a change in the character of the property, facilities, or nature of the business activity for which a license or permit has been issued. The transfer of twenty-five percent or more of corporate stock is considered a change in ownership.

(C) Licenses and permits must be issued for a designated location and may not be transferred to another location. A separate license or permit is required for each separate location of a business.

(D) When a license or permit is suspended or revoked, no partner or person with a financial interest in the business may be issued a license or permit for the premises concerned. No person within the second degree of kinship to a person whose license or permit is suspended or revoked may be issued a license or permit for the premises concerned for a period of one year after the date of suspension or revocation.

(E) A person whose license or permit has been suspended or revoked for a particular premises is not eligible to receive an additional new license or permit at another location during the period the suspension or revocation is in effect, and the department may suspend or revoke all other licenses or permits held by the person if the suspended or revoked premises is within close proximity.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-145.

Liability insurance coverage required; on-premises consumption.

(A) In addition to all other requirements, a person licensed or permitted to sell alcoholic beverages for on-premises consumption, which remains open after five o'clock p.m. to sell alcoholic beverages for on-premises consumption, is required to maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement for a total coverage of at least one million dollars during the period of the biennial permit or license. Failure to maintain this coverage constitutes grounds for suspension or revocation of the permit or license.

(B) The department shall add this requirement to all applications and renewals for biennial permits or licenses to sell alcoholic beverages for on-premises consumption, in which the permittees and licensees remain open and sell alcoholic beverages for on-premises consumption after five o'clock p.m. Each applicant or person renewing its license or permit, to whom this requirement applies, shall provide the department with documentation of a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the required amounts.

(C) Each insurer writing liquor liability insurance policies or general liability insurance policies with a liquor liability endorsement to a person licensed or permitted to sell alcoholic beverages for on-premises consumption, in which the person so licensed or permitted remains open to sell alcoholic beverages for on-premises consumption after five o'clock p.m., must notify the department in a manner prescribed by department regulation of the lapse or termination of the liquor liability insurance policy or the general liability insurance policy with a liquor liability endorsement.

(D) For the purposes of this section, the term "alcoholic beverages" means beer, wine, alcoholic liquors, and alcoholic liquor by the drink as defined in Chapter 4, Title 61, and Chapter 6, Title 61.

HISTORY: 2017 Act No. 45 (S.116), Section 1, eff July 1, 2017.

Editor's Note

2017 Act No. 45, Section 2, provides as follows:

"This act takes effect on July 1, 2017, and any person applying for a new biennial permit or license for on-premises consumption under Title 61 after this date must comply with the provisions of this act at the time of the application. A person renewing a biennial permit or license under Title 61 after this date must comply with the provisions of this act at the time of the renewal."

SECTION 61-2-150.

Subsequent tenants.

If a fine is imposed by the department for a violation by a beer, wine or liquor licensee, and the licensee fails to pay the fine and ceases doing business on the premises where the violation occurred, the department must not require a subsequent tenant of the premises to pay the fine as a condition to being issued a beer, wine, or liquor license. However, this prohibition does not apply to any person who is related by blood within the third degree or marriage to, is in business with, or is acting for or on behalf of, directly or indirectly, the licensee so fined.

The burden is on the new tenant to prove that no such relationship exists between him and the licensee.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-160.

Issuance, renewal, or transfer of license; delinquent taxes.

A license or permit pursuant to the provisions of this title must not be issued, renewed, or transferred unless the department determines that the applicant does not owe the State delinquent taxes, penalties, or interest. If the department determines that delinquent taxes, penalties, or interest are due, the department shall notify the applicant of the necessary requirements to comply with this section.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 161, Section 23.C.

SECTION 61-2-170.

Drive-through or curb service of alcoholic beverages.

The department may not generate license fees to be deposited in the general fund of the State through the issuance of licenses or permits for on or off premises consumption which authorize alcoholic liquors, beer, or wine to be sold on a drive-through or curb service basis.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-175.

Foreign person or corporate entity shipping alcoholic beverages to resident not holding valid license; cease and desist order; penalties.

(A) Any person or corporate entity (including partnerships) located in another state or country who knowingly and intentionally ships, causes to be shipped, or accepts for shipment any beer, wine, or alcoholic liquors directly to any resident of this State who does not hold a valid producer's, manufacturer's, wholesaler's, or special food manufacturer's license or producer representative's certificate of registration issued by the State of South Carolina is in violation of this title.

(B) Any person, corporation, or partnership found by the department to be in violation of subsection (A) of this section shall be issued a notice to cease and desist. Any person, corporation, or partnership who, after receiving a cease and desist order, is found by the department to be in violation of subsection (A) of this section for a second or subsequent occurrence within a two-year period of the first violation is guilty of a misdemeanor and, upon conviction, must be punished by a fine not to exceed \$10,000. This subsection shall not apply to any person, corporation, or partnership who has registered brands for sale with the department pursuant to this title and who has current licenses and who has posted adequate surety bonds as required by this title; however, violations of subsection (A) constitute grounds for the department to take appropriate administrative action against the person, including suspension or cancellation of license and forfeiture of bonds.

HISTORY: 1997 Act No. 98, Section 1; 2003 Act No. 40, Section 1.C.

SECTION 61-2-180.

Special events or activities.

A person or organization licensed by the department under this title may hold and advertise special events such as bingo or other similar activities intended to raise money for charitable purposes. This section does not affect the requirements for obtaining a bingo license from the department. A special event or activity that is authorized pursuant to this section is not an exception or limitation to Section 12-21-2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited.

HISTORY: 1996 Act No. 415, Section 1; 2013 Act No. 5, Section 1, eff March 22, 2013.

Effect of Amendment

The 2013 amendment deleted "Notwithstanding any other provision of law" from the beginning of the first sentence, deleted the reference to raffles in the first sentence, and add the third sentence relating to section 12-21-2710.

SECTION 61-2-185.

Special nonprofit event licenses; donations of alcohol; requirements; definitions.

(A) A nonprofit organization may apply for a special nonprofit license. A special nonprofit event is an event for which a nonprofit organization solicits and accepts donations of alcohol to be sold for on-premises consumption. A nonprofit organization applying for a special nonprofit event license must meet the following requirements:

(1) The organization must be a nonprofit organization registered and in good standing with the South Carolina Secretary of State as a domestic nonprofit organization.

(2) The nonprofit organization must not hold a biennial permit or license issued pursuant to Title 61 for on-premises or off-premises consumption.

(3) A special nonprofit event must last no longer than seventy-two consecutive hours. For the purpose of this section, an event may take place at more than one location where the nonprofit organization has control of the premises for the special nonprofit event. For multiple locations to constitute one event, the location must be in the same county.

(4) The nonprofit organization must have a reputation for peace and good order in its community, and the principals must be of good character.

(5) The nonprofit organization must obtain a special nonprofit event license from the department. A nonprofit organization shall not be licensed to hold more than four special nonprofits in one calendar year.

(B)(1) A nonprofit organization seeking a special nonprofit event license application must submit an application, as promulgated by the department, that satisfies the requirements set forth in Section 61-2-90, and that includes notice to local law enforcement, and may require criminal background checks, together with a nonrefundable license fee of forty dollars.

(2) The department must deny an application that does not contain the information required on the application and the license fee.

(C) For purposes of this section only:

(1) "Alcohol" means beer, ale, porter, and other similar malt or fermented beverages, wine not in excess of twenty-one percent

alcohol, alcoholic liquors, or any other type of alcoholic beverage that contains any amount of alcohol and is used as a beverage for human consumption. It does not include alcohol that is not registered as a brand in this State and it does not include alcohol that is made at home for home consumption.

(2) "Supplier" means a manufacturer, producer, vintner, brewer, micro-brewer, importer, distiller, or micro-distiller of alcohol, authorized to do business in this State.

(D) For a special nonprofit event only, a supplier or wholesaler of alcohol may donate alcohol to a nonprofit organization for sale and on-premises consumption at a special nonprofit event, without violation of Section 61-4-735, Section 61-4-940, or Chapter 6, Title 61 subject to the following requirements:

(1)(a) All alcohol provided to the nonprofit organization from a supplier or a wholesaler for the special nonprofit event must be transferred through a wholesaler licensed in this State that is authorized by an applicable supplier to sell alcohol to retailers.

(b) Up to three calendar days prior to the event, the alcohol may be picked up by the nonprofit organization from the applicable wholesaler's warehouse, upon presentation of the special nonprofit event license, or the alcohol may be delivered to the event premises by the applicable wholesaler, if the nonprofit organization is in control of the event premises at the time of delivery, and upon presentation of the special nonprofit event license.

(c) Except as provided in subsection (E)(1), where applicable, the provisions of Article 13, Chapter 4, Title 61 concerning territorial agreements, operate.

(2) The wholesaler shall pay the appropriate state excise taxes to the department on the donated alcohol.

(3) A wholesaler that chooses to donate alcohol to the special nonprofit event may:

(a) provide alcohol previously purchased from the supplier and invoice the appropriate supplier for the cost of the alcohol, together with the excise taxes paid or to be paid by the wholesaler; or

(b) receive delivery of the donated alcohol from the supplier and bill the supplier for the excise tax paid or to be paid by the wholesaler.

(4) The wholesaler that is providing the alcohol must present an invoice to the nonprofit organization that includes:

(a) a listing of the types of alcohol and the alcohol brands that have been donated to the event;

(b) the wholesaler's regular price to retailers for the alcohol so donated; and

(c) the name and address of the supplier or wholesaler that has donated the alcohol.

(5) The wholesaler shall transfer the donated alcohol to the nonprofit organization only after presentation of the original special nonprofit event license, as issued by the department, and the delivery of the wholesaler's invoice to the nonprofit organization.

(6) For sales of nondonated alcohol from a wholesaler to the nonprofit organization for use and on-premises consumption at the special nonprofit event, the provisions of Section 61-4-30 and Section 61-6-1300 apply.

(7) The nonprofit organization licensed to hold the special nonprofit event is responsible for maintaining any and all invoices for alcohol donated or purchased for the event. The invoices must be available at the event upon request of the division.

(E)(1) In addition to the donations of alcohol, a nonprofit organization may solicit from and a supplier may provide, without violation of Section 61-4-735, Section 61-4-940, or Chapter 6, Title 61, the following, with or without charge, for use at a special nonprofit event:

(a) individual employees, agents, owners, or members of a supplier to pour and serve alcohol, if each of these individuals has received training from an alcohol education training program recognized by the department and posted on the department's website;

(b) point of sale advertising specialties, as defined by federal law and regulations; and

(c) equipment used to dispense alcohol for sale for on-premises consumption.

(2) A wholesaler of alcohol shall not provide individual employees, owners, or members of a wholesaler to pour or serve alcohol at a special nonprofit event. A wholesaler of alcohol is prohibited from providing any services not authorized by Section 61-4-735, Section 61-4-940, or Section 61-6-1300.

(F)(1) For brands of beer that are registered in the State, but have not yet been assigned to a wholesaler for the territory where the special nonprofit event is to be held, a producer or importer may deliver the beer to a willing wholesaler who operates in the territory where the event is to be held, along with the appropriate excise tax and proof that the brand has been registered in the State, and the wholesaler may provide such delivered beer for the event.

(2) Brewpubs may donate beer that is brewed at the brewpub to a nonprofit organization holding a special nonprofit event pursuant to the requirements of this section. The brewpub must deliver the donated beer, together with the appropriate state excise tax, to a willing wholesaler that operates in the territory where the special nonprofit event is to be held and the wholesaler shall transfer the donated beer to the nonprofit organization in accordance with the provisions of this section.

(3) Donations pursuant to this subsection and delivery by the producer, importer, or brewpub shall not operate as an assignment of territory to the wholesaler and shall not be considered violations of Article 13 or Article 17, Chapter 4, Title 61.

HISTORY: 2017 Act No. 44 (S.114), Section 1, eff November 19, 2017.

SECTION 61-2-190.

Warrantless arrests.

A person detected in the act of violating any provision of this title may be arrested without warrant if a warrant is procured within a reasonable time thereafter.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-200.

Summons.

There shall be one official summons which may be used by all agents and inspectors of the division when making arrests for violations of the laws and regulations governing alcoholic liquors, beer, and wine in offenses for which the magistrate's court has jurisdiction. The division must prescribe the form of the summons and print copies.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-210.

Jurisdiction of magistrates court.

When a person is charged by an agent or inspector of the division with a criminal offense for which a magistrate's court has jurisdiction, the person charged, upon being served with the official summons issued by the agent or inspector, must appear before the proper judicial officer at the time and place stated in the summons. The service of the summons vests the court with jurisdiction to hear and dispose of the charge for which the summons was issued.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-220.

Affidavit for search warrant.

When this title provides that a search warrant may be issued upon an affidavit based on information and belief, the affidavit must contain a statement setting forth the sources of information and the facts and grounds of belief upon which the affiant bases his belief.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-230.

Suspension of constable or magistrate.

A constable, deputy constable, or magistrate who neglects or refuses to perform the duties required by this title may be suspended by the Governor.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-240.

Interference with officer; abusive language.

Interference by any person with, obstruction or resistance of, or abusive language to any officer or person in the discharge of his duties under this title or the use of abusive language by the officer or person to another person is a misdemeanor. A person who violates this section must, upon conviction, be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than three months nor more than one year.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-250.

Sentencing.

In cases of conviction for the violation of a provision of this title when no punishment is provided, the person must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-2-260.

Contested case hearings.

Contested case hearings arising under the provisions of this title must be heard by the Administrative Law Court pursuant to the South Carolina Revenue Procedures Act and the Administrative Procedures Act.

HISTORY: 1996 Act No. 415, Section 1.

Title 61 - Alcohol and Alcoholic Beverages

CHAPTER 4

Beer, Ale, Porter, and Wine

ARTICLE 1

General Provisions

SECTION 61-4-10.

Nonalcoholic beverages defined.

The following are declared to be nonalcoholic and nonintoxicating beverages:

- (1) all beers, ales, porters, and other similar malt or fermented beverages containing not in excess of five percent of alcohol by weight;
- (2) all beers, ales, porters, and other similar malt or fermented beverages containing more than five percent but less than fourteen percent of alcohol by weight that are manufactured, distributed, or sold in containers of six and one-half ounces or more or the metric equivalent; and
- (3) all wines containing not in excess of twenty-one percent of alcohol by volume.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 14, Section 1; 2007 Act No. 107, Section 2.

SECTION 61-4-20.

Sales without taxes levied.

It is unlawful for a person to sell or permit to be sold beer, ale, porter, wine, malt, or other beverage authorized to be sold under this chapter on which the tax levied has not been paid. A person having charge of the sale of one of these beverages who sells or permits it to be sold in violation of the provisions of this section is guilty of a misdemeanor and, upon conviction, for each offense must be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not less than ten days nor more than thirty days, in the discretion of the court.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-30.

Cash sales.

Beer or wine sold by wholesalers to the holders of retail licenses in this State must be sold for cash only at the time of delivery or prior to delivery. For purposes of this section, "cash" means money or a bona fide check, money order, or electronic transfer of funds if the transfer of funds is initiated by an irrevocable payment order on or before delivery of the beer or wine. The electronic transfer must be initiated by the wholesaler no later than one business day after delivery. A holder of a retail permit who issues a check or an irrevocable payment order in payment for beer or wine with insufficient funds at the bank to cover the check violates the provisions of this section. This provision for cash payment applies to cash deposits on empties when beer is delivered in returnable containers. This deposit on bottles or draft beer containers must not be less than the charge from the brewery to the wholesaler.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-40.

Credit sales prohibited.

A holder of a beer permit or a beer and wine permit may not purchase beer or wine, or both, on credit by a dishonored check, an unpaid note or invoice, or other insufficient manner from a permitted beer and wine wholesaler. However, no action may be taken against the holder for a first violation of this section. If a holder commits a second or subsequent violation, his retailer's permit may be suspended, canceled, or revoked by the department, or a monetary penalty of not more than twenty-five dollars may be assessed against him.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-50.

Sales to underage persons.

(A) It is unlawful for a person to sell beer, ale, porter, wine, or other similar malt or fermented beverage to a person under twenty-one years of age. A person who makes a sale in violation of this section, upon conviction:

- (1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and
- (2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

(B) Failure of a person to require identification to verify a person's age is prima facie evidence of the violation of this section.

(C) A person who violates the provisions of this section also is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars.

(D)(1) Whenever any person who has not previously been convicted of any offense under this section, pleads guilty to or is found guilty of a sale in violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires provided that one such condition must be that he complete the merchant education program described in subsection (C). Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section must be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed

by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this section. The South Carolina Law Enforcement Division must produce this record upon subpoena or court order. Discharge and dismissal under this section may occur only once with respect to any person.

(2) Upon the dismissal of the person and discharge of the proceedings against him pursuant to item (1), the person may apply to the court for an order to expunge from all official records, other than the nonpublic records to be retained as provided in item (1), all recordation relating to his arrest, indictment or information, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines, after the hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose, except when the person is providing sworn statements or giving testimony under oath. A conditional discharge granted pursuant to this section does not preclude a person from availing themselves of subsequent pre-trial diversion options provided by law.

(3) Before a person may be discharged and the proceedings dismissed pursuant to this subsection, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this item must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

(4) Conditional discharge may only be granted by the court in accordance with the provisions of this section upon approval of the circuit solicitor or prosecuting officer.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 9; 2024 Act No. 211 (H.4248), Section 1, eff June 26, 2024.
Effect of Amendment

2024 Act No. 211, Section 1, added (D).

SECTION 61-4-60.

False information about age.

It is unlawful for a person to whom beer or wine cannot be lawfully sold to knowingly give false information concerning his age for the purpose of purchasing beer or wine. A person who violates the provisions of this section, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or be imprisoned for not more than thirty days, or both.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 10.

SECTION 61-4-70.

Posting signs.

A person engaged in the business of selling at retail beer or wine must post in each location for which he has obtained a permit a sign with the following words printed thereon: "The possession of beer, wine, or alcoholic liquors, by a person under twenty-one years of age is a criminal offense under the laws of this State, and it is also unlawful for a person to knowingly give false information concerning his age for the purpose of purchasing beer, wine, or liquor". The department must prescribe by regulation the size of the lettering and the location of the sign on the seller's premises.

A retail seller of beer or wine who fails to display the sign required by this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

A person found guilty of a violation of Section 61-6-1530 and this section may not be sentenced under both sections for the same offense.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-80.

Purchase of beer or wine for a person to whom it cannot lawfully be sold.

It is unlawful for a person who purchases beer or wine while on licensed premises to give the beer or wine to a person to whom beer or wine cannot lawfully be sold on the premises. A person who violates this section, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 11.

SECTION 61-4-90.

Transfer of beer or wine for underage person's consumption.

(A) It is unlawful for a person to transfer or give to a person under the age of twenty-one years for the purpose of consumption of beer or wine in the State, unless the person under the age of twenty-one is recruited and authorized by a law enforcement agency to test a person's compliance with laws relating to the unlawful transfer or sale of beer and wine to a minor. A person who violates this section is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

(B) A person found guilty of a violation of Section 61-6-4070 and this section may not be sentenced under both sections for the same offense.

(C) The provisions of this section do not apply to a:

(1) spouse over the age of twenty-one giving beer or wine to his spouse under the age of twenty-one in their home;

(2) parent or guardian over the age of twenty-one giving beer or wine to his children or wards under the age of twenty-one in their home; or

(3) person giving beer or wine to another person under the age of twenty-one in conjunction with a religious ceremony or purpose if the beer or wine was lawfully purchased.

(D) A person eighteen years of age and over lawfully employed to serve or remove beer, wine, or alcoholic beverages in establishments licensed to sell these beverages are not considered to be in unlawful possession of the beverages during the course and scope of their duties as an employee. The provisions of this subsection do not affect the requirement that a bartender must be at least twenty-one years of age.

(E) This section does not apply to an employee lawfully engaged in the sale or delivery of these beverages in an unopened container.

(F) The provisions of this section do not apply to a student who:

(1) is eighteen years of age or older;

(2) is enrolled in an accredited college or university and a student in a culinary course that has been approved through review by the State Commission on Higher Education;

(3) is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

(4) tastes a beverage pursuant to item (3) only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must remain at all times in the possession and control of an authorized instructor of the college or university who must be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted pursuant to the curriculum.

HISTORY: 1996 Act No. 415, Section 1; 1999 Act No. 1, Section 5; 2007 Act No. 103, Section 12.

SECTION 61-4-100.

Criminal charges brought against both seller and purchaser.

(A) If a person is charged with a violation of the unlawful sale of beer or wine to minors pursuant to Section 61-4-50, the minor also must be charged with a violation of the unlawful purchase or possession of beer or wine pursuant to Section 63-19-2440. In addition, if the minor violated false information as to age pursuant to Section 61-4-60 or if an adult violated the unlawful purchase of beer or wine for a person who cannot lawfully buy pursuant to Section 61-4-80, these persons also must be charged with their violations.

(B) A person may not be charged with a violation of Section 61-4-50 if the provisions of subsection (A) are not met.

(C) Nothing in this section requires that charges made pursuant to this section be prosecuted to conclusion; but rather this determination must be made in the manner provided by law.

(D) Notwithstanding the provisions of subsections (A) and (B), a person under the age of twenty-one may be recruited and authorized by a law enforcement agency to test an establishment's compliance with laws relating to the unlawful transfer or sale of beer or wine to a minor. The testing must be under the direct supervision of a law enforcement agency, and the agency must have the person's parental consent. If the requirements of this subsection are met, a person may be charged with a violation of Section 61-4-50 without the requirement that the minor also be charged.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 13.

SECTION 61-4-110.

Open containers in motor vehicle.

It is unlawful for a person to have in his possession, except in the trunk or luggage compartment, beer or wine in an open container in a motor vehicle of any kind while located upon the public highways or highway rights of way of this State. This section must not be construed to prohibit the transporting of beer or wine in a closed container, and this section does not apply to vehicles parked in legal parking places during functions such as sporting events where law enforcement officers are on duty to perform traffic control duties. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

For purposes of this section, beer or wine means any beer or wine containing one-half of one percent or more of alcohol by volume.
HISTORY: 1996 Act No. 415, Section 1; 2000 Act No. 390, Section 31.

SECTION 61-4-120.

Sunday sales; exception.

(A) It is unlawful for a person to sell or offer for sale wine or beer in this State between the hours of twelve o'clock Saturday night and sunrise Monday morning. However, an establishment licensed pursuant to Article 5 of Chapter 6 is authorized to sell these products during those hours in which the sale of alcoholic liquors by the drink is lawful. A person who violates the provisions of this section is considered guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. The right of a person to sell wine and beer in this State under a license issued by the State must be forfeited and the license revoked upon his conviction of violating the provisions of this section.

(B) Notwithstanding subsection (A) and other provisions of law, wine may be sold on Sunday if the wine is produced using grapes grown in this State, the grapes are harvested, processed, fermented, bottled, and sold at the same contiguous location, the seller meets all applicable licensing and taxing requirements, and the local governing body of the county or municipality where the sale occurs adopts an ordinance permitting wine sales on Sunday under these limited circumstances.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 4; 2005 Act No. 139, Section 5; 2008 Act No. 243, Section 1, eff May 27, 2008.

Effect of Amendment

The 2008 amendment designated subsection (A) and added subsection (B) relating to Sunday sales of wine produced using grapes grown in the State.

SECTION 61-4-130.

Seizure of contraband beer or wine; retention of possession upon posting of cash bond; forfeiture of bond.

If beer or wine is sold or delivered to a person from a place of business between the hours of twelve o'clock Saturday night and sunrise Monday morning, all beer and wine found in the place of business is contraband and must be seized by a peace officer and handled as contraband liquor. However, the person owning or claiming the beer or wine may retain possession of it by delivering to the peace officer a cash bond in an amount equal to the cost price of the beer or wine. The cost price must not be less than the average price charged for a like quantity of beer or wine by a licensed wholesaler. The peace officer receiving the bond must deliver a written receipt to the person posting the bond. If the peace officer is a representative of the division, the cash bond must be deposited with the State Treasurer. If the peace officer is a representative of a municipality, the cash bond must be deposited with the municipal treasurer. In all other cases, the cash bond must be deposited with the treasurer of the county in which the beer or wine was located when declared contraband. If the department or court determines that the person charged with the violation which required the posting of a bond was not guilty of the offense charged, the bond must be returned to the person posting the bond. If the person charged is found guilty, the bond must be forfeited to the State, county, or municipality, as the case may be.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-140.

Open containers on Sundays.

A person who drinks beer or wine or possesses beer or wine in an open container between the hours of twelve o'clock Saturday night and sunrise Monday morning at a place licensed to sell beer or wine is considered guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-150.

Sales by unlicensed persons.

If beer or wine is sold to anyone by a person who does not have a valid license to make the sale, all beer and wine found on the premises of the person is contraband and must be seized by a peace officer and treated as contraband liquor.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-160.

Discount pricing for on-premises consumption.

No person who holds a biennial permit to sell beer or wine for on-premises consumption may advertise, sell, or dispense these beverages for free, at a price less than one-half of the price regularly charged, or on a two or more for the price of one basis. Beer or wine may be sold at a price less than the price regularly charged from four o'clock p.m. until eight o'clock p.m. only. The prohibition against dispensing the beverages for free does not apply to dispensing to a customer on an individual basis, to a fraternal organization in the course of its fund-raising activities, to a person attending a private function on premises for which a biennial permit has been issued, or to a customer attending a function sponsored by the person who holds a biennial permit. However, no more than two functions may be sponsored each year, and must be authorized by the department. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.

A person found guilty of a violation of Section 61-6-4550 and this section may not be sentenced under both sections for the same offense.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-170.

Beverages resembling vegetable, fruit, or soft drinks.

It is unlawful for a person, with or without a beer or wine permit, to sell or to offer for sale a beverage generally used as and for a soft drink rather than as a medicine or for cooking purposes having an alcoholic content, when the beverage resembles in color and general appearances a vegetable drink, a fruit drink, or a soft drink. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both. In addition, these beverages are contraband and must be seized by an authorized agent or inspector of the division, or by a peace officer, and disposed of in a manner provided for the disposition of unlawful alcoholic liquors.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-180.

Labeling.

It is unlawful for a person to sell or otherwise introduce into commerce nonalcoholic and nonintoxicating beverages lawful under the provisions of this title, unless labeled in accordance with the provisions of the Federal Alcoholic Administration Act and rules and regulations promulgated thereunder. A violation of this section subjects the nonalcoholic and nonintoxicating beverages found in the possession of a person violating this section to seizure, confiscation, and sale, as provided in Section 61-6-4310.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-190.

Warrants for unpaid penalties.

If a penalty imposed under this chapter remains due and unpaid for a period of ten days, the department must issue a warrant under its bond and official seal in accordance with Article 1 of Chapter 53 of Title 12.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-200.

Transfers of beer or wine.

Notwithstanding any other provision of law, a holder of a retail permit to sell beer and wine may transfer beer and wine to other businesses. In order for this transfer to be lawful, all businesses involved in the transfer must hold a retail beer and wine permit issued to the same individual, partnership, or corporation. In addition, a particular brand of beer may be transferred only between retail stores located within the territorial restrictions described in the distribution agreement between the brewery and the wholesaler on file with the department pursuant to Section 61-4-1300. Transfers of beer and wine between retail beer and wine locations in a manner not authorized by this section, purchase of beer or wine by a retailer from another retailer for the purpose of resale, and sale of beer or wine by a retailer to a retailer for the purpose of resale are unlawful. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-210.

Temporary retail permits.

(A) A person who purchases or acquires by lease, inheritance, divorce decree, eviction, or otherwise a retail business which sells beer or wine from a holder of a retail permit to sell beer or wine at the business, upon initiating the application process for a biennial retail beer or beer and wine permit, may be issued a temporary retail beer or beer and wine permit by the department at the time of the purchase or acquisition if the location for which the temporary permit is sought is not considered by the department to be a public nuisance and:

(1) the applicant currently holds a valid beer or beer and wine permit; or

(2) the applicant has had a criminal history background check conducted by the division within the past thirty days.

(B) A temporary beer or beer and wine permit issued pursuant to subsection (A) is valid until a biennial retail beer or beer and wine permit is approved or disapproved by the department, but in no case is it valid for more than one hundred twenty days from the date of issuance.

(C) Notwithstanding subsection (B), the department may revoke a temporary retail beer or beer and wine permit if the applicant fails to pursue the biennial retail beer or beer and wine permit in a timely manner, as set forth by regulation of the department.

(D) The department shall collect a fee of twenty-five dollars for each temporary beer or beer and wine permit. The funds generated by this fee must be deposited in the general fund of the State.

HISTORY: 1996 Act No. 415, Section 1; 1998 Act No. 442, Section 5D.

SECTION 61-4-220.

Food service.

A restaurant with a Class A or B license issued by the Department of Health and Environmental Control (DHEC) may serve food or beverages at its adjoining facilities located outside the restaurant if the food is prepared in a kitchen of the restaurant which is subject to inspection by DHEC and is placed on individual plates or in individual serving dishes inside the restaurant, and if uncovered containers in which the beverages are served are filled only to satisfy the order of a customer.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-230.

Refusal to permit inspection.

A person who, upon demand of an officer or agent of the division:

(1) refuses to allow full inspection of the premises or any part of the premises which is licensed to sell beer or wine; or

(2) refuses to allow full inspection of the stocks and invoices of the licensee; or

(3) who prevents or in any way hinders an inspection is guilty of a misdemeanor and, upon conviction, must be fined not more than

two hundred dollars or imprisoned for not more than sixty days, or both.

A person found guilty of a violation of Section 61-6-4190 and this section may not be sentenced under both sections for the same offense.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-240.

Temporary possession, consumption, or sale permits.

Temporary permits for the possession, consumption, and sale of beer or wine may be issued pursuant to Section 61-4-550, 61-6-500, 61-6-2000, or 61-6-2010, as appropriate, and in accordance with these statutes.

HISTORY: 1996 Act No. 415, Section 1; 2010 Act No. 259, Section 2, eff June 11, 2010.

Effect of Amendment

The 2010 amendment deleted "61-6-510," following "61-6-500,".

SECTION 61-4-250.

Penalties.

For violations of this chapter, or of Chapter 21 or 33 of Title 12, and for a violation of any regulation pertaining to beer or wine, the department may, in its discretion, impose a monetary penalty upon the holder of a beer or wine license in lieu of suspension or revocation.

In these cases, the amount of any penalty imposed must be determined within the limits prescribed in this section in each case by the department after a hearing as provided in the South Carolina Revenue Procedures Act and the Administrative Procedures Act. For these violations:

- (1) retail beer and wine licensees are subject to a penalty of not less than twenty-five dollars nor more than one thousand dollars; and
- (2) wholesale beer and wine licensees are subject to a penalty of not less than one hundred dollars nor more than one thousand five hundred dollars.

The department in its discretion may suspend payment of a fine or a monetary penalty imposed under this section.

If the department imposes a monetary penalty under this section which is not paid or a contested case hearing requested within thirty days after demand by the department, the license or licenses may be suspended or revoked by the department.

Penalties provided for in this section are in addition to any fines and penalties imposed upon the licensees by any court of competent jurisdiction for violation of the laws of this State.

Penalties provided for in this section must be paid to the State Treasurer for credit to the general fund of the State for public school use.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-260.

Monies received.

Except as otherwise provided in this chapter, all monies received by the department or the division under the provisions of this chapter must be deposited with the State Treasurer to the credit of the general fund of the State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-270.

Revocation of permits.

In addition to the penalties provided in this chapter, the department may revoke the permit of a person failing to comply with any requirements hereof.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 3

Producers and Wholesalers of Beer and Wine

SECTION 61-4-300.

"Producer" defined.

"Producer" as used in this article means a brewery or winery or a manufacturer, bottler, or importer of beer or wine into the United States.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-310.

Certificate of registration.

(A) A producer must apply to the department on forms the department prescribes for a certificate of registration, which must be approved and issued before the shipment of beer or wine by the producer to a point within the State. A producer, at the same time application is made for a certificate of registration, must remit to the department a fee of two hundred dollars.

(B) The department, in its discretion upon consideration of the information contained in the application for a certificate of registration, must issue or reject the application.

(C) A certificate of registration is valid from the date of issue until the second August thirty-first after the issuance of the license. Beer and wine wholesalers must purchase beer, ale, or wine from manufacturers or importers who hold a certificate of registration issued by the department. Nothing in this section or Section 61-4-940 prohibits the transfer or purchase and sale, for resale to retailers only, between wholesalers authorized by the registered producer or an exclusive agent in the State to distribute the same brand or brands of wine, beer, or ale.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-320.

Suspension or revocation of certificate of registration.

A certificate of registration provided for in this article may be suspended or revoked by the department upon a showing of a violation of law or of a regulation.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-330.

Books and records audit.

The department and the division have the right within statutory limitations to audit and examine the books and records, papers, and memoranda of a producer with respect to the administration and enforcement of laws administered by the department and the division.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-340.

Shipping; brand registration.

No person other than a registered producer may ship, move, or cause to be shipped or moved, beer, ale, porter, malt beverage, or wine from outside the State to a point in the State, and only in accordance with the provisions of this chapter. No brand may be registered by the producer unless the person registering the brand is either the American producer or the primary American source of supply in the United States of the brand as herein defined, and it is unlawful for a wholesaler in this State to order, purchase, or receive beer, ale, porter, malt beverage, or wine from a producer who is not the primary American source of supply for the brand ordered, purchased, or received. The term primary American source of supply means the manufacturer, distiller, vintner, brewer, producer, winery, or owner of vinous or spirituous beverages at the time they become a marketable product, or bottler, or the exclusive agent of these persons, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. The provisions of this section do not apply to a person who produces beer, ale, porter, malt beverage, or wine solely in this State and who subsequently ships or sells this beer, ale, porter, malt beverage, or wine solely in this State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-350.

Seizure and sale of contraband beer or wine.

Beer or wine shipped or moved into this State in violation of this chapter is contraband and may be seized and sold as provided in Section 61-6-4310.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-360.

Samples of wine.

Notwithstanding any other provision of law, a producer or wholesaler may furnish or give a sample of wine to a retailer who has not purchased the brand from a producer or wholesaler in the past three hundred sixty-five days. For each retail establishment, a producer or wholesaler may not give more than three liters of any brand of wine annually. If a particular product is not available in a size within the quantity limitations of this section, a producer or wholesaler may furnish to a retailer the next larger size. Samples must be clearly marked "Sample-Not for resale". Nothing in this section allows for any sample to be sold or provided to any employees under the age of twenty-one or to a retailer's customers. The producer or wholesaler shall remove all bottles at the conclusion of the sampling. For purposes of this section, the term "brand" is defined as provided under 27 C.F.R. Section 6.11.

HISTORY: 2020 Act No. 161 (H.4963), Section 1, eff September 28, 2020.

ARTICLE 5

Permits for Sales

SECTION 61-4-500.

Applications.

A person engaging in the business of selling beer, ale, porter, wine, or a beverage which has been declared to be nonalcoholic and nonintoxicating under Section 61-4-10 must apply to the department for a permit to sell these beverages. Each applicant must pay a filing fee of two hundred dollars which is not refundable. A retailer must pay to the department four hundred dollars biennially for a retail permit, and a wholesale dealer must pay to the department two thousand dollars biennially for a wholesale permit. A separate permit is required for each separate place of business.

A person who initially applies for a permit after the first day of a permit period must pay permit fees in accordance with the schedule provided in Section 61-6-1810(C).

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-510.

Special retail beer and wine permits.

(A) In counties or municipalities where off-premises beer and wine permits are specifically authorized to be issued pursuant to Section 61-6-2010, in lieu of the retail permit fee required pursuant to Section 61-4-500, a retail dealer otherwise eligible for the retail permit under that section may elect to apply for a special version of that permit which allows sales for off-premises consumption without regard to the restrictions on the days or hours of sales provided in Sections 61-4-120, 61-4-130, and 61-4-140. The annual fee for this special retail permit is one thousand dollars.

(B) Revenue generated by the fees must be credited to the general fund of the State except that revenue generated by the fees within a county where a federal military base or installation has been closed, or is designated to be closed and where the federal facility has reduced its permanent civilian employment by seven hundred fifty or more jobs after December 31, 1990, for a period of ten years after the effective date of Chapter 12 of Title 31, must be credited to a special separate and distinct account with the State Fiscal Accountability Authority for support of a redevelopment authority created therein pursuant to Chapter 12 of Title 31. All other requirements for retail permits provided in Sections 61-2-120 and 61-4-500 apply to the special permits authorized by this section.

(C)(1) Immediately following the dissolution of a redevelopment authority pursuant to Section 31-12-100(A), the fees distributed to the dissolved redevelopment authority pursuant to subsection (B) must be distributed to the municipality or county in which the retailer who paid the fee is located. The revenue may only be used by the municipality or county for the following purposes:

- (a) capital improvements to tourism-related buildings including, but not limited to, civic centers, convention centers, coliseums, aquariums, stadiums, marinas, parks, and recreational facilities;
- (b) purchase or renovation of buildings which are historic properties as defined in Section 60-12-10(4) and (5);
- (c) festivals which have a demonstrable and significant impact on tourism;
- (d) acquiring fee and less than fee interest in land while it is still available to be held in perpetuity as wildlife preserves or believed to be needed by the public in the future for active and passive recreation uses and scenic easements, to include the following types of land: ocean, harbor, and pond frontage in the form of beaches, dunes, and adjoining backlands; barrier beaches; fresh and saltwater marshes and adjoining uplands; land for bicycle paths; land protecting existing and future; public water supply, well fields, highway buffering and aquifer recharge areas; and land for wildlife preserves; and land for future public recreational facilities;
- (e) nourishment, renourishment (resanding) and maintenance of beaches;
- (f) dune restoration, including the planting of grass, sea oats, or other vegetation useful in preserving the dune system;
- (g) maintenance of public beach access;
- (h) capital improvements to the beaches and beach related facilities, such as public parking areas for beach access; dune walkovers and rest room facilities, with or without changing rooms, at public beach parks; and
- (i) construction and maintenance of drainage systems.

(2) The revenue may not be used for operating expenses of tourism-related buildings.

HISTORY: 1996 Act No. 415, Section 1; 1996 Act No. 462, Section 24A; 2003 Act No. 70, Section 5.

SECTION 61-4-515.

Motorsports entertainment, tennis, soccer, or baseball complex, permit for purchase and sale for on-premises consumption.

(A) In addition to the permits authorized pursuant to the provisions of this article, the department also may issue a biennial permit to the owner, or his designee, of a motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex located in this State, which authorizes the purchase and sale for on-premises consumption of beer and wine at any occasion held on the grounds of the complex year round on any day of the week. The nonrefundable filing fee and the fees for the motorsports, tennis complex, soccer complex, or baseball complex biennial permit are the same as for other biennial permits for on-premises consumption of beer and wine, with the revenue therefrom used for the purposes provided in Section 61-4-510. Notwithstanding another provision of this article, the issuance of this permit authorizes the permit holder to purchase beer and wine from licensed wholesalers in the same manner that a person with appropriate licenses issued pursuant to this title purchases beer and wine from licensed wholesalers. The department in its discretion may specify the terms and conditions of the permit, pursuant to the provisions of Chapter 4, Title 61, and other applicable provisions under Title 61.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, pursuant to the provisions of Chapter 4, Title 61, and these permits may be issued whether or not the motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex is located in a county or municipality which pursuant to Section 61-6-2010 successfully has held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex, the tennis specific complex, the soccer complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume beer and wine provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) "Motorsports entertainment" has the same meaning as provided in Section 12-21-2425.

(2) "Tennis specific complex" means a tennis facility, and its ancillary grounds and facilities, which satisfies all of the following:

- (a) has at least ten thousand fixed seats for tennis patrons;
- (b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and
- (c) engages in tourism promotion.

(3) "Baseball complex" means a baseball stadium, and its ancillary grounds and facilities, that hosts a professional league baseball team.

(4) "Soccer complex" means a soccer facility, along with its ancillary grounds and facilities, that hosts a professional league soccer team.

HISTORY: 2014 Act No. 199 (H.3626), Section 1, eff June 2, 2014; 2017 Act No. 33 (S.334), Section 1, eff May 10, 2017; 2018 Act No. 236 (H.3139), Section 1, eff May 17, 2018.

Effect of Amendment

2017 Act No. 33, Section 1, inserted ", or baseball complex" in four places; in (D), added (3), relating to the definition of "baseball complex"; and made nonsubstantive changes.

2018 Act No. 236, Section 1, in (A), in the first and second sentences, inserted "soccer complex,"; in (B), inserted "soccer complex," following "tennis specific complex,"; in (C), inserted "the soccer complex," following "tennis specific complex,"; and in (D), in (3), substituted "and its" for "along with its" and "professional league baseball team" for "professional minor league baseball team", and added (4), relating to the definition of "soccer complex".

SECTION 61-4-520.

Retail permits; requirements.

A retail permit authorizing the sale of beer or wine must not be issued unless:

- (1) The applicant, a partner, or co-shareholder of the applicant, and each agent, employee, and servant of the applicant to be employed on the licensed premises are of good moral character.
- (2) The applicant is a legal resident of the United States, has been a legal resident of this State for at least thirty days before the date of application, and has maintained his principal place of abode in the State for at least thirty days before the date of application.
- (3) The applicant, within two years before the date of application, has not had revoked a beer or a wine permit issued to him.
- (4) The applicant is twenty-one years of age or older.
- (5) The location of the proposed place of business of the applicant is in the opinion of the department a proper one.
- (6) The department may consider, among other factors, as indications of unsuitable location, the proximity to residences, schools, playgrounds, and churches. This item does not apply to locations licensed before April 21, 1986.
- (7)(a) Notice of application has appeared at least once a week for three consecutive weeks in a newspaper most likely to give notice to interested citizens of the county, city, or community in which the applicant proposes to engage in business. The department shall determine which newspapers meet the requirements of this section based on available circulation figures. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must:
 - (i) be in the legal notices section of the newspaper or an equivalent section if the newspaper has no legal notices section;
 - (ii) be in large type, covering a space of one column wide and at least two inches deep; and
 - (iii) state the type license applied for and the exact location of the proposed business.
- (b) An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if the advertisement is approved by the department.
- (8) Notice has been given by displaying a sign for fifteen days at the site of the proposed business. The sign must:
 - (a) state the type of permit sought;
 - (b) state where an interested person may protest the application;
 - (c) be in bold type;
 - (d) cover a space at least twelve inches high and eighteen inches wide;
 - (e) be posted and removed by an agent of the division.

HISTORY: 1996 Act No. 415, Section 1; 2001 Act No. 89, Section 55; 2003 Act No. 70, Section 6; 2005 Act No. 161, Section 23.D.

SECTION 61-4-525.

Protests against issuance or renewal of permit; attendance at hearing; court costs; penalties.

(A) A person residing in the county in which a retail beer and wine permit is requested to be granted, or a person residing within five miles of the location for which a retail beer and wine permit is requested, may protest the issuance or renewal of the permit if he files a written protest setting forth:

- (1) the name, address, and telephone number of the person filing the protest;
 - (2) the name of the applicant for the permit and the address of the premises sought to be licensed, or the name and address of the permit holder if the application is for renewal;
 - (3) the specific reasons why the application should be denied; and
 - (4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.
- (B) Upon receipt of a timely filed protest, the department shall determine the protestant's intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent permit but shall forward the file to the Administrative Law Court.
- (C) If the protestant, during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is considered invalid, and the department shall continue to process the application and shall issue the permit if all other statutory requirements are met.

(D) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a fine or penalty to include court costs.

HISTORY: 1998 Act No. 363, Section 1; 2005 Act No. 161, Section 23.E.

SECTION 61-4-530.

"Dry" political subdivisions in neighboring states.

In considering an application for a permit for the sale of beer or wine at a location within five miles of a political subdivision of another state in which the sale of beer or wine is prohibited, the department must, in addition to the factors required to be

considered, consider the proximity of the location to the prohibited area, the likelihood that large crowds may gather from time to time with attendant breaches of the peace, the requirement of increased law enforcement officers, and any other factor which in its judgment should be considered before issuing the permit.

These special considerations, however, do not apply where the application is made with respect to a location within the corporate limits of a municipality.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-540.

Issuance of permits; bonds.

When a verified application is filed with the department and the department determines that (1) the requisite qualifications and conditions are met, (2) the applicant is a fit person to sell beer or wine, and (3) the location of the proposed place of business is a proper one, the department must issue a permit to the applicant to sell beer or wine on the premises described in the application upon the payment of the fee prescribed by law. A misstatement or concealment of fact in an application is a sufficient ground for the revocation of the permit.

The department may, in those cases where it considers necessary, require an applicant to post a cash bond or surety bond with a bonding company approved by the Department of Insurance as an additional condition for a permit. The bond must be in an amount as determined by the department and is subject to forfeiture in whole or in part for violations of law relating to the sale of beer or wine.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-550.

Special permits for use at fairs and special functions.

(A) The department may issue permits running for a period not exceeding fifteen days for a fee of ten dollars per day. These special permits may be issued only for locations at fairs and special functions.

(B) The department shall require the applicant to obtain a criminal records check conducted by the State Law Enforcement Division within ninety days prior to an application. The department shall deny the application if the criminal records check is not submitted with the application and filing fee or if it was obtained more than ninety days before.

(C) The department shall require the applicant to complete the law enforcement notification provision contained in an application form and submit it with the application. The law enforcement notification provision shall be prepared by the department for inclusion in the application and, at a minimum, must contain sufficient information to inform the department that either the chief of police, if the event is located within the city limits, or the county sheriff has been notified of the temporary permit application and given an opportunity to object.

(D) The department may issue up to twenty-five temporary permits to sell beer and wine on one application for special functions in a twelve-month period to the same applicant, if that applicant is also applying for up to twenty-five temporary licenses to sell alcoholic liquors by the drink, pursuant to Section 61-6-2000(D). This does not prohibit the applicant from applying for additional special permits within the same twelve-month period.

(E) Beginning January 1, 2021, at least twenty-four hours before the fair or special function, the applicant shall notify the State Law Enforcement Division and all local law enforcement that have jurisdiction over the fair or special function site that alcohol will be served at the site.

HISTORY: 1996 Act No. 415, Section 1; 2010 Act No. 259, Section 1, eff June 11, 2010; 2011 Act No. 67, Section 5.A, eff July 1, 2011; 2020 Act No. 167 (S.993), Section 3, eff September 29, 2020.

Effect of Amendment

The 2010 amendment rewrote this section.

The 2011 amendment rewrote the section.

2020 Act No. 167, Section 3, added (E).

SECTION 61-4-560.

Operation without a permit.

A person who operates a retail or wholesale business without obtaining a permit required in this article is guilty of a misdemeanor and, upon conviction, is subject to a fine of not less than ten dollars nor more than one hundred dollars or imprisonment of not less than ten days nor more than thirty days, in the discretion of the court. Each day that a wholesale or retail business is carried on without a permit constitutes a separate offense.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-570.

Wine service for consumption on premises.

Notwithstanding any other provision of law, an establishment that holds a valid beer and wine license and a license to sell alcoholic liquors by the drink may sell wine which is not in excess of twenty-one percent of alcohol by volume, to be consumed on the premises.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 6.

SECTION 61-4-580.

Prohibited acts.

(A) No holder of a permit authorizing the sale of beer or wine or a servant, agent, or employee of the permittee may knowingly commit any of the following acts upon the licensed premises covered by the holder's permit:

- (1) sell beer or wine to a person under twenty-one years of age;
- (2) sell beer or wine to an intoxicated person;
- (3) permit gambling or games of chance except game promotions including contests, games of chance, or sweepstakes in which the elements of chance and prize are present and which comply with the following:
 - (a) the game promotion is conducted or offered in connection with the sale, promotion, or advertisement of a consumer product or service, or to enhance the brand or image of a supplier of consumer products or services;
 - (b) no purchase payment, entry fee, or proof of purchase is required as a condition of entering the game promotion or receiving a prize;
 - (c) all materials advertising the game promotion clearly disclose that no purchase or payment is necessary to enter and provide details on the free method of participation; and
 - (d) this subsection is not an exception or limitation to Section 12-21-2710 or other provisions of the South Carolina Code of Laws in which gambling or games of chance are unlawful and prohibited;
- (4) permit lewd, immoral, or improper entertainment, conduct, or practices. This includes, but is not limited to, entertainment, conduct, or practices where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering;
- (5) permit any act, the commission of which tends to create a public nuisance or which constitutes a crime under the laws of this State;
- (6) sell, offer for sale, or possess any beverage or alcoholic liquors the sale or possession of which is prohibited on the licensed premises under the law of this State;
- (7) conduct, operate, organize, promote, advertise, run, or participate in a "drinking contest" or "drinking game". For purposes of this item, "drinking contest" or "drinking game" includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of beer or wine by participants at extraordinary speed or in increased quantities or in more potent form. "Drinking contest" or "drinking game" does not include a contest, game, event, or endeavor in which beer or wine is not used or consumed by participants as part of the contest, game, event, or endeavor, but instead is used solely as a reward or prize. Selling beer or wine in the regular course of business is not considered a violation of this section; or
- (B) a violation of any provision of this section is a ground for the revocation or suspension of the holder's permit.

HISTORY: 1996 Act No. 415, Section 1; 1997 Act No. 98, Section 3; 1999 Act No. 52, Section 1; 2013 Act No. 5, Section 2, eff March 22, 2013.

Effect of Amendment

The 2013 amendment added subsection (3)(d), relating to Section 12-21-2710, added subsection identifier (8) to the former last sentence, and made other nonsubstantive changes.

SECTION 61-4-590.

Revocation or suspension of permits; department investigation and determination.

(A) The department has jurisdiction to revoke or suspend permits authorizing the sale of beer or wine. The department may, on its own initiative or on complaint signed and sworn to by two or more freeholders resident for the preceding six months in the community in which the licensed premises are located or by a local peace officer, all of whom are charged with the duty of reporting immediately to the department a violation of the provisions of Section 61-4-580, revoke or suspend the permit pursuant to the South Carolina Revenue Procedures Act. The decision of the Administrative Law Court is not automatically superseded or stayed by the filing of a petition for judicial review.

(B) In addition to the notice requirements contained in the Administrative Procedures Act, the department may not suspend or revoke a licensee's permit authorizing the sale of beer or wine until the division has conducted and completed an investigation, and the department has made a departmental determination, as defined in Section 12-60-30, that the licensee's permit should be revoked or suspended.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 22; 2007 Act No. 107, Section 1.

SECTION 61-4-600.

Surrender of license.

Upon the revocation, cancellation, or suspension of a license or permit to sell beer or wine at wholesale or retail, the licensee must immediately surrender his license to the department. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty dollars nor more than one hundred dollars or imprisoned for not less than ten days nor more than thirty days, or both, in the discretion of the court.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-610.

Unlawful sales.

It is unlawful for a licensee to sell beer or wine at wholesale or retail, to sell or offer to sell beer or wine after the license has been revoked or canceled, or during the period of a suspension of the license. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty dollars nor more than one hundred dollars or imprisoned for not less than ten days nor more than thirty days, or both, in the discretion of the court.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-620.

Permits for retail sale of beer and wine; Sunday sales permitted when establishment closes on Saturday for religious reasons.

A person who sells beer and wine pursuant to a permit issued in accordance with Sections 61-4-500, 61-4-520, and 61-4-540 of the 1976 Code and who closes his business establishment or refrains from operating his business on Saturdays for religious reasons may be allowed, upon the filing of an affidavit of closing on Saturdays for religious reasons with and the payment of an additional fee of fifty dollars to the department, to open for business and sell beer and wine on Sundays, as specified in Sections 61-4-120, 61-4-130, and 61-4-140 in those counties which authorize Sunday beer sale permits. The opening of the business establishment or operation of business on Saturdays in contradiction of the affidavit is grounds for the revocation of the permit issued pursuant to this section and Sections 61-4-500, 61-4-520, and 61-4-540. The fifty-dollar additional fee must be used to pay the administrative and enforcement costs of this special permit.

HISTORY: 1997 Act No. 155, Part II, Section 63A.

SECTION 61-4-630.

Sunday sales.

Notwithstanding any other provision of law, an establishment possessing a beer and wine permit that is located in a county or municipality that has conducted a favorable referendum allowing the sale and consumption of alcoholic liquors by the drink on Sunday under the provisions of Section 61-6-2010, during those same hours authorized by permits issued under Section 61-6-2010, may sell, possess, and permit the consumption of beer and wine on the premises.

HISTORY: 2011 Act No. 67, Section 6, eff June 17, 2011.

ARTICLE 7

Provisions Affecting Wine Only

SECTION 61-4-700.

Wine labeling.

27 Code of Federal Regulations part 4, relating to "Labeling and Advertising of Wine", is adopted for the labeling and advertising of wine sold or offered for sale in this State, except insofar as 27 Code of Federal Regulations part 4 differs from laws of the State or from regulations of the department.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-710.

Labels, standards, and identity.

It is unlawful for a person to import, sell, or offer for sale in this State wines of which the labels, standards, or identity do not conform to the provisions of 27 Code of Federal Regulations part 4. Imitation, concentrate, and substandard wines, as defined in 27 Code of Federal Regulations part 4, are prohibited from sale in this State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-720.

Sale of wine by winery located in state; wine tastings.

(A) Notwithstanding another provision of law, a licensed winery located in this State is authorized to sell wine with an alcohol content of sixteen and one-half percent, or less, on the winery premises and deliver or ship this wine to consumer homes in or outside the State so long as:

(1) the licensed winery is the primary American source of supply for the wine sold; or

(2) the wine is produced on its licensed premises.

(B) For wine that is not produced on its licensed premises in the State pursuant to subsection (A)(2), but for which the winery is the primary American source of supply under subsection (A)(1), the winery may not sell more than twenty-four bottles of wine each month directly to a resident of this State for such resident's personal use and not for resale.

(C) These wineries are authorized to provide, with or without cost, wine tasting samples to prospective customers.

HISTORY: 1996 Act No. 415, Section 1; 2001 Act No. 76, Section 1; 2004 Act No. 267, Section 2.A; 2012 Act No. 121, Section 1, eff February 22, 2012; 2021 Act No. 60 (S.619), Section 2, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The

General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

The 2012 amendment rewrote this section.

2021 Act No. 60, Section 2, rewrote the section.

SECTION 61-4-725.

Wine sales by temporary permit; authorized hours.

Notwithstanding any other provision of law, a licensed winery located in a county or municipality that has conducted a favorable referendum under the provisions of Section 61-6-2010, during those same hours authorized by permits issued under Section 61-6-2010, may sell, possess, and permit the consumption of wine on the premises.

HISTORY: 2005 Act No. 145, Section 5.A.

SECTION 61-4-730.

Sales by permitted wineries.

(A) Permitted wineries that produce and sell wine produced on its premises with at least sixty percent of the juice from fruit and berries that are grown in this State may sell the wine at retail, wholesale, or both, and deliver or ship the wine to licensed retailers in this State or to consumer homes in and outside the State, and are eligible for a special permit pursuant to Section 61-4-550. Wine must be delivered between 7:00 a.m. and 7:00 p.m. Gross income from wine sold at events for which a special permit has been issued must not exceed ten percent of a permitted winery's gross income per year from wine sales and that income must be derived from sales at events that are promotional in nature.

(B) Permitted wineries that produce and sell wine produced on their premises with less than sixty percent of the juice from fruit and berries that are grown in this State may retail from the winery and ship the wine directly to consumer homes in and outside the State, but these wineries are not wholesalers of the wine. These wineries shall use a licensed South Carolina wholesaler to deliver or ship the wine to licensed retailers in this State.

(C) The South Carolina Department of Agriculture shall periodically inspect the records of permitted wineries for verification of the percentage of juice from fruit and berries grown in this State used in the manufacturing of the wineries' products. Within ten days of conducting an inspection, the South Carolina Department of Agriculture shall report its findings to the South Carolina Department of Revenue. If a winery is found to be in violation of this statute, the owner of the winery is subject to penalties pursuant to Section 61-4-780.

HISTORY: 1996 Act No. 415, Section 1; 2004 Act No. 267, Section 2.B; 2012 Act No. 121, Section 2, eff February 22, 2012; 2020 Act No. 167 (S.993), Section 1, eff September 29, 2020.

Effect of Amendment

The 2012 amendment, added the subsection identifiers; in subsection (A) substituted "at least sixty percent" for "a majority", and substituted "licensed retailers in this State or to consumer homes in and outside" for "the purchaser"; and added subsections (B) and (C).

2020 Act No. 167, Section 1, in (A), in the first sentence, inserted ", and are eligible for a special permit pursuant to Section 61-4-550" at the end, and added the third sentence.

SECTION 61-4-735.

Regulation of practices between wine manufacturers, importers, wholesalers, and retailers.

(A) Except as provided in Sections 61-4-720 and 61-4-730, a manufacturer of wine, vintner, winery, an entity, or a person who sells these products, or a person or entity who imports these products produced outside the United States must not sell, barter, exchange, transfer, or deliver for resale wine to a person not having a wholesale permit issued under Section 61-4-500, and a holder of a wholesale permit may not sell, barter, exchange, transfer, or deliver for resale wine to a person not having a retail or wholesale permit, unless that person is the American producer or the primary American source of supply of that wine as defined in Section 61-4-340.

(B) Except as provided in subsection (C), a manufacturer of wine, vintner, winery, importer, or wholesaler of wine, or a person acting on his behalf must not furnish, give, rent, lend, or sell, directly or indirectly, to the holder of a retail permit any equipment, fixtures, free wine, or service. The holder of a retail permit or a person acting on his behalf may not accept, directly or indirectly, any equipment, fixtures, free wine, or service referred to in this subsection from a manufacturer of wine, winery, importer, or wholesaler of wine, except as provided in subsection (C).

(C) A wholesaler may furnish at no charge to the holder of a retail permit draft wine equipment replacement parts of nominal value, including washers, gaskets, hoses, hose connectors, clamps, and tap markers, product displays as provided under 27 Code of Federal Regulations, Section 6.83, and point of sale advertising specialties. A wholesaler also may furnish the following services to a retailer: cleaning wine lines, rotating stock, affixing price tags to wine products, building wine displays, setting boxes, conduct not more than two wine tastings in accordance with department rulings or regulations, developing shelf schematics, stocking shelves, providing wine party wagon for temporary use, and assist in wine resets a maximum of three times a year for any store having a retail permit during the hours of 8:00 a.m. to 8:00 p.m. Resets are defined as being a change in the location of the wine department within a store or a rearrangement of the products on shelves within the store's wine department, which involves more than one wholesaler's products. All wholesalers must be notified in writing of any resets being requested by a retail store at least fourteen days prior to the reset.

(D) A producer, winery, vintner, and importer of wine are declared to be in business on one tier, a wholesaler on another tier, and a retailer on another tier. For the purpose of this section, a manufacturer or producer of wine is declared to be a tier one business, a wholesaler or an importer owned solely by a wholesaler is declared to be a tier two business, and a retailer is declared to be a tier three business. Except as provided in Sections 61-4-720 and 61-4-730, a person or entity in the wine business on one tier or a person acting directly or indirectly on his behalf may not have ownership or financial interest in a wine business operation on another tier. This limitation does not apply to the interest held on July 1, 1993, by the holder of a wholesale permit in a business operated by the holder of a retail permit at premises other than where the wholesale business is operated. For purposes of this subsection, ownership or financial interest does not include the ownership of less than one percent of the stock in a corporation with a class of voting shares registered with the Securities and Exchange Commission or other federal agency under Section 12 of the Securities and Exchange Act of 1934, as amended, or a consulting agreement under which the consultant has no control over business decisions and whose compensation is unrelated to the profits of the business. Notwithstanding this prohibition or the prohibition contained in Section 61-4-940(D), a manufacturer or importer of beer or wine may own in whole or in part a business that holds an on-premises retail beer and wine permit provided that:

(1) All beverages to be handled or sold by the retail dealer must be purchased from licensed wholesalers and purchased on the same terms and conditions as do other retail dealers.

(2) Sales of any product produced or distributed by the manufacturer or importer must not exceed ten percent of the annual gross sales of beer or wine by the retail permit holder.

(E) A manufacturer, producer, importer, or wholesaler of wine may discount product price based on quantity purchases if all discounts are on price only, appear on the sales records, and are available to all retail customers.

(F) Nothing in this section affects or prohibits the ownership or the operation of a licensed winery in this State that produces,

provides taste samples, sells, delivers, or ships domestic wine as authorized and in accordance with the provisions of Sections 61-4-720 and 61-4-730.

HISTORY: 1998 Act No. 429, Section 1; 2001 Act No. 76, Section 2.

SECTION 61-4-736.

Coupons and rebates for the purchase of wine.

A manufacturer of wine, vintner, winery, an importer, or retailer may offer or sponsor coupons and rebates to a consumer for the purchase of wine. Coupons and rebates include, but are not limited to, retailer instant redeemable coupons, mail-in rebates, and coupons and rebates offered or redeemed through any electronic means. Manufacturer, winery, vintner, and importer coupons must be made available upon request to a licensed retailer. A wholesaler is prohibited from participating in the procurement, redemption, or other costs associated for any coupon or rebate for wine offered or sponsored by a manufacturer, winery, vintner, importer, or retailer. A winery, wine manufacturer, vintner, importer, or wholesaler is prohibited from offering or participating in the procurement, redemption, or other costs associated with paper instant redeemable coupons and scanback coupons for wine in this State.

HISTORY: 2016 Act No. 248 (H.5245), Section 1, eff June 5, 2016.

SECTION 61-4-737.

Wine tastings.

Notwithstanding another provision of law or regulation, the holder of a retail wine permit for off-premises consumption whose primary product is beer, wine, or distilled spirits may conduct, in accordance with department rulings or regulations, not more than twenty-four wine tastings at the retail location in a calendar quarter.

HISTORY: 2001 Act No. 76, Section 3; 2007 Act No. 107, Section 3; 2007 Act No. 116, Section 11.

SECTION 61-4-740.

Special orders for out-of-state wine.

A person may order wine produced outside this State which has not been approved or licensed for sale or distribution in this State from an in-state wholesaler by placing a special order for this wine with the out-of-state winery. The wine may then be shipped by the winery to that wholesaler who, after paying the necessary taxes, is authorized to sell this wine to that person through a licensed retailer.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-745.

Transporting into and out of State for personal consumption; limits; labeling.

(A) Subject to the provisions of Section 61-4-747, a person who is at least twenty-one years of age and who is a legal resident of this State, may cause to be shipped or transported from a manufacturer of wine up to twenty-four bottles of wine each month for his own consumption or use, and not for resale, into and out of this State without the necessity of acquiring any permits or licenses or other forms of public or private authorization except for the payment of appropriate taxes.

(B) All containers of wine shipped directly to a resident in this State must be labeled conspicuously with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY".

HISTORY: 2003 Act No. 40, Section 3.

SECTION 61-4-747.

Direct shipment to residents for personal consumption; licensing of out-of-state shippers; penalties.

(A) Notwithstanding any other provision of law, rule, or regulation to the contrary, a manufacturer of wine located within this State or outside this State that holds a wine producer and blenders basic permit issued in accordance with the Federal Alcohol Administration Act and obtains an out-of-state shipper's license, as provided in this section, may ship up to twenty-four bottles of wine each month directly to a resident of this State who is at least twenty-one years of age for such resident's personal use and not for resale.

(B) Before sending a shipment to a resident of this State, an out-of-state shipper first shall:

- (1) file an application with the Department of Revenue;
- (2) pay a biennial license fee of four hundred dollars;
- (3) provide to the department a true copy of its current wine producer and blenders basic permit issued in accordance with the Federal Alcohol Administration Act; and
- (4) obtain from the department an out-of-state shipper's license.

(C) Each out-of-state shipper licensee shall:

- (1) not ship more than twenty-four bottles of wine each month to a person;
- (2) ensure that all containers of wine shipped directly to a resident in this State are labeled conspicuously with the words "CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY";
- (3) report to the department annually, by August thirty-first of each year, the total amount of wine shipped into the State the preceding year;
- (4) annually, by January twentieth of each year, pay to the department all sales taxes and excise taxes due on sales to residents of this State in the preceding calendar year, the amount of the taxes to be calculated as if the sale were in this State at the location where delivery is made;
- (5) permit the department to perform an audit of the out-of-state shipper's records upon request; and
- (6) be deemed to have consented to the jurisdiction of the department or another state agency and the courts of this State concerning

enforcement of this section and any related laws.

(D) The out-of-state shipper on August thirty-first of each applicable year must renew its license with the department by paying a renewal fee of four hundred dollars and providing the department a true copy of its current alcoholic beverage license issued in another state.

(E) The department may promulgate regulations to effectuate the purposes of this section.

(F) The department shall enforce the requirements of this section by administrative proceedings to suspend or revoke an out-of-state shipper's license if the licensee fails to comply with the requirements of this section, and the department may accept payment of an offer in compromise instead of suspension.

(G)(1) A shipment of wine from out-of-state direct to consumers in this State from persons who do not possess a current out-of-state shipper's license is prohibited. A person who knowingly makes, participates in, transports, imports, or receives such a shipment from out-of-state is guilty of a misdemeanor and, upon conviction, must be fined one hundred dollars. A shipment of wine which violates any provision of this item is contraband.

(2) Without limitation on any punishment or remedy, criminal or civil, a person who knowingly makes, participates in, transports, imports, or receives a shipment as provided in item (1) of this subsection from out-of-state commits an unfair trade practice.

HISTORY: 2003 Act No. 40, Section 3; 2005 Act No. 145, Section 40.A.

SECTION 61-4-748.

Certain wineries eligible for satellite location certificates.

(A) Notwithstanding any other provision of law, rule, or regulation to the contrary, the holder of a valid winery license that, on or after January 1, 2021, invests four hundred million dollars in this State in a Tier III or Tier IV county, as designated by the Department of Revenue pursuant to Section 12-6-3360(B), at the time of the public announcement of the project or upon reaching such investment and job requirement thresholds, and creates at least three hundred new jobs in this State, is eligible for a manufacturer's satellite certificate to establish up to three wholly owned satellite locations for tasting and sale of wine produced or imported as the primary American source of supply, provided that:

(1) before commencing operations at any wholly owned satellite location, the holder of a valid winery license must first have satisfied all applicable investment and job requirement thresholds;

(2) a winery producing or bottling at least ten million gallons of wine and alcoholic beverages per calendar year in this State may operate one tasting-room premises;

(3) a winery producing or bottling at least twenty million gallons of wine and alcoholic beverages per calendar year in this State may operate two tasting-room premises;

(4) a winery producing or bottling at least thirty million gallons of wine and alcoholic beverages per calendar year in this State may operate three tasting-room premises;

(5) the winery submits, and the department approves, separate applications for each tasting-room premises to be issued a permit, as provided by Sections 61-2-90 and 61-2-140(C);

(6) the winery must pay a biennial tasting-room permit fee of five thousand dollars per tasting-room premises;

(7) no more than one tasting-room premises shall be permitted in any one county of this State;

(8) the winery may conduct tastings of or sell only wine that is (a) produced or bottled by the winery within or outside of this State, (b) produced for or produced and packaged for the winery within or outside of this State and sold under a brand name owned by the winery, or (c) wine for which the winery is the exclusive agent in the United States of an out-of-state vintner;

(9) the winery must sell wine for off-premises consumption at a tasting-room premises at a price approximating retail prices generally charged for identical wine in the county where the tasting-room premises is located;

(10) the winery must charge a consumer a tasting fee to participate in a tasting or the consumer may not purchase any wine for off-premises consumption;

(11) the winery shall remit applicable sales, use, and other state taxes and local taxes for each tasting-room premises. The winery shall maintain adequate records for each tasting-room premises to ensure the collection of these taxes;

(12) all wine to be handled, tasted, or sold at a tasting-room premises must be purchased from licensed wholesalers and transported and delivered to the licensed tasting-room premises only by licensed South Carolina wholesalers;

(13) the winery must maintain all liability insurance required pursuant to Section 61-2-145; and

(14) tastings and sales shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty-one.

(B) In addition to the provisions set forth in subsection (A), a winery holding one or more tasting-room permits must not provide or sell to an individual consumer at a tasting-room premises:

(1) more than ten ounces of wine in one day for on-premises consumption, including any samples offered and consumed; or

(2) more than the equivalent of six 750-milliliter bottles of wine each calendar month to an individual consumer for off-premises consumption and not for resale.

(C) Tasting rooms authorized in this section must close to the public at 5:30 p.m. and may not open to the public until 8:00 a.m.

(D) Each tasting-room permit application is subject to protest, as provided for in Section 61-4-525 for beer and wine permit applications.

(E) The holder of a tasting-room permit who violates a provision of this section is subject to the penalties specified in Section 61-4-250.

(F) Nothing in this section shall be construed so as to prohibit or restrict a winery that also holds a brewery, micro-distillery, or

liquor manufacturer's license from applying for or holding any license or permit that is available to other licensed breweries, micro-distilleries, or liquor manufacturers in this State and that allows the tasting or sales of beer or alcoholic liquors.

(G) Authorization by this section of sales and tastings at a tasting-room premises is expressly intended for the promotion of education regarding production of wine in the State and not to create competition between producers and retailers.

HISTORY: 2021 Act No. 60 (S.619), Section 3, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina

and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

SECTION 61-4-750.

Adulterated wine.

The importation into, offering for sale, or sale in this State of a product as "wine" to which any substance has been added, except as authorized by federal law and regulations and except pure fruit or vegetable products derived from the same kind of fruit or vegetable from the juice of which the wine was fermented, is prohibited and is a misdemeanor.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-760.

Inspection of out-of-state wine; wine packages.

The division must provide for the inspection of all wines imported into or offered for sale in this State. The expense of the inspections must be paid from the proceeds of the wine tax. The department may make regulations as to the containers in which wine may be sold at retail and to declare to be "undesirable wine packages" wine sold in a container prohibited in the regulations or wine, the sale of which is prohibited in Sections 61-4-710 or 61-4-750. The offering for sale or sale in this State of undesirable wine packages under this section is prohibited and is a misdemeanor.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-770.

Wines containing more than sixteen and one-half percent alcohol.

Wines containing more than sixteen and one-half percent of alcohol by volume may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink.

HISTORY: 1996 Act No. 415, Section 1; 2001 Act No. 76, Section 4; 2005 Act No. 139, Section 7; 2021 Act No. 60 (S.619), Section 4, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

2021 Act No. 60, Section 4, substituted "sixteen and one-half percent" for "sixteen percent".

SECTION 61-4-780.

Penalties.

A person who violates any provision of this article or any rule or regulation promulgated by the department or the division under this article, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days nor more than six months, or both, in the discretion of the court. In addition to the punishment specified in this section, the person must forfeit his permit to sell wine and is not, for a period of two years thereafter, authorized to engage in a business taxable under the provisions of this chapter.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 9

Provisions Affecting Beer Only

SECTION 61-4-900.

Posting of retail permit.

The retail permit issued by the department must be conspicuously posted on the premises.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-910.

Penalties; revocation or suspension of permit.

A person who violates any provision of this article is guilty of a misdemeanor and, upon conviction, is subject to a fine of not less than ten dollars nor more than one hundred dollars, or imprisonment of not less than ten days nor more than thirty days, in the discretion of the court. In addition to the punishment specified in this section, the department may revoke or suspend a retail permit for a violation of this article.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-920.

Penalties for violation of rule or regulation.

The department must revoke or suspend the license, permit, or brewer's certificate of approval of a person for the violation of any rule or regulation or invoke a penalty not to exceed one hundred dollars for each violation.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-930.

Wholesaler advertising.

It is unlawful for a wholesaler to purchase advertising for a retailer or to participate in a joint advertising campaign with a retailer. However, a brewer or wholesaler may advertise on a retailer's premises and may purchase program advertising from a retailer at customary rates.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-940.

Practices between manufacturer, wholesaler, and retailer.

(A) A manufacturer or brewer of beer, ale, porter, or other malt beverages or a person who imports these products produced outside the United States must not sell, barter, exchange, transfer, or deliver for resale beer to a person not having a wholesale permit issued under Section 61-4-500, and a holder of a wholesale permit must not sell, barter, exchange, transfer, or deliver for resale beer to a person not having a retail or wholesale permit.

(B) Except as provided in subsection (C), a manufacturer, brewer, importer, or wholesaler of beer, or a person acting on his behalf, must not furnish, give, rent, lend, or sell, directly or indirectly, to the holder of a retail permit any equipment, fixtures, free beer, or service. The holder of a retail permit, or a person acting on his behalf, must not accept, directly or indirectly, any equipment, fixtures, free beer, or service referred to in this subsection from a manufacturer, brewer, importer, or wholesaler of beer, except as provided in subsection (C). With the consent of a holder of a retail permit, the wholesaler may store for a temporary period at the permit holder's licensed location equipment primarily utilized by the wholesaler in delivery and stocking of beer including, but not limited to, pallets, carts, and hand trucks.

(C) A wholesaler may furnish at no charge to the holder of a retail permit draft beer equipment replacement parts of nominal value, including washers, gaskets, hoses, hose connectors, clamps, and tap markers, party wagons for temporary use, and point of sale advertising specialties. A wholesaler may furnish at no charge to the holder of a retail permit product displays pursuant to the provisions of 27 C.F.R., Section 6.83, excluding electronic refrigeration equipment. A wholesaler also may furnish the following services to a retailer: cleaning draught lines, setting boxes, rotating stock, affixing price tags to beer products, and building beer displays.

(D) A manufacturer, brewer, and importer of beer are declared to be in business on one tier, a wholesaler on another tier, and a retailer on another tier. A person or an entity in the beer business on one tier, or a person acting directly or indirectly on his behalf, may not have ownership or financial interest in the beer business operation on another tier. This limitation does not apply to the interest held on July 1, 1980, by the holder of a wholesale permit in a business operated by the holder of a retail permit at premises other than where the wholesale business is operated. For purposes of this subsection, ownership or financial interest does not include the ownership of less than one percent of the stock in a corporation with a class of voting shares registered with the Securities and Exchange Commission or other federal agency under Section 12 of the Securities and Exchange Act of 1934, as amended, or a consulting agreement under which the consultant has no control over business decisions and whose compensation is unrelated to the profits of the business.

(E) A manufacturer, brewer, importer, or wholesaler of beer may discount product price based on quantity purchases if all discounts are on price only, appear on the sales records, and are available to all customers.

(F) No person or entity in the beer business on one tier may require a person or entity in the beer business on another tier to advertise or participate in a discount or special promotion or furnish the items delineated in subsection (C).

HISTORY: 1996 Act No. 415, Section 1; 2010 Act No. 231, Section 1, eff June 7, 2010.

Effect of Amendment

The 2010 amendment in subsection (B), inserted the third sentence relating to the storage of equipment; in subsection (C), inserted the second sentence relating to product displays; and in subsection (F), inserted "or furnish the items delineated in subsection (C)".
SECTION 61-4-942.

Distribution agreements; prohibited acts.

Notwithstanding any existing beer distribution agreement to the contrary, a manufacturer, brewer, or importer of beer shall not:

- (1) coerce or require a wholesaler to gather or submit sales records, retail placement, price, discount, rebate, or other details for beer brands not manufactured, brewed, or imported by the manufacturer, brewer, or importer;
- (2) mandate wholesaler employee hiring decisions or payment rates, including incentives;
- (3) require a wholesaler to pay or contribute marketing, advertising, or other funds for control or expenditure by the manufacturer, brewer, or importer, except a wholesaler may agree, in writing and in advance of the payment or contribution, to spend or contribute wholesaler funds for a specified marketing or advertising plan or opportunity;
- (4) ship, invoice, or initiate an electronic funds transfer payment for any quantity of beer exceeding any order or forecast submitted by a wholesaler, or include in a beer sales invoice charges for any items other than beer, freight, fuel, cooperage, dunnage, pallets, and related deposits;
- (5) invoice or initiate electronic funds transfer payment for point-of-sale advertising specialties or other items, except a manufacturer, brewer, or importer may place an order and invoice or initiate an electronic funds transfer payment for point-of-sale advertising specialties or other items pursuant to a specific written agreement between the wholesaler and the manufacturer, brewer, or importer made prior to the placement of an order;
- (6) attribute risk of loss, ownership or other financial interest to a wholesaler for beer not in the wholesaler's possession; or
- (7) require a wholesaler to pay for development, installation, or use of any software owned or mandated by the manufacturer, brewer, or importer, except a wholesaler may be required to maintain data in a format compatible with data format standards adopted by a manufacturer, brewer, or importer.

HISTORY: 2020 Act No. 169 (S.1099), Section 1, eff September 30, 2020.

SECTION 61-4-945.

Coupons and rebates for the purchase of beer.

A manufacturer, brewer, importer, or retailer may offer or sponsor coupons and rebates to a consumer for the purchase of beer.

Coupons and rebates include, but are not limited to, retailer instant redeemable coupons, mail-in rebates, and coupons and rebates

offered or redeemed through any electronic means. Manufacturer, brewer, and importer coupons and rebates must be made available upon request to a licensed retailer. A wholesaler is prohibited from participating in the procurement, redemption, or other costs associated for any coupon or rebate for beer offered or sponsored by a manufacturer, brewer, importer, or retailer. A beer manufacturer or wholesaler is prohibited from offering or participating in the procurement, redemption, or other costs associated with paper instant redeemable coupons and scanback coupons for beer in this State.

HISTORY: 2016 Act No. 248 (H.5245), Section 2, eff June 5, 2016.

SECTION 61-4-950.

Beer signs.

Neither the department nor the division has the authority to regulate the size, type, or number of beer signs displayed on the premises of a beer retailer or wholesaler.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-960.

Retailers of beer for off-premises consumption, beer tastings; penalties.

(A) Notwithstanding another provision of law or regulation, the holder of a retail permit authorizing the sale of beer for off-premises consumption whose primary product is beer or wine may conduct, in accordance with department rulings or regulations, not more than twenty-four beer tastings at any one retail location in a calendar quarter, provided that:

(1) at least ten days before the tasting, a notice detailing the specific date and hours of the tasting must be sent by first class mail or by electronic mail to the State Law Enforcement Division;

(2) the tastings must be conducted by the retailer or an agent or independent contractor of the retailer and may not be conducted by a wholesaler or manufacturer or an employee, agent, or independent contractor of a wholesaler or manufacturer. Nothing in this subsection prohibits a manufacturer or employee, agent, or independent contractor of a manufacturer from attending a tasting to provide information and offer educational material on the products to be sampled. For purposes of this subsection, a wholesaler is not considered an employee, agent, or independent contractor of a manufacturer;

(3) the products must be supplied by the retailer and may not be donated or otherwise supplied at no or reduced cost by the manufacturer or wholesaler;

(4) a sample may not be offered from more than eight products at any one tasting;

(5) no more than one container of each of the products to be sampled may be open at any time. Open containers must be visible at all times and must be removed at the conclusion of a tasting;

(6) the tasting must be held in a designated tasting area of the retail store;

(7) samples must be no more than two ounces for each product sampled as defined in Section 61-4-10(1);

(8) samples must be no more than one ounce for each product sampled as defined in Section 61-4-10(2), provided that no more than two of the total eight samples may contain more than ten percent of alcohol by weight;

(9) a person shall not be served more than one sample of each product;

(10) a sample shall not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years. A person tasting a sample may not be allowed to loiter on the store premises;

(11) a sampling may not be offered for more than four hours; and

(12) a retailer, pursuant to this section, may not offer more than one sampling per day.

(B) A person who violates the provisions of this section must be assessed a fine of one hundred dollars for each violation in addition to other applicable fines and penalties. The revenue from the one hundred dollar fine must be directed to the Department of Revenue for supplementing funds required for the department's activities concerning licensure and regulation of alcohol.

HISTORY: 2010 Act No. 231, Section 3, eff June 7, 2010; 2013 Act No. 36, Section 2, eff June 6, 2013; 2017 Act No. 62, Section 4.C, eff April 5, 2018.

Effect of Amendment

The 2013 amendment deleted former subsection (12), relating to Section 61-4-737, and redesignated former subsections (13) and (14) as (12) and (13).

2017 Act No. 62, Section 4.C, repealed (A)(13), which had prohibited a tasting from being held in conjunction with a tasting in a retail alcoholic liquor store that was adjacent to and licensed in the same name of the retail permit authorizing the sale of beer.

ARTICLE 11

Beer Wholesaler Franchise

SECTION 61-4-1100.

Prohibited practices.

(1) It is unlawful for a producer who holds a certificate of registration from the department (hereinafter "registered producer") or an officer, agent, or representative of a registered producer:

(a) to coerce, attempt to coerce, or persuade a person holding a permit to sell beer, ale, porter, and other similar malt or fermented beverages at wholesale (hereinafter "beer wholesaler") to enter into an agreement to take any action which would violate a provision of this article or any ruling or regulation in accordance therewith; or

(b) to unfairly, without due regard to the equities of the beer wholesaler or without just cause or provocation, cancel or terminate a written or oral agreement or contract, franchise, or contractual franchise relationship of the wholesaler existing on May 1, 1974, or thereafter entered into, to sell beer manufactured by the registered producer; this provision is a part of a contractual franchise relationship, written or oral, between a beer wholesaler and a registered producer doing business with the beer wholesaler, just as

though the provision had been specifically agreed upon between the beer wholesaler and the registered producer. However, notice of intention to cancel the agreement or contract, written or oral, franchise, or contractual franchise relationship must be given in writing at least sixty days before the date of the proposed cancellation or termination. The notice must contain (i) assurance that the agreement or contract, written or oral, franchise, or contractual franchise relationship is being terminated in good faith and for material violation of one or more provisions which are relevant to the effective operation of the agreement, or contract, written or oral, franchise, or contractual franchise relationship, if any, and (ii) a list of the specific reasons for the termination or cancellation.

(2) It is unlawful for a beer wholesaler:

(a) to enter into an agreement or take any action which would violate or tend to violate a provision of this article or any rule or regulation promulgated pursuant thereto;

(b) to unfairly, without due regard for the equities of a registered producer or without just cause or provocation, cancel or terminate a written or oral agreement or contract, franchise, or contractual franchise relationship of the registered producer existing on May 1, 1974, or thereafter entered into, to sell beer manufactured by the registered producer; this provision becomes a part of a contractual franchise relationship, written or oral, between a beer wholesaler and a registered producer doing business with the beer wholesaler, just as though this provision had been specifically agreed upon between the beer wholesaler and the registered producer. However, notice of intention to cancel the agreement or contract, written or oral, franchise, or contractual franchise relationship must be given in writing at least sixty days prior to the date of the proposed cancellation or termination. The notice must contain (i) assurance that the agreement or contract, written or oral, franchise, or contractual franchise relationship is being terminated in good faith and for material violation of one or more provisions which are relevant to the effective operation of the agreement or contract, written or oral, franchise, or contractual franchise relationship, if any, and (ii) a list of the specific reasons for the termination or cancellation;

(c) to refuse to sell to a licensed retailer whose place of business is within the geographical limits specified in a distributorship agreement between the beer wholesaler and the registered producer for the brands involved; or

(d) to store or warehouse beer or other malt beverages to be sold in the State in a warehouse located outside the State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1110.

Shipment and receipt of malt beverages.

If a registered producer and a beer wholesaler licensed by the State at the time that they were engaged in the shipment and receipt of malt beverages intended for sale in the State on May 1, 1974, and the shipment and receipt is continued until April 1, 1974, the limitations on the cancellation or termination of an agreement or contract, written or oral, franchise, or contractual franchise relationship provided in Section 61-4-1100(1)(b) and in Section 61-4-1100(2)(b) are applicable with respect to the shipment and receipt of the malt beverages, so that neither the registered producer nor the beer wholesaler has the right to discontinue the shipment and receipt except under the conditions specified in those subsections.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1115.

Assignment of territory of beer brands binding on successor producer or primary American source of supply.

For the purpose of this article, when a producer, as defined in Section 61-4-300, or the primary American source of supply, as defined in Section 61-4-340, who is registered to sell beer to wholesalers in this State, transfers, conveys, or assigns a brand of beer to another producer or primary American source of supply, the assignment of territory of that brand to a wholesaler, required pursuant to Section 61-4-1300, is binding on the successor producer or primary American source of supply. The successor producer or primary American source of supply and the existing wholesaler shall, in good faith, enter into a new distribution agreement that is not inconsistent with the laws of this State.

HISTORY: 2001 Act No. 76, Section 5; 2005 Act No. 173, Section 1; 2007 Act No. 14, Section 2.

SECTION 61-4-1120.

Jurisdiction of court to enjoin cancellation or termination.

The court of common pleas has jurisdiction and power to enjoin the cancellation or termination of a franchise or agreement between a beer wholesaler and a registered producer upon the application of a beer wholesaler or producer who is or might be adversely affected by the cancellation or termination; and in granting an injunction, the court must make provisions necessary to protect the beer wholesaler or registered producer while the injunction is in effect including, but not limited to, a provision that the registered producer must not supply the customers of the beer wholesaler by servicing the customers through other distributors or means or a provision that the beer wholesaler must continue to supply to his customers the products of the registered producer. Application may be made by the beer wholesaler or producer to the appropriate court in the county in which the business of the wholesaler is located. The court may require a bond to be posted by the party seeking the injunction, securing the party enjoined for damages in an amount in the court's discretion.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1130.

Sale of beer wholesale interest.

(1) Except as hereinafter provided, a proposed sale of an interest in the business carried on by a beer wholesaler which under the laws of this State would require that the purchaser obtain a permit to operate as a beer wholesaler is subject to the department's approval of the purchaser as an applicant for a permit authorizing the sale of beer. If the application of the prospective purchaser for the permit is approved, it is unlawful, notwithstanding the terms, provisions, or conditions of a written or oral contract or the franchise agreement between the beer wholesaler and the registered producer, for a registered producer to fail or refuse to approve

the transfer or change of ownership.

(2) Except as hereinafter provided, a proposed voluntary transfer of an interest in the business carried on by a beer wholesaler or a transfer of ownership in the business by reason of death is subject to the registered producer's approval of the prospective transferee. This approval must not be unreasonably withheld. If the registered producer does not give notice of disapproval by certified mail within sixty days after receipt of notification of the proposed voluntary transfer or within sixty days after the death of the owner of the interest, the right of disapproval may not thereafter be exercised.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1140.

Enforcement.

The division is empowered to investigate violations of this article and to furnish to the prosecuting attorney of a court having jurisdiction of the offense information with respect to violations of this article. The division has the power to enforce compliance with the provisions of an injunction granted by the court under the terms of this article; and if the court finds that there has been a violation of the provisions of an injunction granted by it, the department may revoke or suspend the permit of a beer wholesaler and may revoke the registration of a registered producer and its right to ship beer into the State.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 13

Territorial Restrictions; Distribution Agreements

SECTION 61-4-1300.

Territorial agreements.

Pursuant to the authority of the State under the Twenty-First Amendment to the United States Constitution and to promote the public's interest in fair and efficient distribution of beer, ale, porter, and other similar malt or fermented beverages, and to ensure the public's interest in uniform and effective control of the distribution of these beverage products in the State, a wholesaler may sell any brand of these beverage products in this State only in the territory described in a distribution agreement filed pursuant to this article authorizing sale by the wholesaler of the brand in that designated area. Within that designated area, the wholesaler must service all holders of retail permits without discrimination. The distribution agreement must be in writing, must specify the brands it covers, and must be filed with the department. If a brewer sells more than one brand, the agreement need not apply to all brands sold by the brewer and may apply to only one brand. No brewer, importer, or other supplier may provide by a distribution agreement for the distribution of the brand filed pursuant to this article to more than one wholesaler for all or any part of the designated territory. However, a wholesaler may, upon approval of the department, service a territory outside the territory designated in its distribution agreement during periods of temporary service interruptions when requested by the brewer and the wholesaler whose service is temporarily interrupted.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1310.

Filings with the department.

A wholesaler must file (1) a copy of its distribution agreement with the department within sixty days after its adoption, and (2) any amendments to the agreement within sixty days after their adoption.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1320.

Resale price agreements.

No provision of a distribution agreement may expressly, by implication, or in its operation establish or maintain the resale price of any brand of these beverage products by a wholesaler.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 15

Construction and Operation of Breweries and Wineries

SECTION 61-4-1500.

Breweries and wineries.

A person may construct, maintain, or operate a brewery or winery in this State for the production of any beverage lawful under this chapter.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1510.

Permit applications.

Before a person constructs, maintains, or operates a brewery or winery as provided by the provisions of this article, the person must apply to the department for a permit. The application must be in writing in a form the department prescribes. Except as otherwise provided in this section, the applicant must pay a biennial permit tax of two hundred dollars upon each brewery and on each commercial winery to be established and operated. The permit tax must be paid to and collected by the department before a permit is issued. Permits as provided by the provisions of this section expire as mandated by Section 61-2-120. No refund may be made to a dealer who ceases business after obtaining a permit.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 7.

SECTION 61-4-1515.

Breweries; sales of beer for on- and off-premises consumption; penalties.

(A) A brewery permitted in this State is authorized to sell beer to consumers on its permitted premises with an alcoholic content of twelve percent by weight, or less, subject to the following conditions:

- (1) beer sold for on-premises consumption must be produced by the brewery on its permitted premises or transferred to the brewery, subject to the following conditions: (a) the transferring and receiving breweries operate under one hundred percent identical ownership, and (b) the annual volume of beer received by a brewery does not exceed the annual volume of beer produced by such brewery on its permitted premises;
- (2) sales to consumers must be held in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;
- (3) sales shall not be offered or made to, or allowed to be offered, made to, or consumed by an intoxicated person or a person who is under the age of twenty-one;
- (4)(a) no more than a total of forty-eight ounces of beer brewed at or transferred to the permitted premises shall be sold to a consumer for on-premises consumption within a twenty-four hour period; and
(b) of that forty-eight ounces of beer available to be sold to a consumer within a twenty-four hour period, no more than sixteen ounces of beer with an alcoholic weight of above eight percent, including any samples offered and consumed with or without cost, shall be sold to a consumer for on-premises consumption within a twenty-four hour period;
- (5) a brewery must report in a manner required by the department the amounts, types, and brewing locations of beer sampled or sold to a consumer for on-premises consumption;
- (6) a brewery must sell the beer at the permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;
- (7) a brewery must remit appropriate taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for excise taxes assessed by the department. A brewery also must remit appropriate sales and use taxes and local hospitality taxes;
- (8) a brewery must post information that states the alcoholic content by weight of the various types of beer available in the brewery and the penalties for convictions for:
 - (a) driving under the influence;
 - (b) unlawful transport of an alcoholic container; and
 - (c) unlawful transfer of alcohol to minors.

And, the information shall be in signage that must be posted at each entrance, each exit, and in places in a brewery seen during a tour;

- (9) a brewery must provide department or DAODAS approved alcohol enforcement training for the employees who serve beer on the permitted premises to consumers for on-premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport, or consumption of beer by persons who are under the age of twenty-one or who are intoxicated; and
- (10) a brewery must maintain a liquor liability insurance policy or a general liability insurance policy with a liquor liability endorsement in the amount of at least one million dollars for the biennial period for which it is permitted. Within ten days of receiving its biennial permit, a brewery must send proof of this insurance to the State Law Enforcement Division and to the Department of Revenue, where the proof of insurance information shall be retained with the department's alcohol beverage licensing section.

(B)(1) In addition to the sales provisions set forth in subsection (A) and subject to this subsection (B), a brewery permitted in this State is authorized to sell beer to consumers on-site for on-premises consumption within an area of its permitted and licensed premises approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other food service establishments. These establishments also may apply for a retail on-premises consumption permit for the sale of beer and wine that has been purchased from a wholesaler through the three-tier distribution chain set forth in Section 61-4-735 and Section 61-4-940.

(2) In addition to a retail on-premises consumption permit for the sale of beer and wine as authorized in this subsection, a brewery that has a Department of Health and Environmental Control approved and licensed food establishment on its premises as provided in subsection (B)(1) may apply for a license to sell alcoholic liquor by the drink for on-premises consumption within a specified area of its licensed or permitted premises physically partitioned from the brewing operation and designated for the purpose of engaging substantially and primarily in the preparation and serving of meals. The brewery must:

- (a) maintain compliance with all provisions of Section 61-6-1610 and all other provisions of Chapter 6 regulating the purchase and sale by food establishments of alcoholic liquor by the drink for on-premises consumption not inconsistent with other provisions of this section;
 - (b) not sell or allow the consumption of alcoholic liquor by the drink on that part of the brewery's premises designated and permitted for the brewing operation;
 - (c) maintain the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the brewing operation, and allocate expenses common to both operations in a manner the brewery considers reasonable, when applicable; and
 - (d) maintain a physical partition between the brewing and food establishment operations. The physical partition may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the brewing operation, and may contain a door or doors which remain locked during hours when the brewery is not in operation.
- (C) The department shall terminate and a brewery shall surrender each permit and license issued to the brewery pursuant to

subsection (B) immediately following inspection, determination, and report by the division to the department that brewing operations have ceased on the brewery's permitted premises. This includes the food establishment permits and licenses. Following reinstitution of brewing operations on the formerly permitted premises, a brewery may re-apply for the applicable permits and licenses authorized by subsection (B).

(D) The sale of beer for on-premises consumption pursuant to subsection (B) must comply with the following provisions:

(1) all provisions of subsection (A) shall apply to sales under subsection (B) and this subsection, except subsection (A)(2), (4), and (5);

(2) the brewery must comply with all state and local laws concerning hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell beer and wine for on-premises consumption;

(3) the brewery must comply with the discount pricing provisions of Section 61-4-160, applicable to persons holding permits to sell beer and wine for on-premises consumption;

(4) the brewery must sell the beer at a price approximating retail prices generally charged for identical beverages by on-premises retailers in the county where the licensed premises are located; and

(5) a wholesaler must not provide and a brewery must not accept services, equipment, fixtures, or free beer prohibited by Section 61-4-940(B), except those items authorized by Section 61-4-940(C). Changes to the brewery laws pursuant to subsection (B) and this subsection do not alter or amend the structure of the three-tier laws of this State, and the wholesalers and the breweries must not discriminate in pricing at the producer or wholesaler levels.

(E) A brewery located in this State is authorized to sell beer to consumers on its permitted premises for off-premises consumption, provided that the sealed beer was brewed on the brewery's permitted premises or received pursuant to subsection (A) with an alcohol content of fourteen percent by weight or less, subject to the following conditions:

(1) the maximum amount of beer that may be sold to an individual per day for off-premises consumption shall be equivalent to eight hundred sixty-four ounces in total;

(2) the beer only shall be sold in conjunction with a tour by the consumer of the permitted premises and the entire brewing process utilized at the permitted premises;

(3) the beer sold is for personal use only and must not be resold;

(4) the beer must not be sold to anyone holding a retail beer and wine license for the purpose of resale in their establishment;

(5) the brewery must sell the beer at the permitted premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;

(6) the brewery must remit taxes to the Department of Revenue for beer sales in an amount equal to and in a manner required for taxes assessed by Section 12-21-1020 and Section 12-21-1030. The brewery also must remit appropriate sales and use taxes and local hospitality taxes; and

(7) beer sold in kegs must comply with the requirements of Article 19, entitled "Keg Registration".

(F) A brewery must report monthly in a manner required by the department the amounts and brands of beer present on its licensed premises at the month's beginning, brewed on its licensed premises, transferred to and received from a separate licensed brewery under identical ownership, sold to wholesalers for resale, sold to consumers for off-premises consumption, sold to consumers for on-premises consumption, lost to spillage and spoilage, removed for owner consumption, and present on its licensed premises at the month's end.

(G) A brewpub permitted pursuant to Article 17, which is a retailer for purposes of Sections 61-4-735(D) and 61-4-940(D), may make application to the department for a brewery permit and the permits and licenses authorized pursuant to subsection (B) for the brewpub's existing permitted premises. For these applications, the department shall waive newspaper notice and sign posting requirements, except the requirements shall not be waived for an alcoholic liquor by the drink application if the brewpub does not possess this license at the time of application. Excluding operations authorized pursuant to subsection (B), the department must not approve an application if the applicant or any principal or person acting directly or indirectly on behalf of the applicant would have ownership or financial interest in a wholesale or retail beer, wine, or alcoholic liquor operation following the issuance of the brewery permit. Contemporaneous with obtaining the brewery and applicable permits or licenses authorized pursuant to subsection (B), the applicant shall surrender the brewpub permit and the alcoholic liquor by the drink license previously issued for the premises.

(H) In addition to other applicable fines or penalties, a person permitted as a brewery in this State who violates the provisions of this section must be assessed a fine of five hundred dollars for a first violation. For a second violation that occurs within three years of the first violation, a person must be assessed an additional five hundred dollars. For subsequent violations within a three-year period, the department must suspend the brewery permit for a period of not less than thirty days. The revenue from the fines established in this section must be directed to the State Law Enforcement Division for supplementing funds required for the regulation and enforcement of this section.

HISTORY: 2010 Act No. 231, Section 2, eff June 7, 2010; 2013 Act No. 36, Section 1, eff June 6, 2013; 2014 Act No. 223 (H.3512), Section 5A, eff June 2, 2014; 2017 Act No. 50 (S.275), Section 1, eff May 19, 2017; 2017 Act No. 62 (H.3137), Sections 6, 7, eff May 19, 2017; 2020 Act No. 167 (S.993), Section 2.A, eff September 29, 2020; 2020 Act No. 167 (S.993), Section 2.B, eff June 1, 2022; 2023 Act No. 31 (S.566), Section 2, eff May 16, 2023.

Editor's Note

2020 Act No. 167, Section 2.B., amended by 2021 Act No. 81, Section 1, provides as follows:

"[SECTION 2.]B. This SECTION is effective upon approval by the Governor and expires on May 31, 2022."

2023 Act No. 31, Section 1, provides as follows:

"SECTION 1. This act may be cited as the 'South Carolina Craft Beer Economic Development Act'."

Effect of Amendment

The 2013 amendment, rewrote subsections (A) and (C), and in subsection (B), inserted "off-premises consumption", substituted "sealed beer was brewed" for "beer was brewed", and substituted "following conditions" for "following restrictions".

2014 Act No. 223, Section 5.A, added subsections (B) and (C), redesignated the former subsections accordingly, and made other nonsubstantive changes.

2017 Act No. 50, Section 1, substituted "permitted" for "licensed" and "permit" for "license" throughout the section; in (A)(8), inserted "department or"; in (A)(9), in the first sentence, inserted "a liquor" and "policy or a general liability insurance policy with a liquor liability endorsement"; redesignated (B) as (B)(1), and, in the first sentence, inserted "permitted and" before "licensed premises approved by the rules", and in the second sentence, inserted "not produced on the licensed premises", and substituted "Sections 61-4-735 and 61-4-940" for "Section 61-4-735 and Section 61-4-940"; added (B)(2), relating to licenses to sell alcoholic liquor by the drink for on-premises consumption; inserted (C), relating to the termination of permits and licenses; inserted (F), relating to brewpub applications for brewery permits; redesignated accordingly; and made nonsubstantive changes.

2017 Act No. 62, Sections 6 and 7, in (A), deleted references to "samples" and "samplings" and substituted "permitted" for "licensed" and "permit" for "license"; in (A)(8), inserted "department or"; in (A)(9), in the first sentence, inserted "a liquor" and "policy or a general liability insurance policy with a liquor liability endorsement"; and redesignated (B) as (B)(1), deleted "sampling and" before "sales provisions", in the first sentence, inserted "permitted and" before "licensed premises approved by the rules", and in the second sentence, inserted "not produced on the licensed premises".

2020 Act No. 167, Section 2.A., in (E), in (1), substituted "five hundred seventy-six ounces" for "two hundred eighty-eight ounces".

2023 Act No. 31, Section 2, in (A), deleted ", provided that the beer is brewed on the permitted premises" following "its permitted premises", inserted (1) and redesignated former (1) to (9) as (2) to (10), accordingly, in (4)(a), inserted "or transferred to", and rewrote (5); in (B), in (1), in the first sentence, inserted "and subject to this subsection (B)" and substituted "to consumers on-site" for "produced on its permitted premises to consumers on site", and in the second sentence, deleted "not produced on the licensed premises" following "sale of beer and wine"; in (D), deleted "that is brewed on the licensed premises" following "The sale of beer", and in (1), substituted "(A)(2), (4), and (5)" for "(A)(1, (3), and (4)"; in (E), inserted "to consumers" and "or received pursuant to subsection (A)", in (1), substituted "eight hundred sixty-four ounces" for "two hundred eighty-eight ounces", made nonsubstantive changes in (5) and (6), and inserted (7); and inserted (F) and redesignated former (F) and (G) as (G) and (H), respectively.

SECTION 61-4-1520.

Violation of rule or regulation.

Upon violation of a rule or regulation for the operation of breweries and commercial wineries authorized under this article, the license or permit provided for herein must be canceled immediately and becomes null and void.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1530.

Operation of brewery or winery without permit.

A person who operates a brewery or winery without a permit or after his permit has been canceled by the department is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five thousand dollars or imprisoned not more than one year, or both.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1540.

Adoption of Chapter 21 of Title 12.

For the purpose of administration and enforcement of this article, the provisions of Chapter 21 of Title 12, when applicable, are adopted and made a part of this article.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 17

Brewpubs

SECTION 61-4-1700.

Definitions.

For purposes of this article:

(1) "Brewpub" means a tavern, public house, restaurant, or hotel which produces on the permitted premises a maximum of two thousand barrels a year of beer for sale on the premises.

(2) "Permitted premises" means those areas normally used by the permittee or licensee to conduct his business and includes, but is not limited to, the selling areas, brewing areas, storage areas, food preparation areas, and parking areas.

(3) "Person" means an individual, partnership, corporation, or other form of business organization.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1710.

Permits.

The department may issue a brewpub permit to a person to operate a brewpub in this State subject to the requirements of this chapter and the payment of a biennial brewpub permit fee of two thousand dollars.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1720.

Permit in lieu of certain other permits.

The brewpub permit provided for in this article is in lieu of a permit required for the manufacture of beer or sale of beer and wine including, but not limited to, a brewer's and retailer's permit. The sale of alcoholic liquors for consumption on the premises by the drink requires an appropriate license which may be issued to the holder of a brewpub permit who meets all other qualifications for the license under this title. A brewpub that becomes a brewery pursuant to Section 61-4-1515 must relinquish its brewpub permit in accordance with the requirements of that section.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 8; 2017 Act No. 50 (S.275), Section 2, eff May 19, 2017.

Effect of Amendment

2017 Act No. 50, Section 2, added the third sentence, providing that a brewpub that becomes a brewery must relinquish its brewpub permit.

SECTION 61-4-1730.

Taxation.

Beer brewed on a permitted premises pursuant to this article must be taxed as provided in Section 12-21-1035. The permittee shall maintain adequate records as determined by the department to ensure the collection of this tax.

HISTORY: 1996 Act No. 415, Section 1; 2001 Act No. 89, Section 54.

SECTION 61-4-1740.

Authority of permittee.

A brewpub permit authorizes the holder to:

- (1) produce on the permitted premises a maximum of two thousand barrels a year of beer for sale:
 - (a) on draft for consumption on the premises;
 - (b) in a sanitary container brought to the premises by the purchaser and filled at the tap by the permittee at the time of sale; and
 - (c) in bottles for consumption by the purchaser off the premises;
- (2) sell the beer of a producer which has been purchased from a wholesaler through the normal three-tier distribution chain set forth in Section 61-4-940;
- (3) serve food or otherwise be qualified as a public eating establishment. This provision may not be construed to exempt a permittee or licensee from the requirement that food must be served in order for a license for the consumption of alcoholic liquors on the premises to be issued.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1750.

Compliance with DHEC rules and regulations.

No person holding a brewpub permit may sell beer, ale, porter, or other similar malt or fermented beverages on draft, on tap, from kegs, or from other containers unless approved by the rules and regulations of the Department of Health and Environmental Control governing eating and drinking establishments and other retail food establishments.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1760.

Off-premises sales or shipment.

No brewpub permittee may sell or ship the beer produced on the permitted premises for sale in another location.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-4-1770.

Suspension or revocation of permit.

The department may suspend or revoke the permit or license of a person who violates the provisions of this article.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 19

Keg Registration

SECTION 61-4-1910.

Definitions.

For purposes of this article:

- (1) "Keg" means a metal container of beer with a capacity of 5.16 gallons or more that is designed to dispense beer directly from the container in an off-premises location.
 - (2) "Retail licensee" means the holder of a retail beer or wine license issued by the Department of Revenue.
- HISTORY: 2007 Act No. 103, Section 3; 2009 Act No. 44, Section 1, eff June 2, 2009.

Effect of Amendment

The 2009 amendment, in item (1) defining "keg", added "metal".

SECTION 61-4-1920.

Keg registration requirements; underage transfer statement; returned kegs; deposit.

(A) A retail licensee shall not sell a keg of beer without:

- (1) recording the date of sale, the keg identification number, the name, address, and birth date of the purchaser, and the driver's license or identification card number presented by the purchaser;
- (2) requiring the purchaser to sign a statement attesting to the accuracy of the purchaser's information, acknowledging that, unless

otherwise permitted by law, it is unlawful to transfer beer to a person under the age of twenty-one, and that, unless otherwise permitted by law, the beer in the keg will not be consumed by a person under the age of twenty-one; and

(3) attaching an identification tag to the keg with the name, address, and license number of the retail licensee and the keg identification number. An identification tag must consist of paper, plastic, metal, or durable material that is not easily damaged or destroyed. An identification tag must be attached to the keg at the time of the sale with a nylon tie or cording, wire tie or other metal attachment device, or other durable means of tying or attaching the tag to the keg.

(B) The Department of Revenue shall prescribe and provide the form to be used that contains the keg identification information and the purchaser's statement. The Department of Revenue also shall prescribe and provide the keg identification tag and the manner in which the tag must be attached to the keg.

(C) The retail licensee shall maintain the keg identification form and the purchaser's statement form for a minimum of ninety days from the date the keg is purchased. These forms must be available during normal business hours for inspection by the Department of Revenue and appropriate law enforcement agencies.

(D) The retail licensee shall record the date of return of a keg on the proper identification form. After the keg is returned, it shall be the responsibility of the retail licensee to remove the tag. The purchaser shall receive a receipt from the retail licensee that the keg was returned with the tag appropriately affixed. If there is no tag affixed to the keg or if the identification number is not legible, the retail licensee shall indicate this fact on the proper keg identification and purchaser statement form.

(E) A retail licensee must accept all returned kegs, and upon the licensee's discretion, may not refund the deposit for a keg that has an altered identification number.

(F) A retail licensee who violates the provisions of this section is subject to suspension or revocation of his beer or wine license or monetary penalties pursuant to Section 61-4-250. A person who violates a provision of this section:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars.

HISTORY: 2007 Act No. 103, Section 3.

SECTION 61-4-1930.

Possession of untagged keg; penalty.

(A) A person may not knowingly possess a keg that does not have the proper tag with all information accurately recorded, unless the person can demonstrate by a preponderance of the evidence that the keg was not correctly tagged by the seller pursuant to the requirements of Section 61-4-1920.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(C) The provisions of this section do not apply to any manufacturer, shipper, wholesaler, or licensee.

HISTORY: 2007 Act No. 103, Section 3.

SECTION 61-4-1940.

Removal or alteration of tag; penalty.

(A) A person may not purposefully remove, alter, obliterate, or allow to be removed, altered, or obliterated, a keg tag or other information recorded on the tag.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(C) The provisions of this section do not apply to any manufacturer, shipper, wholesaler, licensee, the Department of Revenue, or other appropriate law enforcement agency.

HISTORY: 2007 Act No. 103, Section 3.

Title 61 - Alcohol and Alcoholic Beverages

CHAPTER 6

Alcoholic Beverage Control Act

ARTICLE 1

General Provisions

SECTION 61-6-10.

Citation.

This chapter is known and may be cited as "The Alcoholic Beverage Control Act" (ABC Act).

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-20.

Definitions.

As used in the ABC Act, unless the context clearly requires otherwise:

- (1)(a) "Alcoholic liquors" or "alcoholic beverages" means any spirituous malt, vinous, fermented, brewed (whether lager or rice beer), or other liquors or a compound or mixture of them, including, but not limited to, a powdered or crystalline alcohol, by whatever name called or known, which contains alcohol and is used as a beverage for human consumption, but does not include:
- (i) wine when manufactured or made for home consumption and which is not sold by the maker of the wine or by another person; or
 - (ii) a beverage declared by statute to be nonalcoholic or nonintoxicating.
- (b) "Alcoholic liquor by the drink" or "alcoholic beverage by the drink" means a drink poured from a container of alcoholic liquor, without regard to the size of the container for consumption on the premises of a business licensed pursuant to Article 5 of this chapter.
- (c) "Powdered or crystalline alcohol" means a powdered or crystalline product prepared or sold for either direct use or reconstitution for human consumption that contains any amount of alcohol when hydrolyzed.
- (2) "Bona fide engaged primarily and substantially in the preparation and serving of meals" means a business that provides facilities for seating not fewer than forty persons simultaneously at tables for the service of meals and that:
- (a) is equipped with a kitchen that is utilized for the cooking, preparation, and serving of meals upon customer request at normal meal times;
 - (b) has readily available to its guests and patrons either menus with the listings of various meals offered for service or a listing of available meals and foods, posted in a conspicuous place readily discernible by the guest or patrons; and
 - (c) prepares for service to customers, upon the demand of the customer, hot meals at least once each day the business establishment chooses to be open.
- (3) "Homeowners association chartered as a nonprofit by the Secretary of State" means an organization that has been recognized as a nonprofit by the Secretary of State, whose membership is limited to individuals who own property in the residential community, and whose affairs are governed by a board of directors elected by the membership. No member, officer, agent, or employee of the association may be paid a salary or other form of compensation from any of the profit of the sale of alcoholic beverages, except as may be voted on at a meeting of the governing body, nor shall the salaries or compensation be in excess of reasonable compensation for the services actually performed. Additionally, a "homeowners association chartered as a nonprofit by the Secretary of State" must abide by all alcoholic liquor regulations that apply to a nonprofit organization, as defined by Section 61-6-20(7), except that upon dissolution of the "homeowners association chartered as a nonprofit by the Secretary of State", the remaining assets, if any, may be distributed to its members. A "homeowners association chartered as a nonprofit by the Secretary of State" is eligible to be licensed under this chapter only at facilities located within the boundaries of the homeowners association.
- (4) "Manufacturer" means a person operating a plant or place of business in this State for distilling, rectifying, brewing, fermenting, blending, or bottling alcoholic liquors.
- (5) "Furnishing lodging" means those businesses which rent accommodations for lodging to the public on a regular basis consisting of not less than eighteen rooms.
- (6) "Minibottle" means a sealed container of fifty milliliters or less of alcoholic liquor.
- (7) "Nonprofit organization" means an organization not open to the general public, but with a limited membership and established for social, benevolent, patriotic, recreational, or fraternal purposes.
- (8) "Producer", as used in the ABC Act, means a manufacturer, distiller, rectifier, blender, or bottler of alcoholic liquors and includes an importer of alcoholic liquors engaged in importing alcoholic liquors into the United States.
- (9) "Producer representative" means a person who is a citizen of this State, who maintains his principal place of abode in this State, and who is registered with the department pursuant to Article 7 of this chapter as the South Carolina representative of a registered producer.
- (10) "Registered producer" means a producer who is registered with the department pursuant to Article 7 of this chapter.
- (11) "Retail dealer" means a holder of a license issued under the provisions of Article 3 of this chapter, other than a manufacturer or wholesaler.
- (12) "Wholesaler" means a person who purchases, acquires, or imports from outside this State or who purchases or acquires from a manufacturer in the State alcoholic liquors for resale.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Sections 9, 10; 2006 Act No. 386, Section 50; 2008 Act No. 287, Section 2.A, eff June 11, 2008; 2008 Act No. 320, Section 2, eff upon approval (became law without the Governor's signature on June 17, 2008); 2011 Act No. 67, Section 1, eff June 17, 2011; 2013 Act No. 87, Section 1, eff June 13, 2013; 2015 Act No. 73

(S.179), Section 1, eff June 5, 2015.

Effect of Amendment

The first 2008 amendment, in item (2), in the introductory sentence substituted "business that provides" for "business which has been issued a Grade A retail establishment food permit prior to issuance of a license under Article 5 of this chapter, and in addition provides", "fewer" for "less" and added subitems (a) to (c).

The second 2008 amendment made identical changes.

The 2011 amendment inserted subsection (3); and redesignated former subsections (3) to (11) as subsections (4) to (12).

The 2013 amendment substituted "eighteen" for "twenty" in paragraph (5).

2015 Act No. 73, Section 1, in (1)(a), inserted ", including, but not limited to, a powdered or crystalline alcohol," inserted a comma following "or known", and inserted "for human consumption"; and added (1)(c).

SECTION 61-6-30.

Excluded products; violations.

No provision in the ABC Act applies to alcohol intended for use in the manufacture and sale of any of the following when they are unfit for beverage purposes:

(1) Denatured alcohol produced and used pursuant to acts of Congress and regulations promulgated thereunder;

(2) Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;

(3) Flavoring extracts, syrups, and food products; and

(4) Scientific, chemical, mechanical, and industrial products.

A person who knowingly sells any product enumerated in items (1), (2), (3), or (4) for beverage purposes is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than two hundred dollars or imprisonment of not more than sixty days, or both.

No provision of the ABC Act applies to ethyl alcohol intended for use by hospitals, colleges, governmental agencies, or other permittees entitled to obtain this alcohol tax free, as provided by acts of Congress and regulations promulgated thereunder.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-40.

Relationship with other laws.

The ABC Act is declared to be complementary to and not in conflict with the laws providing for the lawful sale of beers, wines, and other vinous, fermented, or malt liquors.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-50.

Wilful violation of rule or regulation.

The wilful violation of any rule or regulation made under the provisions of the ABC Act constitutes a violation of the act. The determination of what action constitutes a wilful violation shall be made pursuant to the terms within the provisions of the ABC Act and no regulation shall be promulgated or enforced that exceeds the requirements of the ABC Act.

HISTORY: 1996 Act No. 415, Section 1; 2006 Act No. 386, Section 51.

SECTION 61-6-60.

Administration and enforcement personnel.

The division may employ inspectors or agents necessary for the proper administration and enforcement of the provisions of the ABC Act. The salaries of these inspectors or agents must be fixed by the division. The Governor shall commission as state constables inspectors or agents as are certified by the division in order that they have adequate authority as peace officers to enforce these provisions. An inspector or agent must, before entering upon the discharge of his duties, take and subscribe the oath of office as required by Article III, Section 2 of the Constitution of South Carolina, and any additional oath required by law, and must give bond payable to the State in a form approved by the Attorney General, in the penal sum of five thousand dollars with some surety or guaranty company authorized to do business in this State and approved by the division, conditioned upon the faithful discharge of his duties. The bonds must be filed with and preserved by the Secretary of State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-70.

Personnel.

The department and the division may, in their discretion, employ clerical, stenographic, and other personnel, including chemists, necessary to administer the ABC Act, and may prescribe their duties and fix their compensation. The department or the division may require any employee to furnish bond conditioned upon the faithful performance of his duty. The bond must be filed with and preserved by the department or the division.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-80.

Annual reports.

The department and the division must file annually with the Governor and the General Assembly their annual reports as of June thirtieth of each year, and must report to the Governor on their affairs generally or on special matters as often as he requires.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 3

Regulation of Retailers, Wholesalers, and Manufacturers

Subarticle 1

Qualifications of Licensees; Restrictions on Licenses and Licensees

SECTION 61-6-100.

Authority to issue, suspend, and revoke licenses.

Except as otherwise provided, the department has sole and exclusive power to suspend and revoke all licenses provided for in the ABC Act. The department may issue, subject to revocation, the following licenses under this article:

- (1) manufacturers' licenses which authorize the licensees to manufacture alcoholic liquors and to sell and deliver or ship them, in accordance with regulations, in bottles or in similar closed containers to a person in this State who has a wholesaler's license issued under this article, and in barrels, bottles, or other closed containers to persons outside this State. However, no deliveries or shipments may be made into another state whose laws prohibit the consignee from receiving or selling alcoholic liquors;
- (2) wholesalers' licenses which authorize the licensees to purchase, store, keep, possess, import into this State, transport, sell, and deliver alcoholic liquors in bottles or similar closed containers, in accordance with regulations, to a person having a manufacturer's or retail dealer's license issued under this article; and
- (3) retail dealers' licenses which authorize the licensees to purchase alcoholic liquors from wholesalers having licenses issued under this article, and to store, keep, possess, and sell alcoholic liquors at retail for consumption in compliance with the provisions of the ABC Act and regulations not in conflict herewith.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-110.

Qualifications for license.

Unless the department in its discretion otherwise orders, no person is eligible for a license under this article or Article 7 of this chapter if he or the person who will have actual control and management of the business proposed to be operated:

- (1) is less than twenty-one years of age;
- (2) is not a legal resident of the United States and has not been a resident of South Carolina for at least thirty days before the date of application and has maintained his principal place of abode in South Carolina for at least thirty days before the date;
- (3) is not of good repute; or
- (4) has had a license under this or another statute regulating the manufacture or sale of alcoholic liquors which has been revoked within five years preceding the filing of the application.

HISTORY: 1996 Act No. 415, Section 1.

Editor's Note

2018 Act No. 147, Section 6, provides as follows:

"SECTION 6. (A)(1) Until May 31, 2018, the department shall not issue more than three retail dealer licenses to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61-6-110.

"(2) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978. Additional retail dealer licenses may be issued to that person as provided in this section.

"(B) Beginning June 1, 2018, no more than four retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

"(C) Beginning June 1, 2020, no more than five retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

"(D) Beginning June 1, 2022, no more than six retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110."

SECTION 61-6-120.

Proximity to church, school, or playground; exception.

(A) The department shall not grant or issue any license provided for in this article, Article 5, or Article 7 of this chapter, if the place of business is within three hundred feet of any church, school, or playground situated within a municipality or within five hundred feet of any church, school, or playground situated outside of a municipality. Such distance shall be computed by following the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of such church, school, or playground, which, as used herein, shall be defined as follows:

- (1) "church", an establishment, other than a private dwelling, where religious services are usually conducted;
- (2) "school", an establishment, other than a private dwelling, where the usual processes of education are usually conducted; and
- (3) "playground", a place, other than grounds at a private dwelling, which is provided by the public or members of a community for recreation.

The above restrictions do not apply to the renewal of licenses and they do not apply to new applications for locations which are licensed at the time the new application is filed with the department.

(B) An applicant for license renewal or for a new license at an existing location shall pay a five dollar certification fee to determine if the exemptions provided for in subsection (A) apply.

(C)(1) Notwithstanding the provisions of subsection (A), the department may issue a license so long as any church, school, or playground located within the parameters affirmatively states that it does not object to the issuance of a license. This subsection only applies to a permit for on-premises consumption of alcoholic liquor.

(2)(a) Any applicant seeking to utilize the provisions of this subsection must provide a statement declaring the church, playground, or school does not object to the issuance of the specific license sought, as follows:

- (i) if a church, from the decision-making body of the local church;

(ii) if a playground, from the decision-making body of the owner of the playground;
(iii) if a school, from the local school district board of trustees of the local public school, governing board of the charter school, or governing authority of the private school.

(b) If more than one church, school, or playground is located within the parameters set forth in subsection (A), the applicant must provide the statement from all churches, schools, or playgrounds.

(c) At the time of any renewal period for the specific license, a school, from the local school district board of trustees of the local public school, governing board of the charter school, or governing authority of the private school, may withdraw its statement declaring it does not object to the issuance of the specific license sought by notifying the department of its withdrawal.

(3) The department may promulgate regulations necessary to implement the provisions of this subsection.

HISTORY: 1996 Act No. 415, Section 1; 1996 Act No. 458, Part II, Section 100; 2014 Act No. 253 (H.4399), Section 1, eff June 6, 2014; 2018 Act No. 252 (H.3549), Sections 1, 2, eff May 25, 2018.

Effect of Amendment

2014 Act No. 253, Section 1, in subsection (A), inserted "Article 5," in the first sentence, and added subsection (C).

2018 Act No. 252, Section 1, in (A)(2), inserted a comma following "private dwelling".

2018 Act No. 252, Section 2, rewrote (C), providing that a license may be issued if the decision-making body of the church, school, or playground affirmatively states that it does not object to the issuance of a license and allowing the decision-making body of a school to withdraw its statement during the renewal period for the license.

SECTION 61-6-130.

Licensees per household.

No license may be issued to more than one member of a household in this State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-141.

Maximum alcohol retail dealer licenses to one licensee.

To protect the health, safety, and morals of the residents of this State, the issuance of retail dealer licenses must be governed pursuant to the following requirements to promote adequate law enforcement, regulatory measures, health care costs, and associated impacts on the health, safety, and welfare of the state's residents resulting from the anticipated sales of liquor, and to curb relationships and practices calculated to stimulate sales and impair the state's policy favoring trade stability and the promotion of temperance, in determining whether a political subdivision is adequately served pursuant to Section 61-6-170, and to provide for an orderly provision of retail dealer licenses:

(1) The department shall not issue more than three retail dealer licenses to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61-6-110.

(2) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978.

(3)(a) A licensee may be issued up to an additional three retail dealer licenses under the conditions provided in this item. Additional retail dealer licenses issued pursuant to this item must be for retail locations in counties with populations in excess of two hundred fifty thousand residents. Licensees issued a retail dealer license pursuant to this subitem may not operate more than two stores in a county with a population in excess of two hundred fifty thousand residents.

(b) A licensee who as of March 21, 2018, operates three retail dealer licensed stores within a county with a population in excess of two hundred fifty thousand residents may be issued two additional retail dealer licenses under subitem (a) to operate in that county.

HISTORY: 2018 Act No. 147 (H.4729), Section 2, eff April 4, 2018.

Editor's Note

2018 Act No. 147, Sections 1 and 6, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in exercising its powers and the powers granted to the State by the Twenty-first Amendment to the Constitution of the United States and in regulating alcoholic liquors, including the activities of manufacturers, importers, wholesalers, and retailers; the number and localities of retail dealer licenses; and the influences that affect the consumption levels of alcoholic liquors by the people of the State.

"(B) The state's police power to regulate the business of retail liquor sales in the manner and to the extent allowed by law including, but not limited to, Section 1, Article VIII-A of the South Carolina Constitution, 1895, includes regulating the number and localities of retail dealer licenses that a person may be issued and regulating what wholesalers may deliver to persons licensed to sell alcoholic liquors for on-premises consumption, processes that affect the health, safety, and morals of the State.

"(C) The public policy of this State and the legislative purpose of this act is to:

"(1) strictly regulate alcoholic liquors to protect the health of this State and its residents. Excessive use of alcohol has wide ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2006-2010 an average of 1,539 of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation;

"(2) strictly regulate alcoholic liquors to protect the safety of this State and its residents. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had three hundred thirty-one alcohol-impaired driving fatalities in 2016, which accounted for thirty-three percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation;

"(3) strictly regulate alcoholic liquors to protect the morals of this State and its residents by fostering moderation and responsibility in the use and consumption of alcoholic liquors. The General Assembly recognizes the prevalence of scientific data compiled by the Community Prevention Services Task Force establishing a positive association between outlet density, including the number of retail liquor stores, and excessive alcohol consumption and related harms and further concurs with the task force's recommendation to limit outlet density in the effort to address those problems;

"(4) protect the collection of state taxes imposed upon alcoholic liquors;

"(5) protect the interests of consumers against fraud and misleading practices in the sale of alcoholic liquors and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic liquors;

"(6) provide a framework for the sale of alcoholic liquors that recognizes and encourages the beneficial aspects of competition and to prevent monopolies;

"(7) maintain trade stability and provide for the continuation of control and orderly processing by the State over the number and locations of retail liquor stores;

"(8) prevent the concentration of retail liquor stores in close proximity thereby affecting the health and morals of the State;

"(9) prohibit discrimination in the sale of alcoholic liquors to retail licensees."

"SECTION 6. (A)(1) Until May 31, 2018, the department shall not issue more than three retail dealer licenses to one licensee, and the licensee must be eligible for a license for each store pursuant to Section 61-6-110.

"(2) The limitation of no more than three retail dealer licenses to one licensee does not apply to a person having an interest in retail liquor stores as of July 1, 1978. Additional retail dealer licenses may be issued to that person as provided in this section.

"(B) Beginning June 1, 2018, no more than four retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

"(C) Beginning June 1, 2020, no more than five retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110.

"(D) Beginning June 1, 2022, no more than six retail dealer licenses may be issued to one licensee, and the licensee must be eligible for each license for each store pursuant to Section 61-6-110."

SECTION 61-6-151.

Prohibitions on licensee's interests in retail liquor stores.

To protect the health, safety, and morals of the residents of this State, no person, directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the second degree, may have any interest whatsoever in a retail liquor store licensed under this section except the six stores covered by his retail dealer's licenses, pursuant to Section 61-6-141.

HISTORY: 2018 Act No. 147 (H.4729), Section 3, eff April 4, 2018.

SECTION 61-6-160.

Unincorporated towns and communities.

The department may, in its discretion, after investigation by the division, license retail dealers in unincorporated towns and communities when it would be to the interest of the unincorporated town or community to have a licensed retail dealer therein.

However, the department may not license a retail dealer in any locality unless the department determines that the locality is under proper police protection.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-170.

Retail dealer licenses per community.

The department may, in its discretion, limit the further issuance of retail dealer licenses in a political subdivision if it determines that the citizens who desire to purchase alcoholic liquors therein are more than adequately served because of (1) the number of existing retail stores, (2) the location of the stores within the subdivision, or (3) other reasons.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-180.

Notice of application.

(A) A person who intends to apply for a license under this article or Article 7 of this chapter must advertise at least once a week for three consecutive weeks in a newspaper circulated nearest to the proposed location of the business and most likely to give notice to interested citizens of the county, city, and community in which the applicant proposes to engage in business. The department must determine which newspapers meet the requirements of this section based on available circulation figures and the proposed location of the business. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must be in the legal notice section of the paper or in an equivalent section if the newspaper has no legal notice section, be in large type, cover a space one column wide and not less than two inches deep, and state the type of license applied for, and the exact location at which the proposed business is to be operated. An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if the advertisement is approved by the department.

(B) Notice also must be given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

(1) state the type of license sought;

(2) state where an interested person may protest the application;

(3) be in bold type;

(4) cover a space at least twelve inches high and eighteen inches wide;

(5) be posted and removed by an agent of the division.

The provision of this section requiring publication of notice do not apply to a person licensed under the provisions of this article or Article 7 of this chapter when the licensee applies to the department for a renewal of his license to engage in the same business at the same location.

HISTORY: 1996 Act No. 415, Section 1; 2000 Act No. 304, Section 1; 2003 Act No. 70, Section 8.

SECTION 61-6-185.

Protest of issuance or renewal of license; attendance at hearing; court costs and other penalties.

(A) A person residing in the county in which a retail liquor license is requested to be granted, or a person residing within five miles of the location for which a retail liquor license is requested, may protest the issuance or renewal of the license if he files a written protest providing:

(1) the name, address, and telephone number of the person filing the protest;

(2) the name of the applicant for the license and the address of the premises sought to be licensed, or the name and address of the license holder if the application is for renewal;

(3) the specific reasons why the application should be denied; and

(4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.

(B) Upon receipt of a timely filed protest, the department shall determine the protestant's intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent license but shall forward the file to the Administrative Law Court.

(C) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.

(D) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.

HISTORY: 1998 Act No. 363, Section 2; 2005 Act No. 139, Section 11.

SECTION 61-6-190.

License tax.

The department must not issue any license until the applicant has paid the license tax required by Chapter 33 of Title 12.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-195.

Retail dealer must certify purchases from wholesaler.

The department must not issue or renew a retail dealer's license until the applicant has certified that the applicant has not purchased and will not purchase alcoholic liquors from another person who does not hold a wholesaler's license.

HISTORY: 2014 Act No. 223 (H.3512), Section 3, eff July 1, 2014.

Subarticle 5

Temporary Permits

SECTION 61-6-500.

Consumption and possession of alcoholic beverages in publicly-owned auditoriums, coliseums, or armories.

(A) Notwithstanding any other provision of law, the authorities in charge of a publicly-owned auditorium, coliseum, or armory may allow the possession and consumption of beer, wine, and alcoholic liquors on their premises.

(B) It is unlawful for a person to possess or consume beer, wine, or alcoholic liquors on the premises of a publicly-owned auditorium, coliseum, or armory unless the authorities in charge specifically have approved the possession or consumption of those beverages. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 9.

SECTION 61-6-505.

Temporary retail liquor license upon purchase or acquisition of retail business.

(A) A person who purchases or acquires by lease, inheritance, divorce decree, eviction, or otherwise a retail business which sells alcoholic beverages from a holder of a retail liquor license at the business, upon initiating the application process for a permanent retail liquor license, may be issued a temporary retail liquor license by the department at the time of the purchase or acquisition if the location for which the temporary license is sought is not considered by the department to be a public nuisance and:

(1) the applicant currently holds a valid retail liquor license; or

(2) the applicant has had a criminal history background check conducted by the State Law Enforcement Division within the past thirty days.

(B) A temporary license issued pursuant to subsection (A) is valid until a permanent license is approved or disapproved by the department, but in no case is it valid for more than one hundred twenty days from the date of issuance.

(C) Notwithstanding subsection (B), the department may revoke a temporary license if the applicant fails to pursue the permanent license in a timely manner, as set forth by the department by regulation.

(D) The department shall collect a fee of twenty-five dollars for each temporary license sought. The funds generated by this fee must be deposited in the general fund of the State.

HISTORY: 1996 Act No. 458, Part II, Section 58A; 1998 Act No. 442, Section 5B.

Subarticle 7

License for Wine, Liquors, and Other Beverages Used in Cooking

SECTION 61-6-700.

Food service establishments.

An establishment which offers meals to the public must be licensed by the department to purchase and possess liqueurs, wines, and similar alcoholic beverages used only in the cooking and preparing of foods served by the establishment. Application for the license must be in a form and under conditions prescribed by the department. The license fee is fifty dollars. A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars, and other licenses he holds from the department pursuant to the provisions of this title must be revoked.

The license provided in this section does not alter or limit the privileges or responsibilities for holders of licenses issued to authorize the possession, sale, and consumption of alcoholic liquors by the drink pursuant to the provisions of Article 5 of this chapter. An establishment so licensed may use alcoholic liquors in the preparation of food without obtaining the license provided for in this section.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 12.

SECTION 61-6-710.

Special food manufacturer's license.

Notwithstanding any other provision of this title, a person who manufactures in this State food items such as sauces and marinades in which there is an alcoholic beverage ingredient and who does so under an agreement with the alcoholic beverage manufacturer must apply for a special food manufacturer's license from the department, in accordance with Section 61-2-100, to purchase the alcoholic beverage directly from the manufacturer in containers holding greater quantities of liquor than are sold to a retail consumer. The department must establish the form of the application for the special food manufacturer's license.

HISTORY: 2003 Act No. 40, Section 1.A.

SECTION 61-6-720.

Licensing of bakeries using alcoholic beverages as ingredients; fee; restrictions.

Notwithstanding any other provision of this title, a person who operates in this State a bakery for the preparation of food items, in which food items alcoholic beverages are used as ingredients, and which food items are manufactured for and sold at wholesale, must apply for a special bakery food manufacturer's license from the department, in accordance with Section 61-2-100, to purchase the alcoholic beverages from a wholesaler licensed pursuant to Section 61-6-100(2), or from a retailer licensed pursuant to Section 61-6-100(3), or from a manufacturer in containers holding greater quantities of alcoholic liquor than wholesalers or retailers have authority to sell. The department must establish the form of the application for the special bakery food manufacturer's license. The license fee for this biennial license is one thousand dollars. Alcoholic liquor purchased pursuant to this section may only be used in the preparation of food items. The department must revoke the special bakery food manufacturer's license of any operator which permits the consumption of alcoholic liquor as a beverage of liquor purchased pursuant to this section or which transfers alcoholic liquor purchased pursuant to this section to any other person.

HISTORY: 2006 Act No. 386, Section 19.B.

Subarticle 9

Refusal, Suspension, or Revocation of Licenses

SECTION 61-6-900.

Death of licensee.

In the event of a licensee's death, except in the case of a license issued to more than one person, the personal representative of the deceased licensee may, with the consent of the probate court and upon permit of the department, continue the operation of the business covered by the license. If the personal representative elects to discontinue the business or if the department does not issue a permit for its continuance, the unearned portion of the license tax, computed on the basis of the cost of the license per month for the period for which the license was issued, must be refunded to the personal representative. Alcoholic liquors of the deceased which are subject to the control of the personal representative may be sold by him as provided in Section 61-6-950.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-910.

Qualifications for license.

The department must refuse to issue any license under this article or Article 7 of this chapter if the department is of the opinion that:

- (1) the applicant is not a suitable person to be so licensed;
- (2) the store or place of business to be occupied by the applicant is not a suitable place; or
- (3) a sufficient number of licenses have already been issued in the State, incorporated municipality, unincorporated community, or other community.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-920.

Suspension or revocation of license.

The department may suspend or revoke a license issued under this article or Article 7 of this chapter if it determines that:

- (1) the licensee is not a suitable person to hold the license; or
- (2) the store or place of business occupied by the licensee is not a suitable place.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-930.

Revocation of wholesaler's license.

The department must revoke the license of a wholesaler if proof is obtained that the wholesaler has a direct or an indirect interest in a retail store.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-940.

Indebtedness of retailer to wholesaler.

The department must immediately revoke a retail license to sell alcoholic liquors if the licensee or an officer of the licensee is, during the effective period of the license, indebted to a wholesaler licensed by the department, except an indebtedness for current purchases of alcoholic liquors which are not past due.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-950.

Sale of alcoholic liquors by former licensee.

Alcoholic liquors owned by or in possession of a licensee for sale at the time the license is suspended or revoked or otherwise terminated may, upon the issuance by the department of a permit, within the time fixed in the permit, and upon those conditions as the department specifies, be sold by the licensee to licensed manufacturers, wholesalers, or retail dealers or may, upon a permit issued by the department and within the time fixed in the permit, be sold to persons outside this State for resale outside the State. However, no deliveries or shipments may be made into another state whose laws prohibit the consignee from receiving or selling alcoholic liquors. The time fixed by the department in a permit under this section must not be less than sixty days.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-1035.

Sampling of wines.

Notwithstanding the provisions of Section 61-6-1500, the sampling of wines containing over sixteen and one-half percent by volume of alcohol, cordials, and other distilled spirits sold in a retail alcoholic liquor store is authorized if the sampling is conducted as follows:

- (1) No sample may be offered from more than four products at one time.
- (2) The sample is limited to products from no more than one wholesaler at one time.
- (3) No more than one bottle of each of the four products to be sampled may be opened.
- (4) The sampling must be held in a designated tasting area of the retail liquor store and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting.
- (5) Samples must be less than one-half ounce for each product sampled.
- (6) No person may be served more than one sample of each product.
- (7) No sampling may be offered for longer than four hours.
- (8) At least ten days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division. The letter must include a copy of a certificate of liability insurance for the manufacturer, the retail establishment, or its agent, conducting the tastings.
- (9) No sample may be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years. This person must not be allowed to loiter on the store premises.
- (10) The tastings must be conducted by the manufacturer, retailer, or an agent of the manufacturer or retailer, and must not be conducted by a wholesaler, an employee of a wholesaler, or an agent of a wholesaler.
- (11) No retail alcoholic liquor store may offer more than one sampling per day.
- (12) All product samples used for tastings must be purchased by the retailer from a South Carolina Licensed Wholesaler as required by Section 61-6-100(3).
- (13) All associated costs for the tasting must be paid for by the manufacturer, the retailer, or its agent, conducting the tasting.
- (14) Mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, may be provided in conjunction with the tasting, but the mixers must be provided free of charge.
- (15) Store mixers used, but not sold, in conjunction with tastings.

HISTORY: 2002 Act No. 335, Section 1; 2011 Act No. 66, Section 1, eff June 17, 2011; 2017 Act No. 62 (H.3137), Section 3, eff May 19, 2017; 2021 Act No. 60 (S.619), Section 5, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which

licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

The 2011 amendment, in paragraph (1), deleted "any" preceding "one time"; inserted a new paragraph (2); redesignated former paragraphs (2) to (10) as paragraphs (3) to (11); in paragraph (8), added the second sentence; in paragraph (10), inserted ", retailer," following "conducted by the manufacturer", inserted "or retailer" following "agent of the manufacturer", substituted "an employee of a wholesaler, or an agent of a wholesaler" for "retailer, or employee of a wholesaler or retailer"; and added paragraphs (12) and (13).

2017 Act No. 62, Section 3, added (14) and (15), relating to mixers.

2021 Act No. 60, Section 5, in the first undesignated paragraph, substituted "sixteen and one-half percent" for "sixteen percent".

Subarticle 11

Regulation of Manufacturers and Micro-Distilleries

SECTION 61-6-1095.

Definitions

For the purposes of this subarticle:

(A) "Micro-distillery" means a manufacturer who distills, blends, and bottles alcoholic liquors on the licensed premises in this State with an alcohol content greater than seventeen percent and who produces a maximum quantity of one hundred twenty-five thousand cases per year at the licensed premises.

(B) "Licensed premises" means a location where the micro-distillery or manufacturer is licensed pursuant to this subarticle for the manufacture, tasting, and retail sales of alcoholic liquors produced at the licensed location and includes those areas normally used by the licensee to conduct his business, and includes the producing areas, storage areas, tasting areas, selling areas, and parking lots.

(C) "Person" means an individual, partnership, corporation, or other form of business entity.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

SECTION 61-6-1100.

Restrictions upon manufacturers.

A manufacturer may not own or operate more than one plant, establishment, or place of business for the manufacture of alcoholic liquors in any one county of this State, nor may he permit the drinking of alcoholic liquors on his premises, except as otherwise authorized by this subarticle.

HISTORY: 1996 Act No. 415, Section 1; 2009 Act No. 11, Section 1, eff May 6, 2009.

Effect of Amendment

The 2009 amendment added at the end ", except as otherwise authorized by this subarticle" and made nonsubstantive changes.

SECTION 61-6-1110.

Manufacturer's license; fee.

The department may issue a manufacturer's license to a person to manufacture alcoholic liquors in the State subject to the requirements of this chapter and a payment of a biennial manufacturer license fee of fifty thousand dollars. This section is not applicable to a micro-distillery as defined and licensed pursuant to the provisions of this subarticle.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

SECTION 61-6-1120.

Micro-distillery licenses; fee.

(A) The department may issue a micro-distillery license to a person to operate one micro-distillery in the State subject to the requirements of this chapter and payment of a biennial micro-distillery license fee of five thousand dollars.

(B) A micro-distillery is not required to obtain an additional manufacturing and retail liquor license required pursuant to this title.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

SECTION 61-6-1130.

Tastings and sales of alcoholic liquors; remission of taxes; maintenance of records.

(A) A micro-distillery or manufacturer desiring to offer tastings and sales of alcoholic liquors to consumers at its licensed premises shall remit taxes to the department for alcoholic liquors sold and dispensed in an amount equal to taxes paid by wholesalers on alcoholic liquors.

(B) Alcoholic liquors produced and sold on a licensed premises pursuant to this subarticle must be taxed and remitted as provided in Chapter 33, Title 12. The micro-distillery or manufacturer licensee shall maintain adequate records to ensure the collection of this tax.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

SECTION 61-6-1140.

Tastings and retail sales on licensed premises; limitations.

A holder of a valid micro-distillery or manufacturer license issued by the State may permit tastings and retail sales of the alcoholic liquors produced at the licensed premises subject to the following limitations and any other limitations provided in this subarticle:

(1) tastings by and sales to consumers must be held in conjunction with a tour by the consumer of the on-site licensed premises and the micro-distillery or manufacturer may charge an amount in its discretion for the tour. The amount consumers are charged must be on a scale that accords with the amount of alcoholic liquors for on-premises consumption that is dispensed to consumers;

(2) the micro-distillery or manufacturer shall establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not under twenty-one years of age and that a consumer shall not attend more than one tasting in a day;

(3) the amount charged by micro-distilleries and manufacturers for tours must increase incrementally and accord with the amount of alcoholic liquors provided for on-premises consumption by one-half ounce, beginning with a base tour price corresponding with the provision of one ounce of alcoholic liquor;

(4) the micro-distillery or manufacturer may not dispense more than four and one-half ounces to an individual consumer in one day;

(5) tastings and sales may occur only between the hours of nine a.m. and seven p.m., Monday through Saturday;

(6) the micro-distillery or manufacturer may not charge for alcoholic liquors consumed at a tasting;

(7) the micro-distillery or manufacturer may provide mixers, which must be nonalcoholic and carry zero percent of alcohol by weight, in conjunction with the tasting, but the micro-distillery or manufacturer may not charge for the mixers;

(8) only brands of alcoholic liquors actually manufactured, distilled, or fermented at and distributed to wholesalers from the licensed premises may be sold or offered for tasting; and

(9) a micro-distillery or a manufacturer licensed pursuant to Section 61-6-1155 must comply with the discount pricing provisions of

Section 61-6-4550, as applicable, and may not dispense alcoholic liquors for free at a tasting in subsection (6) of this section.
HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009; 2017 Act No. 62 (H.3137), Section 1, eff May 19, 2017; 2021 Act No. 60 (S.619), Section 10, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

2017 Act No. 62, Section 1, amended the section, revising the ounce amount of alcoholic liquors dispensed at licensed premises and allowing mixers to be used in tastings.

2021 Act No. 60, Section 10, rewrote the section.

SECTION 61-6-1150.

Tastings and retail sales; additional limitations and requirements.

Authorization by this section of sales and tastings at licensed premises of a micro-distillery or manufacturer is expressly intended for the promotion of education regarding production of alcoholic liquors in the State and not to create competition between producers and retailers. A holder of a valid micro-distillery or manufacturer license issued by the State may:

- (1) sell in any quantities the alcoholic liquors produced at the licensed premises to a wholesaler licensed by the State;
- (2) transport in any quantities the alcoholic liquors produced at the licensed premises out of state for sale outside of the State;
- (3) sell at retail at the licensed premises the alcoholic liquors produced at the licensed premises, but only if the labels for the bottles are marked "not for resale";
- (4) sell at retail no more than the equivalent of six 750-milliliter bottles of alcoholic liquors to a consumer in one business day;
- (5) not allow consumption on the licensed premises of alcoholic liquors sold by the bottle at the licensed premises;
- (6) maintain pricing of the alcoholic liquors sold at the licensed premises at a price approximating retail prices generally charged for identical alcoholic liquors in the county where the on-site premises is located;
- (7) in addition to the sale of alcoholic liquors as authorized by this section, sell items promoting the brand or brands of alcoholic liquors produced at that location in a room on the licensed premises separate from the locations of the tastings;
- (8) not sell or store goods, wares, or merchandise in or from the room in which alcoholic liquors are sold or tasted;
- (9) store mixers used, but not sold, in conjunction with tastings; and
- (10) not allow minors into the portion of the facility where tastings are occurring, unless accompanied by an adult.

A micro-distillery or a manufacturer licensed pursuant to Section 61-6-1155 is not subject to subsections (7) through (10) of this section.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009; 2017 Act No. 62 (H.3137), Section 2, eff May 19, 2017; 2021 Act No. 60 (S.619), Section 10, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

2017 Act No. 62, Section 2, in (3), deleted "only in quantities of 750 milliliter bottles" following "sell at retail at the licensed premises"; in (4), inserted "the equivalent of"; added (9), relating to mixers; added (10), relating to not allowing minors where tastings occur; and made nonsubstantive changes.

2021 Act No. 60, Section 10, in (4), substituted "equivalent of six" for "equivalent of three", in (10), inserted ", unless accompanied by an adult", and added the last undesignated paragraph.

SECTION 61-6-1155.

Micro-distilleries; on-premises consumption of liquors.

(A)(1) In addition to alcoholic liquor production or manufacturing and sales authorized by this subarticle, a holder of a valid micro-distillery or manufacturer license issued by the State is authorized to sell the alcoholic liquors distilled at the licensed premises to consumers for on-premises consumption within an area of its licensed premises physically partitioned from the distilling and manufacturing operation and bona fide engaged primarily and substantially in the preparation and serving of meals, as required by Section 61-6-1610.

(2) These establishments also may apply for separate beer and wine licenses for on-premises consumption and alcoholic liquor by the drink, and local option permits authorizing the purchase for resale of beer, wine, and alcoholic liquors from wholesalers through the three-tier distribution chain and as required by Section 61-6-1636.

(3) The micro-distillery or manufacturer must:

(a) not sell or allow the consumption of alcoholic liquor by the drink on that part of the micro-distillery or manufacturer's premises designated and permitted for the distilling and manufacturing operations;

(b) maintain the books, records, and bank accounts of the restaurant operation separately from the books, records, and bank accounts of the distilling and manufacturing operations, and allocate expenses common to both operations in a manner the micro-distillery or manufacturer considers reasonable, when applicable; and

(c) maintain a physical partition between the distilling and manufacturing operations and the food establishment operations. The physical partition may be a permanent wall or a divider permanently affixed to the premises in a manner that the general public may not freely enter the distilling and manufacturing operations area, and may contain a door or doors which remain locked during hours when the micro-distillery or manufacturer is not in operation.

(B) The department shall terminate and a micro-distillery or manufacturer shall surrender each permit and license issued to the micro-distillery or manufacturer pursuant to subsection (A) immediately following inspection, determination, and report by the division to the department that distilling and manufacturing operations have ceased on the micro-distillery or manufacturer's permitted premises. This includes liquor by the drink authorization and licenses. Following reinstitution of distilling and manufacturing operations on the formerly permitted premises, a micro-distillery or manufacturer may reapply for the applicable

permits and licenses authorized by subsection (A).

(C) A micro-distillery or manufacturer selling beer, wine, or liquor at its licensed premises pursuant to authorization set forth in subsection (A) must:

- (1) establish appropriate protocols to ensure that a consumer sold or served alcoholic liquors pursuant to this section is not intoxicated and is not under twenty-one years of age;
- (2) sell the alcoholic liquors distilled on the licensed premises at a price approximating retail prices generally charged for identical beverages in the county where the permitted premises are located;
- (3) remit appropriate taxes to the department for alcoholic liquor distilled and sold at retail on the licensed premises in an amount equal to and in a manner required for excise taxes assessed by the department. The micro-distillery or manufacturer also must remit appropriate sales, use, and other state and local taxes applicable to retail sale of beer, wine, and liquor;
- (4) post information that states the alcoholic content by volume of the various types of alcoholic liquors available in the micro-distillery or manufacturer and the penalties for convictions for:
 - (a) driving under the influence;
 - (b) unlawful transport of an alcoholic container; and
 - (c) unlawful transfer of alcohol to minors.

And, the information shall be in signage that must be posted at each entrance, each exit, and in places in a micro-distillery or manufacturer seen during a tour;

- (5) provide department- or DAODAS-approved alcohol enforcement training for the employees who serve alcoholic liquors on the permitted premises to consumers for on-premises consumption, so as to prevent and prohibit unlawful sales, transfer, transport, or consumption of alcoholic liquors by persons who are under the age of twenty-one or who are intoxicated;
- (6) maintain all liability insurance required pursuant to Section 61-2-145;
- (7) comply with all state and local laws concerning the hours of operation applicable to eating and drinking establishments and other food service establishments holding permits to sell alcoholic liquors by the drink; and
- (8) comply with the discount pricing provisions of Sections 61-4-160 and 61-6-4550, as applicable.

(D) The establishment licensed pursuant to subsection (A) may sell the bottles of alcoholic liquor produced on its licensed premises as provided in and subject to the restrictions set forth in Sections 61-6-1140 and 61-6-1150. These bottles may not be considered in determining whether the establishment is bona fide engaged primarily and substantially in the preparation and serving of meals, as required by Section 61-6-1610.

HISTORY: 2021 Act No. 60 (S.619), Section 9, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

- "(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;
- "(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

SECTION 61-6-1160.

Violation of provisions of subarticle; penalties.

Except as otherwise provided in this title:

(A) a person who transports, possesses, or consumes alcoholic liquors and who violates a provision of this subarticle is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days; and

(B) a person licensed pursuant to this subarticle who violates a provision of this subarticle must:

(1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;

(2) for a second offense within three years of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than one hundred eighty days, or both; or

(3) for a third offense within three years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently; and

(C) a person licensed pursuant to this subarticle who acts to avoid payment of the excise tax imposed on the serving of alcoholic liquors by the drink provided for in Chapter 33, Title 12 must be fined not less than one thousand dollars and have his license revoked permanently.

HISTORY: 2009 Act No. 11, Section 1, eff May 6, 2009.

Subarticle 13

Regulation of Wholesalers

SECTION 61-6-1300.

Restrictions upon wholesalers.

No wholesaler may:

(1) sell, barter, exchange, give, transfer, or deliver for consumption alcoholic liquors to a person not having a retail dealer's license issued under this article;

(2) permit the drinking of alcoholic liquors on his premises;

(3) condition the sale of alcoholic liquors to a retail dealer upon the purchase or receipt of another kind or brand of alcoholic liquors than that ordered by the retail dealer;

(4) sell alcoholic liquors between the times of sundown and sunrise;

(5) sell alcoholic liquors on credit; however, this item does not prohibit payment by electronic transfer of funds if (a) the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquors and (b) the electronic transfer is initiated by the wholesaler no later than one business day after delivery;

(6) directly or indirectly, individually or as a member of a partnership or an association, as a member or stockholder of a corporation, or as a relative to a person by blood or marriage within the third degree, have an interest in a business, store, or establishment dealing in alcoholic liquors except the store or place of business covered by his wholesaler's license; or
(7) redeem proof-of-purchase certificates for any promotional item.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-1310.

Separate store or warehouse.

A wholesaler must, for the purpose of conducting his business under his wholesaler's license, maintain a separate store or warehouse and no other goods, wares, or merchandise except nonalcoholic beverages may be kept or stored therein. No place of amusement may be maintained in the place or in the same building or in connection therewith.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-1320.

Monthly statements.

A wholesaler must file with the department, on or before the first day of each month, a statement showing the stock of alcoholic liquors received by him during the preceding thirty days, and additional reports the department requires.

HISTORY: 1996 Act No. 415, Section 1.

Subarticle 15

Regulation of Retail Dealers

SECTION 61-6-1500.

Restrictions upon retail dealers; unlawful practices; penalties.

(A) A retail dealer may not:

(1) sell, barter, exchange, give, or offer for sale, barter, or exchange, or permit the sale, barter, exchange, or gift, of alcoholic liquors without regard to the size of the container:

(a) between the hours of 7:00 p.m. and 9:00 a.m.;

(b) for consumption on the premises;

(c) to a person under twenty-one years of age;

(d) to an intoxicated person;

(e) to a mentally incompetent person; or

(f) to a person the retail dealer knows is another retail dealer, except as provided in Section 61-6-950 or between locations owned by the same retail dealer;

(2) permit the drinking of alcoholic liquors in his store or place of business;

(3) sell alcoholic liquors on credit; however, this item does not prohibit payment by electronic transfer of funds if:

(a) the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquors; and

(b) the electronic transfer is initiated by the retailer no later than one business day after delivery;

(4) redeem proof-of-purchase certificates for any promotional item; or

(5) purchase, barter, exchange, receive, or offer to purchase, barter, exchange, receive or permit the purchase, barter, exchange, or receipt, of alcoholic liquors without regard to the size of the container from another retail dealer, except as provided in Section 61-6-950 or between locations owned by the same retail dealer.

However, during restricted hours a retail dealer is permitted to receive, stock, and inventory merchandise, provide for maintenance and repairs, and other necessary, related functions that do not involve the sale of alcoholic liquors.

(B)(1) It is unlawful for a person licensed to sell alcoholic liquors pursuant to the provisions of this section to knowingly and willfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of the bottle.

(2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined five hundred dollars or imprisoned for not more than thirty days, or both;

(b) for a second or subsequent offense, must be fined one thousand dollars or imprisoned not more than six months, or both.

(3) In addition to the penalties provided in subsection (B), a violation of this section may subject the licensee or permit holder to revocation or suspension of the license or permit by the department. A third or subsequent violation of subsection (A)(1)(f) within three years of the first violation must result in a mandatory suspension of the license or permit for a period of at least thirty days. A violation of subsection (A)(5) must result in a mandatory suspension of the license or permit for a period of at least thirty days.

(4) The possession of a refilled or reused bottle or other container of alcoholic liquors is prima facie evidence of a violation of this section. A person who violates this provision must, upon conviction, have his license revoked permanently.

(C) A retail dealer must keep a record of all sales of alcoholic liquors sold to establishments licensed for on-premises consumption. The record must include the name of the purchaser and the date and quantity of the sale by brand and bottle size.

(D) It is unlawful to sell alcoholic liquors except during lawful hours of operation.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 2; 2005 Act No. 139, Section 13; 2014 Act No. 223 (H.3512), Section 2, eff July 1, 2014.

Effect of Amendment

2014 Act No. 223, Section 2, added subsection (A)(1)(f); added subsection (A)(5); in subsection (B)(3), added the second and third sentences; and made other nonsubstantive changes.

SECTION 61-6-1505.

Retail dealer may be licensed to cash checks.

Notwithstanding any other provision of law, a retailer dealer may be also licensed under Chapter 41 of Title 34 in order to engage in check cashing services in the retail premises.

HISTORY: 2001 Act No. 76, Section 7.

SECTION 61-6-1510.

Separate store or place of business; advertising encouraging underage drinking.

A retail dealer must maintain a separate store or place of business with not more than two means of public ingress or egress which must be on the front or the same side of the building, except that the doors may be located at the corner of two adjacent sides of the building. One additional door, not in the front, is allowed to be used solely for the receipt of commercial deliveries and as an emergency exit.

Retail dealers are prohibited from using in an advertisement for alcoholic liquor or wine a subject matter, language, or slogans addressed to and intended to encourage persons under twenty-one years of age to purchase or drink alcoholic liquor or wine.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 10.

SECTION 61-6-1530.

Signs required to be posted.

A retail dealer must have posted in his place of business signs with the following words printed thereon:

(1) "The possession of beer, wine, or alcoholic liquors, by a person under twenty-one years of age is a criminal offense under the laws of this State, and it is also unlawful for a person to knowingly give false information concerning his age for the purpose of purchasing beer, wine, or liquor". The department must prescribe by regulation the size of the lettering and the location of the sign on the seller's premises.

A retail seller of alcoholic liquors who fails to display this sign is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. A person found guilty of a violation of Section 61-4-70 and this subsection may not be sentenced under both Section 61-4-70 and this subsection for the same offense.

(2) "A person may transport alcoholic liquors to and from a place where alcoholic liquors may be lawfully possessed or consumed; but if the cap or seal on the container has been opened or broken, it is unlawful to transport alcoholic liquors in a motor vehicle, except in the luggage compartment or cargo area". The size of the lettering and approved locations on the retail dealer's premises must be provided for by rules and regulations of the department.

(3) "The purchase of alcoholic liquors from this location by or on behalf of another retail dealer is unlawful and will result in the suspension of the purchaser's retail dealer's license". The department must prescribe by regulation the size of the lettering and the location of the sign on the seller's premises.

HISTORY: 1996 Act No. 415, Section 1; 2014 Act No. 223 (H.3512), Section 4, eff July 1, 2014.

Effect of Amendment

2014 Act No. 223, Section 4, added paragraph (3).

SECTION 61-6-1540.

Nonalcoholic merchandise.

(A) Except as provided in subsection (B), no other goods, wares, or merchandise may be kept or stored in or sold in or from a retail alcoholic liquor store or place of business, and no place of amusement may be maintained in or in connection with the store.

However, retail dealers may sell:

(1) drinking glassware packaged together with alcoholic liquors if the glassware and alcoholic liquors are packaged together by the wholesaler or producer in packaging provided by the producer;

(2) nonalcoholic items, other than beer or wine, packaged together with alcoholic liquors if the nonalcoholic items and alcoholic liquors are in sealed packages and are packaged together by the alcoholic liquor producer at its place of business; and

(3) lottery tickets under the provisions of Chapter 150 of Title 59.

(B) Retail dealers licensed pursuant to the provisions of this article may sell all wines in the stores or places of business covered by their respective licenses, whether declared alcoholic or nonalcoholic or nonintoxicating by the laws of this State. Wines containing more than sixteen and one-half percent of alcohol by volume may be sold only in licensed alcoholic liquor stores or in establishments licensed to sell and permit consumption of alcoholic liquors by the drink. The provisions of this section do not amend, alter, or modify the taxes imposed on wines or the collection and enforcement of these taxes.

HISTORY: 1996 Act No. 415, Section 1; 2002 Act No. 353, Section 2; 2005 Act No. 139, Section 14; 2005 Act No. 161, Section 23.F; 2021 Act No. 60 (S.619), Section 8, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist

measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

2021 Act No. 60, Section 8, in (B), substituted "sixteen and one-half percent" for "sixteen percent".

SECTION 61-6-1550.

Carriers engaged in interstate travel.

The restrictive provisions of this article relating to retail dealers do not apply to sales of alcoholic liquors by railroad, Pullman, or airline companies to passengers on interstate trains or aircraft for consumption thereon; and to this end, these sales are permitted.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-1555.

Purchase and use of beer, wine, and alcoholic liquor directly from wholesaler by airline companies; penalties.

Notwithstanding any other provision of law, an airline company may purchase beer, wine, and alcoholic liquor directly from a wholesaler licensed pursuant to the provisions of Section 61-4-520(3) or Section 61-6-100(2). A wholesaler may sell and deliver beer, wine, and alcoholic liquor to an airline company for use on the company's airplanes. A person other than an airline passenger who uses beer, wine, or alcoholic liquor purchased pursuant to the provisions of this section for another purpose other than the sale or use by the airline company on its airplanes is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than six months, or both. Each violation of this section constitutes a separate offense.

HISTORY: 2004 Act No. 267, Section 1.

SECTION 61-6-1560.

Discounts on alcoholic liquors or nonalcoholic items.

(A) Notwithstanding any other provision of law, a retail dealer, wholesaler, or producer may offer discounts on alcoholic liquors or nonalcoholic items, listed in Section 61-6-1540(A), through the use of premiums, coupons, or stamps redeemable by mail.

(B) In addition to the provisions of subsection (A), a retail dealer may offer a discount on the sale of alcoholic liquor or nonalcoholic items, listed in Section 61-6-1540(A), at the register through the use of premiums, coupons, or stamps, so long as all costs related to the discount, including, but not limited to, printing, redemption services, and the actual cost of the discount, are provided and borne only by the retail dealer and the discount is not prohibited by any federal law.

HISTORY: 2002 Act No. 335, Section 2; 2014 Act No. 223 (H.3512), Section 1, eff July 1, 2014.

Effect of Amendment

2014 Act No. 223, Section 1, added the subsection (A) designator; in subsection (A), added ", listed in Section 61-6-1540(A),"; and added subsection (B).

ARTICLE 5

Regulation of Alcoholic Liquors

Subarticle 1

Biennial Licenses and Licensees

Editor's Note

2005 Act No. 139, Section 25, provides as follows:

"This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit."

SECTION 61-6-1600.

Nonprofit organizations; time when sale of alcoholic beverages prohibited.

(A) A nonprofit organization which is licensed by the department pursuant to the provisions of this article may sell alcoholic liquors by the drink. A member or guest of a member of a nonprofit organization may consume alcoholic liquors sold by the drink upon the premises between the hours of ten o'clock in the morning and two o'clock the following morning.

(B) An employee or agent of an establishment licensed as a nonprofit organization is prohibited from selling, making available for sale, or permitting the consumption of alcoholic liquors on the licensed premises between the hours of two o'clock in the morning and ten o'clock in the morning. A violation of this provision is a violation against the organization's license.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 11; 2005 Act No. 139, Section 15.

SECTION 61-6-1610.

Food service establishments or places of lodging; Sunday and other time restrictions on sale of alcoholic beverages; refilling bottles.

(A) Except on Sunday, it is lawful to sell and consume alcoholic liquors sold by the drink in a business establishment between the hours of ten o'clock in the morning and two o'clock the following morning if the establishment meets the following requirements:

(1) the business is bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging; and

(2) the business has a license from the department authorizing the sale and consumption of alcoholic liquors by the drink, which is displayed conspicuously on the main entrance to the premises and clearly visible from the outside.

(B) Notwithstanding another provision of this article, the licensed premises of a business establishment which is bona fide engaged primarily and substantially in the preparation and service of meals and which holds a valid license for the sale and consumption of alcoholic liquors by the drink do not extend to any portion of the business establishment or the property upon which it is located which is designed as or used for a parking area even though food may be served in the area.

(C) An establishment licensed pursuant to the provisions of this article may use alcoholic liquors in the preparation of food without obtaining the license provided for in Section 61-6-700.

(D) Any licensee, employee, or agent of an establishment licensed as a food service establishment or place of lodging is prohibited from selling, making available for sale, or permitting the consumption of alcoholic liquors on the licensed premises between the hours of two o'clock in the morning and ten o'clock in the morning. However, any licensee, employee, or agent of an establishment licensed as a food service establishment or place of lodging is prohibited from selling, making available for sale, or permitting the consumption of alcoholic liquors on Sunday unless the establishment has been issued for that Sunday a temporary permit pursuant to the provisions of Section 61-6-2010. A violation of this subsection is a violation against the establishment's license.

(E)(1) It is unlawful for a person licensed to sell alcoholic liquor by the drink pursuant to the provisions of this section to knowingly and wilfully refill, partially refill, or reuse a bottle of lawfully purchased alcoholic liquor, or otherwise tamper with the contents of

the bottle.

(2) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined five hundred dollars or imprisoned for not more than thirty days, or both;

(b) for a second or subsequent offense, must be fined one thousand dollars or imprisoned for not more than six months, or both.

(F) In addition to the penalties provided in subsection (E), a violation of this section may subject the licensee or permit holder to revocation or suspension of the license or permit by the department.

(G) The possession of a refilled or reused bottle or other container of alcoholic liquors is prima facie evidence of a violation of this section. A person who violates this provision must, upon conviction, have his license revoked permanently.

(H) An establishment licensed pursuant to the provisions of Section 61-6-20(2) as a business that is bona fide engaged primarily and substantially in the preparation and serving of meals is authorized to continue to operate as the licensed establishment so long as the licensed establishment maintains a Grade A retail food establishment permit from the Department of Health and Environmental Control. Upon notice by the Department of Health and Environmental Control to the licensed establishment and to the Department of Revenue that the retail food establishment permit has been reduced to a grade below Grade A, the licensed establishment has thirty days within which to request a subsequent inspection by the Department of Health and Environmental Control. If a subsequent inspection is not requested within thirty days after the reduction in a grade below Grade A, or the subsequent inspection results in a grade below Grade A, then the Department of Revenue shall suspend the license of the licensed establishment until the Department of Health and Environmental Control issues a Grade A retail food establishment permit.

(I) For purposes of this section:

(1) "Kitchen" means a separate and distinct area of the business establishment that is used solely for the preparation, serving, and disposal of solid foods that make up meals. The area must be adequately equipped for the cooking, serving, and storage of solid foods and must include at least twenty-one cubic feet of refrigerated space for food and a stove.

(2) "Meal" means an assortment of various prepared foods available to guests on the licensed premises during the normal mealtimes that occur when the licensed business establishment is open to the public. Sandwiches, boiled eggs, sausages, and other snacks prepared off the licensed premises but sold there are not a meal.

(3) "Primarily" means that the serving of the meals by a business establishment is a regular source of business to the licensed establishment, that meals are served upon the demand of guests and patrons during the normal mealtimes that occur when the licensed business establishment is open to the public, and that an adequate supply of food is present on the licensed premises to meet the demand.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Sections 12, 13; 2005 Act No. 139, Section 15; 2006 Act No. 386, Section 52; 2008 Act No. 287, Section 2.B, eff June 11, 2008; 2008 Act No. 320, Section 3, eff upon approval (became law without the Governor's signature on June 17, 2008).

Effect of Amendment

The first 2008 amendment added subsection (I) setting forth definitions.

The second 2008 amendment added an identical subsection (I) containing definitions.

SECTION 61-6-1620.

Possession or consumption of alcoholic liquors on premises open to public.

(A) This article authorizes the possession or consumption of alcoholic liquors on premises open to the general public for which a license has been obtained pursuant to Sections 61-6-1600 or 61-6-1610.

(B) Alcoholic liquors may be possessed or consumed in separate and private areas of an establishment whether or not the establishment includes premises which are licensed pursuant to Sections 61-6-1600 or 61-6-1610, where specific individuals have leased these areas for a function not open to the general public.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 15.

SECTION 61-6-1630.

License restriction; retail dealer; liquor by the drink licensee.

A person licensed to sell alcoholic liquor by the drink for on-premises consumption must not be licensed as a retail dealer on the same premises.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 15.

SECTION 61-6-1636.

Purchasing and sale of alcoholic liquor by the drink.

(A) A person licensed by this article for sale and use for on-premises consumption shall purchase alcoholic liquor for sale by the drink from a licensed retail dealer with a wholesaler's basic permit issued pursuant to the Federal Alcohol Administration Act or from a licensed wholesaler, as provided in subsection (C), in any size bottle, except 1.75 liter sized bottles.

(B) A licensed retail dealer with a wholesaler's basic permit issued pursuant to the Federal Alcohol Administration Act may deliver, in sealed containers, alcoholic liquor in any size bottle, except 1.75 liter sized bottles, to a person licensed by this article to sell alcoholic liquors for on-premises consumption.

(C)(1) For the purposes of this subsection, "new alcoholic liquor" means alcoholic liquor not previously sold in this State.

(2) A licensed wholesaler may deliver new alcoholic liquor to a person licensed by this article to sell alcoholic liquors for on-premises consumption:

(a) in sealed containers and in any sized bottle, except 1.75 liter sized bottles, and

(b) only during the first one hundred eighty days from the date of the first bill of lading in this State for that new alcoholic liquor.

(3) Within ten days of receipt of the first bill of lading, the licensed wholesaler must provide a copy of the bill of lading to the department in the manner prescribed by the department.

HISTORY: 2005 Act No. 139, Section 1; 2018 Act No. 147 (H.4729), Section 4, eff April 4, 2018.

Effect of Amendment

2018 Act No. 147, Section 4, in (A), substituted "or from a licensed wholesaler, as provided in subsection (C), in any size bottle, except 1.75 liter sized bottles" for "in any size bottle, except 1.75 liter size bottles"; in (B), substituted "1.75 liter sized bottles" for "1.75 liter size bottles"; and added (C), relating to new alcoholic liquor.

SECTION 61-6-1637.

Substituting brands of alcoholic liquor.

A person licensed pursuant to this article, including his agent, may not substitute another brand of alcoholic liquor in place of the brand specified by a customer unless the licensee or his agent has: (1) advised the customer that the desired brand is not available, and (2) received the customer's approval of substitution. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than ten days, or both.

HISTORY: 2005 Act No. 139, Section 1.

SECTION 61-6-1640.

Sampling of wine, cordials, and distilled spirits.

Notwithstanding the provisions of this subarticle or any other provision of law, an establishment licensed pursuant to Article 5 of this chapter is authorized to conduct samplings of wines in excess of sixteen and one-half percent alcohol, cordials, and distilled spirits, if the sampling is conducted as follows:

- (1) the establishment must have a permanent seating capacity of fifty or more persons;
- (2) samples may not be offered from more than four products at any one time;
- (3) the sampling must be held in the bar area of a licensed establishment and all open bottles must be visible at all times. All open bottles must be removed at the conclusion of the tasting;
- (4) samples must be less than one-half ounce for each product sampled;
- (5) a person may not be served more than one sample of each product;
- (6) sampling may not be offered for more than four hours;
- (7) at least five days before the sampling, a letter detailing the specific date and hours of the sampling must be mailed first class to the South Carolina Law Enforcement Division;
- (8) a sample may not be offered to, or allowed to be consumed by, an intoxicated person or a person under the age of twenty-one years;
- (9) a licensed establishment may not offer more than one sampling each day; and
- (10) the sampling must be conducted by the manufacturer or wholesaler or an agent of the manufacturer or wholesaler.

HISTORY: 2003 Act No. 70, Section 1; 2005 Act No. 139, Section 15; 2021 Act No. 60 (S.619), Section 6, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

2021 Act No. 60, Section 6, in the first undesignated paragraph, substituted "sixteen and one-half percent" for "sixteen percent".

SECTION 61-6-1650.

Samples of wine in excess of sixteen and one-half percent alcohol, cordials, or distilled spirits.

Notwithstanding any other provision of law, a producer or wholesaler may furnish or give a sample of wine in excess of sixteen and one-half percent alcohol, cordial, or distilled spirit to a retailer who has not purchased the brand from a producer or wholesaler in the past three hundred sixty-five days. For each retail establishment, a producer or wholesaler may not give more than three liters of any brand of wine in excess of sixteen and one-half percent alcohol, cordial, or distilled spirit annually. If a particular product is not available in a size within the quantity limitations of this section, a producer or wholesaler may furnish to a retailer the next larger size. Samples of each bottle or other container must be clearly marked "Sample-Not for resale". Nothing in this section allows for any sample to be sold or provided to any employees under the age of twenty-one or to a retailer's customers. The producer or wholesaler shall remove all bottles at the conclusion of the sampling. For purposes of this section, the term "brand" is defined as provided under 27 C.F.R. Section 6.11.

HISTORY: 2020 Act No. 161 (H.4963), Section 2, eff September 28, 2020; 2021 Act No. 60 (S.619), Section 7, eff May 17, 2021.

Editor's Note

2021 Act No. 60, Sections 1 and 11, provide as follows:

"SECTION 1. The General Assembly finds and declares that:

"(A) The State has a substantial interest in regulating alcoholic liquors and other beverages containing alcohol; the activities of manufacturers, importers, wholesalers, and retailers; and the influences that affect the consumption levels of alcoholic liquors and other beverages containing alcohol by the people of the State.

"(B) The State has a substantial interest in exercising its police power to promote the public health, safety, and welfare of the State by regulating the business of manufacturing, distributing, and retail sales of alcoholic liquors and other beverages containing alcohol in the manner and to the extent allowed by law to promote and preserve public health and safety through legitimate, nonprotectionist measures, which include regulating and controlling alcoholic beverage transactions in this State and the means and manner in which licensed micro-distilleries and alcoholic liquor manufacturers may sell alcoholic beverages to the state's qualifying consumers.

"(C) Selling alcoholic liquors from manufacturers outside the State directly to residents of this State poses a serious threat to the state's efforts to prevent underage drinking, to state revenue collections, and to the public health and safety of the state's residents.

"(D) By this act, the General Assembly intends to promote the public health, safety, and welfare of residents of this State with laws intended to strictly regulate alcoholic liquors and other beverages containing alcohol by preserving and promoting a robust, stable system of distribution of beverages containing alcohol to the public that does not provide for economic protectionism. Excessive use of alcoholic liquors and other beverages containing alcohol has wide-ranging deleterious health effects, including death. The General Assembly acknowledges that, according to the United States Centers for Disease Control, during the period from 2011 to 2015, an average of one thousand six hundred seventy-nine of this state's residents suffered alcohol attributed deaths due to excessive alcohol use and the rate of binge drinking in this State is ranked among the highest in the nation. The General Assembly acknowledges that, according to the National Highway Traffic Safety Administration, this State had two hundred eighty-five alcohol-impaired driving fatalities in 2019, which accounted for twenty-eight percent of the total traffic fatalities in the State. Attributed deaths due to alcohol-impaired driving in this State is ranked among the highest in the nation.

"(E) This act has been enacted pursuant to the authority granted to the State by the Twenty-first Amendment to the Constitution of the United States, the powers reserved to the states under the Tenth Amendment to the United States Constitution, and the inherent powers of the State under the Constitution of the State of South Carolina, 1895, and the statutes promulgated thereunder. It is the intent of the General Assembly that this act do all of the following:

"(1) further regulate and control transactions in this State as to beverages containing alcohol under the control and supervision of the Department of Revenue;

"(2) strictly regulate alcoholic beverage transactions by fostering moderation and responsibility in the use and consumption of beverages containing alcohol;

"(3) promote and assure the public's interest in fair and efficient distribution and quality control of alcoholic beverages in this State;

"(4) promote orderly marketing of alcoholic beverages;

"(5) prevent unfair business practices, discrimination, and undue control of one segment of the alcoholic beverage industry by any other segment;

"(6) foster vigorous and healthy competition in the alcoholic beverage industry and protect the interests of consumers against fraud and misleading practices in the sale of alcoholic beverages, and avoid problems associated with indiscriminate price cutting and excessive advertising of alcoholic beverages;

"(7) provide for an orderly system of public revenues by facilitating the collection and accountability of this State and local excise taxes;

"(8) facilitate the collection of state and local revenue;

"(9) maintain trade stability and provide for the continuation of control and orderly processing by the State over the regulation of alcoholic beverage manufacturing locations and the process of selling alcoholic beverages to the state's consumers;

"(10) ensure that the Department of Revenue and State Law Enforcement Division are able to monitor licensed operations through on-site inspections to confirm compliance with state law and that any alcoholic beverages shipped into, distributed, and sold throughout this State:

"(a) have been registered for sale in this State with the Department of Revenue, as prescribed by law;

"(b) are not subject to a government-mandated or supplier-initiated recall;

"(c) are not counterfeit;

"(d) are labeled in conformance with applicable laws, rules, and regulations;

"(e) can be inspected and tested by the Department of Revenue or the State Law Enforcement Division; and

"(f) are not prohibited by this State;

"(11) promote and maintain a sound, stable, and viable three-tier system of distribution of beverages containing alcohol to the public; and

"(12) ensure that statutes and regulations relating to alcoholic beverages exist to serve the interests of the State of South Carolina and its citizens rather than to serve or protect the interests of market participants by adopting protectionist measures with no demonstrable connection to the state's legitimate interests in regulating alcoholic beverages."

"SECTION 11. A state agency with regulations specifying alcohol content percentages different from the percentages passed in this act must promulgate revised regulations to conform to the changes in this act. Until such time as the regulations are conformed, the percentages in the statutory provisions passed in this act supersede any differing percentages in the regulations."

Effect of Amendment

2021 Act No. 60, Section 7, in the first and second sentences, substituted "sixteen and one-half percent" for "sixteen percent".

Subarticle 3

Applications for Biennial Licenses

Editor's Note

2005 Act No. 139, Section 25, provides as follows:

"This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit."

SECTION 61-6-1800.

License required.

No person, corporation, or organization for whose premises a license is required pursuant to subarticle 1 of this article may

knowingly allow the possession or consumption of alcoholic liquors upon the premises unless a valid license issued pursuant to Section 61-6-1820 has been obtained and is properly displayed.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-1810.

Applications.

(A) A person making application for a license under subarticle 1 of this article must submit his application to the department. The applicant must pay a nonrefundable filing fee of one hundred dollars which must accompany the initial application for each location. The department has exclusive authority in issuing, renewing, suspending, or revoking a license pursuant to the provisions of this article.

(B) Applications for licenses must also be accompanied by appropriate license fees payable to the department. License fees must be deposited with the State Treasurer or are refundable if a license is not issued. The schedule of fees for the license is:

(1) one thousand, five hundred dollars biennially for a nonprofit organization, as defined in Section 61-6-20(6);

(2) one thousand, five hundred dollars biennially for a business establishment, as described in Section 61-6-1610.

(C) A person who initially applies for a license after the first day of a license period must pay license fees in accordance with the schedule provided in this subsection. During the:

(1) first quarter of the license period: the entire fee;

(2) second quarter of the license period: three-fourths of the prescribed fee;

(3) third quarter of the license period: one-half of the prescribed fee;

(4) final quarter of the license year: one-fourth of the prescribed fee.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-1820.

Criteria for license; notice.

The department may issue a license under subarticle 1 of this article upon finding:

(1) The applicant is a bona fide nonprofit organization, a homeowners association chartered as a nonprofit organization by the Secretary of State, or the applicant conducts a business bona fide engaged primarily and substantially in the preparation and serving of meals or furnishing of lodging.

(2) The applicant, if an individual, is of good moral character or, if a corporation or association, has a reputation for peace and good order in its community, and its principals are of good moral character.

(3) As to business establishments or locations established after June 20, 1967, Section 61-6-120 has been complied with.

(4) Notice of application has appeared at least once a week for three consecutive weeks in a newspaper most likely to give notice to interested citizens of the county, municipality, or community in which the applicant proposes to engage in business. The department shall determine which newspapers meet the requirements of this section based on available circulation figures. However, if a newspaper is published in the county and historically has been the newspaper where the advertisements are published, the advertisements published in that newspaper meet the requirements of this section. The notice must:

(a) be in the legal notices section of the newspaper or an equivalent section if the newspaper has no legal notices section;

(b) be in large type, covering a space of one column wide and at least two inches deep; and

(c) state the type license applied for and the exact location of the proposed business.

An applicant for a beer or wine permit and an alcoholic liquor license may use the same advertisement for both if it is approved by the department.

(5) Notice has been given by displaying a sign for fifteen days at the site of the proposed business. The sign must:

(a) state the type of license sought;

(b) state where an interested person may protest the application;

(c) be in bold type;

(d) cover a space at least twelve inches high and eighteen inches wide;

(e) be posted and removed by an agent of the division.

(6) The applicant is twenty-one years of age or older.

(7) The applicant is a legal resident of the United States, has been a resident of this State for at least thirty days before the date of application, and has maintained his principal place of abode in this State for at least thirty days before the date of application.

(8) The applicant has not been convicted of a felony within ten years of the date of application.

Upon the written request of a person who resides in the county where the license is requested to be issued, the department must not issue the permanent license until interested persons have been given an opportunity to be heard.

HISTORY: 1996 Act No. 415, Section 1; 1998 Act No. 363, Section 4; 2001 Act No. 89, Section 56; 2003 Act No. 70, Section 14; 2011 Act No. 67, Section 2, eff June 17, 2011.

Effect of Amendment

The 2011 amendment in subsection (1), inserted ", a homeowners association chartered as a nonprofit organization by the Secretary of State,".

SECTION 61-6-1825.

Protest of issuance or renewal of license; attendance at hearing; court costs; penalties.

(A) A person residing in the county in which a license pursuant to the provisions of subarticle 1 of this article is requested to be granted, or a person residing within five miles of the location for which a permit pursuant to the provisions of subarticle 1 of this

article is requested, may protest the issuance or renewal of the license if he files a written protest providing:

- (1) the name, address, and telephone number of the person filing the protest;
 - (2) the name of the applicant for the license and the address of the premises sought to be licensed, or the name and address of the license holder if the application is for renewal;
 - (3) the specific reasons why the application should be denied; and
 - (4) whether or not he wishes to attend a contested case hearing before the Administrative Law Court.
- (B) Upon receipt of a timely filed protest, the department must determine the protestant's intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department must not issue the permanent license but must forward the file to the Administrative Law Court.
- (C) If the protestant during the investigation expresses no desire to attend a contested hearing and offer testimony, the protest is deemed invalid, and the department shall continue to process the application and shall issue the license if all other statutory requirements are met.
- (D) A person who files a protest and fails to appear at a hearing after affirming a desire to attend the hearing may be assessed a penalty to include court costs.

HISTORY: 1998 Act No. 363, Section 3; 2005 Act No. 139, Section 16.

SECTION 61-6-1830.

Suspension, revocation, or nonrenewal of license.

The department may suspend, revoke, or refuse to renew a license issued pursuant to subarticle 1 of this article upon finding that:

- (1) the applicant no longer meets the requirements of Section 61-6-1820; or
- (2) the applicant has violated since the issuance of the license any regulation; or
- (3) the applicant has violated since the issuance of the license any provision of the ABC Act; or
- (4) the applicant permits entertainment on the licensed premises where a person is in a state of undress so as to expose the human male or female genitals, pubic area, or buttocks cavity with less than a full opaque covering.

HISTORY: 1996 Act No. 415, Section 1.

Subarticle 5

Temporary Licenses

Editor's Note

2005 Act No. 139, Section 25, provides as follows:

"This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit."

SECTION 61-6-2000.

Temporary permits for nonprofit organizations; criminal background checks.

(A) In addition to the licenses authorized pursuant to the provisions of subarticle 1 of this article, the department also may issue a temporary license to a nonprofit organization, as defined in Section 61-6-20, which authorizes that nonprofit organization to purchase and to sell alcoholic liquors by the drink for a period not to exceed twenty-four hours at a single social occasion. The nonprofit organization may sell tickets for the social occasion to nonmembers. Notwithstanding another provision of this article, the issuance of this license authorizes the nonprofit organization to purchase alcoholic liquors from licensed retail dealers in the same manner that a person with a biennial license issued pursuant to subarticle 1 of this article purchases its alcoholic liquors. The department shall charge a nonrefundable filing fee of thirty-five dollars for processing each event on the application. The temporary license application must include a statement by the applicant as to the nature and date of the special function at which the alcoholic liquors are to be sold. The department in its discretion may specify the terms and conditions of the license, pursuant to existing statutes and regulations governing these applications.

(B) The department shall require the applicant to obtain a criminal background check conducted by the State Law Enforcement Division within ninety days prior to an application. The department shall deny the application if the criminal records check is not submitted with the application and filing fee or if it was obtained more than ninety days before.

(C) The department shall require the applicant to complete the law enforcement notification contained in an application form and submit it with the application. The law enforcement notification provision shall be prepared by the department for inclusion in the application and, at a minimum, must contain sufficient information to inform the department that either the chief of police, if the event is located within the city limits, or the county sheriff has been notified of the temporary license application and given an opportunity to object.

(D) The department may issue up to twenty-five temporary licenses on one application for special functions in a twelve-month period to the same nonprofit organization. This does not prohibit the nonprofit organization from applying for additional temporary licenses within the same twelve-month period.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 17; 2006 Act No. 386, Section 47; 2010 Act No. 259, Section 3, eff June 11, 2010; 2011 Act No. 67, Section 5.B, eff July 1, 2011.

Effect of Amendment

The 2010 amendment rewrote this section.

The 2011 amendment rewrote subsections (A) through (C).

SECTION 61-6-2005.

Temporary retail liquor license upon purchase or acquisition of business.

(A) A person who purchases or acquires by lease, inheritance, divorce decree, eviction, or otherwise a retail business which sells alcoholic liquors by the drink from a holder of a license to sell alcoholic liquors by the drink at the business, upon initiating the application process for a permanent license, may be issued a temporary license by the department at the time of the purchase or acquisition if the location for which the temporary license is sought is not considered by the department to be a public nuisance, and the applicant:

(1) currently holds a valid license to sell alcoholic liquors by the drink; or

(2) has had a criminal history background check conducted by the State Law Enforcement Division within the past thirty days.

(B) A temporary license issued pursuant to subsection (A) is valid until a permanent license is approved or disapproved by the department, but in no case is it valid for more than one hundred twenty days from the date of issuance.

(C) Notwithstanding subsection (B), the department may revoke a temporary license if the applicant fails to pursue the permanent license in a timely manner, as set forth by the department by regulation.

(D) The department shall collect a fee of twenty-five dollars for each temporary license sought. The funds generated by this fee must be deposited in the general fund of the State.

HISTORY: 1996 Act No. 458, Part II, Section 58B; 1998 Act No. 442, Section 5C; 2005 Act No. 139, Section 18.

SECTION 61-6-2010.

Temporary permits upon referendum vote.

(A) In addition to the provisions of Section 61-6-2000, the department may issue a temporary permit to allow the possession, sale, and consumption of alcoholic liquors by the drink. This permit is valid for a period not to exceed twenty-four hours and may be issued only to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for sales. The department shall charge a nonrefundable filing fee of one hundred dollars for processing each application and a daily permit fee of fifty dollars for each day for which a permit is approved. An application must be filed for each permit requested. The department must also offer the option of an annual fifty-two week temporary permit for a nonrefundable fee of three thousand dollars per year. However, the optional fifty-two week permit must not extend beyond the expiration date of the biennial license issued pursuant to this chapter. If the expiration date is less than fifty-two weeks from the date of the application for the optional fifty-two week permit, the department must prorate the three thousand dollar fee on a monthly basis. The department in its sole discretion shall specify the terms and conditions of the permit.

(B)(1) The filing and permit fees must be distributed by the State Treasurer to the municipality or county in which the retailer who paid the fee is located. The revenue may be used only by the municipality or county for the following purposes:

(a) capital improvements to tourism-related buildings including, but not limited to, civic centers, convention centers, coliseums, aquariums, stadiums, marinas, parks, and recreational facilities;

(b) purchase or renovation of buildings which are historic properties as defined in Section 60-12-10(4) and (5);

(c) festivals that have a demonstrable and significant impact on tourism;

(d) local youth mentor programs to serve juvenile offenders under the jurisdiction of the family court;

(e) contributions to matching funds necessary for a local government or entity to receive funding from the Legacy Trust Fund pursuant to Chapter 22, Title 51;

(f) contributions to a redevelopment authority pursuant to Chapter 12, Title 31;

(g) acquiring fee and less than fee interest in land while it is still available to be held in perpetuity as wildlife preserves or believed to be needed by the public in the future for active and passive recreation uses and scenic easements, to include the following types of land: ocean, harbor, and pond frontage in the form of beaches, dunes, and adjoining backlands; barrier beaches; fresh and saltwater marshes and adjoining uplands; land for bicycle paths; land protecting existing and future public water supply, well fields, highway buffering and aquifer recharge areas; land for wildlife preserves; and land for future public recreational facilities;

(h) nourishment, renourishment (resanding), and maintenance of beaches;

(i) dune restoration, including the planting of grass, sea oats, or other vegetation useful in preserving the dune system;

(j) maintenance of public beach access;

(k) capital improvements to the beaches and beach-related facilities, such as public parking areas for beach access; dune walkovers and restroom facilities, with or without changing rooms, at public beach parks; and

(l) construction and maintenance of drainage systems.

(2) The revenue may not be used for operating expenses of tourism-related buildings.

(C)(1) A permit authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission, as the case may be, shall conduct a referendum upon petition of at least ten percent but not more than seven thousand five hundred qualified electors of the county or municipality, as the case may be. The petition form must be submitted to the election commission not less than one hundred twenty days before the date of the referendum. The names on the petition must be on the petition form provided to county election officials by the State Election Commission. The names on the petition must be certified by the election commission within sixty days after receiving the petition form. The referendum must be conducted at the next general election. The election commission shall cause a notice to be published in a newspaper circulated in the county or municipality, as the case may be, at least seven days before the referendum. The state election laws shall apply to the referendum, mutatis mutandis. The election commission shall publish the results of the referendum and certify them to the South Carolina Department of Revenue. On or after June 21, 1993,

the question on the ballot shall be one or both of the following:

(a) "Shall the South Carolina Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for consumption-on-premises sales?" or
(b) "Shall the Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the sale of beer and wine at permitted off-premises locations without regard to the days or hours of sales?"

(2) On or after June 21, 1993, a question authorized by this subsection may not appear on the ballot for a county or municipality less than forty-eight months following the failure of a question authorized by this subsection in said county or municipality.

(3) The expenses for a referendum for this purpose must be paid by the county or municipality conducting the referendum.

(4) In addition to the petition method of calling the referendum provided for in item (1) of this subsection, a county or municipal governing body by ordinance may also call the referendum. Upon receipt of a copy of the ordinance filed with the county or municipal election commission at least sixty days before the date of the next general election, the commission shall conduct the referendum in the manner provided in this section at that general election. The provisions of this item are in addition to the authority of a municipal governing body to call for a referendum under the circumstances enumerated in subsection (D).

(D)(1) The municipal governing body may order a referendum on the question of the issuance of temporary permits to allow the possession, sale, and consumption of alcoholic liquors by the drink in the following circumstances:

(a) parts of the municipality are located in more than one county;

(b) as a result of a favorable vote in a county referendum held pursuant to this section, permits may be issued in only the parts of the municipality located in that county; and

(c) the proposed referendum would authorize issuance of permits in the remaining parts of the municipality.

(2) The method of ordering a referendum provided in this subsection is in addition to the petition method provided in subsection (C). An unfavorable vote in a municipal referendum does not affect the authority to issue these permits in the part of the municipality located in a county where these permits may be issued.

(3) Upon receipt of a copy of the ordinance filed with the municipal election commission at least sixty days before the date of the general election, the commission must conduct the referendum at the time of the general election and publish and certify its results in the same manner as provided in subsection (C). Subsection (C)(2) does not apply to this referendum.

(E) Temporary permits for the sale of beer and wine for off-premises consumption authorized to be issued in a county or municipality pursuant to the referendum provided for at that time may continue to be issued or reissued without the requirement of a further referendum.

(F) Temporary permits issued by the Department of Revenue pursuant to this section may be issued in all parts of a municipality if any part of the municipality is located in a county where the issuance of these permits is allowed.

(G) A business establishment located within a building on the grounds of an international airport in this State where the possession, sale, and consumption of alcoholic liquors by the drink is permitted on its licensed premises may apply for and receive a temporary permit authorized by this section, notwithstanding any other requirements of this section to the contrary, to allow the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty-four hours on its licensed premises if any county within the territory of the airport district which operates the international airport or any municipality located within the territory of the district has approved, by referendum, the issuance of these temporary permits.

(H)(1) For purposes of referendums held pursuant to this section, "general election" means a municipal general election held at a time other than the first Tuesday following the first Monday in November of even-numbered years or a county general election held on the first Tuesday following the first Monday in November of even-numbered years.

(2) A municipality that does not have a municipal general election scheduled within the same calendar year as a county general election may call, by ordinance, for a referendum to be held on the same date as the county general election, provided that a copy of the ordinance has been filed with the county and municipal election commissions no later than the date required by Section 7-13-355. The expenses for a referendum ordered by a municipality shall be paid by the municipality. When a municipal referendum is held at the time of a county general election, the referendum may be conducted by a municipal or county election commission as provided for by an agreement between the municipality and the county.

HISTORY: 1996 Act No. 415, Section 1; 1996 Act No. 462, Section 24B; 1997 Act No. 155, Part II, Section 45A; 2000 Act No. 391, Section 1; 2002 Act No. 353, Section 1; 2003 Act No. 70, Sections 15, 16; 2005 Act No. 139, Section 19; 2006 Act No. 259, Section 1; 2006 Act No. 386, Section 56; 2008 Act No. 353, Section 2, Pt 21E.1, eff July 1, 2008; 2011 Act No. 67, Section 4, eff June 17, 2011; 2012 Act No. 266, Section 1, eff June 18, 2012; 2018 Act No. 193 (S.820), Section 1, eff May 17, 2018.

Effect of Amendment

The 2008 amendment added subsection (F) relating to temporary permits.

The 2011 amendment added subsection (G).

The 2012 amendment added subsection (H).

2018 Act No. 193, Section 1, rewrote (C), deleting a prior reference to a date and providing a subsequent referendum may not be held less than forty-eight months following the failure of a question.

SECTION 61-6-2015.

Temporary permit to sell beer and wine for on-premises consumption; terms; qualifications

(A) A temporary permit to sell beer and wine for on- premises consumption for a period not to exceed twenty-four hours without

regard to the days or hours of these sales is hereby authorized. This permit may be issued by the department for the same fees provided in Section 61-4-500 for a retail beer and wine permit, including an application fee. This permit shall be considered a biennial temporary permit, and may be issued to those holders of a permit to sell beer and wine for off-premises consumption during periods other than Sunday who have within the licensed premises a separate food service establishment serving prepared food for on-premises consumption. The permit to sell beer and wine for on-premises consumption during the twenty-four hour period shall apply only to this separate food-service establishment.

(B) The department may require such proof of qualifications for the issuance of these permits as it considers necessary, and these permits may be issued only to qualified applicants located in a county or municipality which pursuant to Section 61-6-2010 has successfully held a referendum allowing the possession, sale, and consumption of alcoholic liquors by the drink for a period not to exceed twenty-four hours.

HISTORY: 2011 Act No. 67, Section 3, eff June 17, 2011.

SECTION 61-6-2016.

Motorsports entertainment, tennis, soccer, or baseball complex, biennial license for purchase and sale for on-premises consumption.

(A) In addition to the other provisions of this chapter, the owner, or his designee, of a motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex that is located in this State may be issued, upon application, a biennial license that authorizes the purchase and sale for on-premises consumption of alcoholic liquors by the drink at any occasion held on the grounds of the complex under the same terms and conditions provided in Section 61-4-515, and the nonrefundable filing fee and license fee are the same as for other biennial licenses issued by the department for on-premises consumption of alcoholic liquors by the drink. In the event that the owner or his designee applies for both a permit to purchase and sell for on-premises consumption beer and wine and a license to purchase and sell for on-premises consumption alcoholic liquors by the drink, only one fee is required, which is the same as the fee for the fifty-two week local option permit under Section 61-6-2010 with the revenue therefrom used for the same purposes as provided in Section 61-6-2010.

(B) The department may require such proof of qualifications for the issuance of these licenses as it considers necessary, pursuant to the provisions of Chapter 6, Title 61, and these licenses may be issued whether or not the motorsports entertainment complex, tennis specific complex, soccer complex, or baseball complex is located in a county or municipality, which pursuant to Section 61-6-2010 has successfully held a referendum allowing the possession, sale, and consumption of beer or wine or alcoholic liquors by the drink for a period not to exceed twenty-four hours.

(C) The owner or designee of the motorsports entertainment complex, the tennis specific complex, the soccer complex, or the baseball complex may designate particular areas within the complex where patrons of events who have paid an admission price to attend or guests who are attending private functions at the complex, whether or not a charge for attendance is made, may possess and consume alcoholic liquors by the drink provided at their own expense or at the expense of the sponsor of the private function.

(D) For purposes of this section:

(1) "Motorsports entertainment complex" has the same meaning as provided in Section 12-21-2425.

(2) "Tennis specific complex" means a tennis facility, and its ancillary grounds and facilities, that satisfies all of the following:

(a) has at least ten thousand fixed seats for tennis patrons;

(b) hosted one Women's Tennis Association Premier tournament in 2013 and continues to host at least one Women's Tennis Association Premier tournament in each year, or any successor Women's Tennis Association tournament; and

(c) engages in tourism promotion.

(3) "Baseball complex" means a baseball stadium, and its ancillary grounds and facilities, that hosts a professional league baseball team.

(4) "Soccer complex" means a soccer facility, along with its ancillary grounds and facilities, that hosts a professional league soccer team.

HISTORY: 2014 Act No. 199 (H.3626), Section 2, eff June 2, 2014; 2017 Act No. 33 (S.334), Section 2, eff May 10, 2017; 2018 Act No. 236 (H.3139), Section 2, eff May 17, 2018.

Effect of Amendment

2017 Act No. 33, Section 2, inserted ", or baseball complex" in three places; in (D), added (3), relating to the definition of "baseball complex"; and made nonsubstantive changes.

2018 Act No. 236, Section 2, in (A), in the first sentence, inserted "soccer complex," following "tennis specific complex,"; in (B), inserted "soccer complex," following "tennis specific complex,"; in (C), inserted "the soccer complex," following "the tennis specific complex,"; and in (D), in (3), substituted "and its" for "along with its" and "professional league baseball team" for "professional minor league baseball team", and added (4), relating to the definition of "soccer complex".

Subarticle 7

Provisions Relating to Sales, Delivery, and Consumption of Liquor

Editor's Note

2005 Act No. 139, Section 25, provides as follows:

"This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit."

SECTION 61-6-2200.

Age of server.

A person may not serve or deliver to a purchaser alcoholic liquors by the drink in a business where these sales are authorized unless the person is eighteen years of age or older; nothing contained in this section may be construed as allowing bartenders under the age of twenty-one.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 20.

SECTION 61-6-2220.

Sales to intoxicated persons.

A person or establishment licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not sell these beverages to persons in an intoxicated condition; these sales are considered violations of the provisions thereof and subject to the penalties contained herein.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 20.

SECTION 61-6-2230.

Drinking contests or games prohibited; definitions.

(A) A person licensed to sell alcoholic liquors or liquor by the drink pursuant to this article may not knowingly conduct, operate, organize, promote, advertise, run, or participate in a "drinking contest" or "drinking game".

(B) For purposes of this section, "drinking contest" or "drinking game" includes, but is not limited to, a contest, game, event, or other endeavor which encourages or promotes the consumption of alcoholic beverages by participants at extraordinary speed or in increased quantities or in more potent form. "Drinking contest" or "drinking game" does not include a contest, game, event, or endeavor in which alcoholic beverages are not used or consumed by participants as part of the contest, game, event, or endeavor but instead are used solely as a reward or prize. Selling alcoholic beverages in the regular course of business is not considered a violation of this section.

HISTORY: 1997 Act No. 98, Section 2; 2005 Act No. 139, Section 20.

Subarticle 8

Hospitality Cabinets

SECTION 61-6-2300.

Definitions.

As used in this subarticle:

(1) "Alcoholic beverages" means alcoholic liquors, as defined in Section 61-6-20, and beer and wine, as defined in Section 61-4-10.

(2) "Legal drinking age" means the age when a person legally may purchase or consume an alcoholic beverage.

(3) "Hospitality cabinet" means a closed container, refrigerated in whole or in part or nonrefrigerated, where access to the interior portion where alcoholic beverages are contained is restricted by means of a locking device which requires the use of a key, magnetic card, or similar device.

(4) "Qualified facility" means a hotel, inn, or motel licensed to sell alcoholic beverages for on-premises consumption and which contains guest room accommodations. It includes condominiums owned or managed by an otherwise qualified facility.

(5) "Qualified registered guest" means each person of legal drinking age who signs the guest register of a qualified facility or takes equivalent action for the purpose of registering as a guest of the qualified facility.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2310.

Qualified facilities; hospitality cabinets; notification of approval.

After approval by ordinance by the governing body of the county or municipality in which a qualified facility licensed to sell alcoholic beverages on its premises is located, the qualified facility also may sell the beverages in sealed containers in individual portions to its qualified registered guests by means of a hospitality cabinet located in the rooms of these guests, if the conditions of this chapter are met. Within ten days of approval by the governing body, qualified facilities within its jurisdiction and the South Carolina Department of Revenue must be notified of the approval.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2320.

Limitations on alcoholic beverages contained in cabinets.

(A) The type of alcoholic beverages contained in a hospitality cabinet of a qualified facility is limited to those beverages for which the facility is licensed to sell on its premises.

(B) The hospitality cabinet may contain no more than thirty individual portions of alcoholic beverages at one time.

(C) The hours during which guests may have access to a hospitality cabinet are not limited to the hours that the qualified facility is licensed to sell alcoholic beverages unless this provision is specified by the governing body in the ordinance.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2330.

Portion of cabinets containing nonalcoholic beverages or food; restrictions.

A hospitality cabinet may be part of another furniture unit or device, refrigerated in whole or in part or nonrefrigerated, from which nonalcoholic beverages or food may be purchased by the guests in qualified facility guest rooms. However, if nonalcoholic beverages or food may be purchased, the portion of the hospitality cabinet or similar device in which alcoholic beverages are stored must be a hospitality cabinet as defined in Section 61-6-2300.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2340.

Locking of cabinet containing alcoholic beverages; limits on access.

(A) Those portions of a hospitality cabinet containing alcoholic beverages must remain locked at all times when a guest room is unrented, except for taking inventory or restocking and replenishing the hospitality cabinet.

(B) Access to a hospitality cabinet in a particular guest room must be provided, by furnishing a key, magnetic card, or similar device, only to a qualified registered guest of legal drinking age, registered to stay in the guest room.

(C) Before providing a key, magnetic card, or similar device required to obtain access to the hospitality cabinet in a particular guest room to the qualified registered guest, the licensee shall verify that the qualified registered guest is of legal drinking age.

(D) A key, magnetic card, or similar device required to obtain access to the hospitality cabinet in a particular guest room may be given only to the qualified registered guest if requested by that guest and only if the guest is not visibly or obviously intoxicated.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2350.

Alcoholic beverage restock and replenishment supplies.

(A) Alcoholic beverages used to restock and replenish a facility's hospitality cabinets must be kept locked in a separate, secure room or cabinet, except when the hospitality cabinets are restocked and replenished.

(B) The hospitality cabinets may be restocked and replenished with alcoholic beverages only during those hours when the beverages may be sold on the premises.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2360.

Regulations.

The Department of Revenue shall promulgate regulations to implement this article.

HISTORY: 1997 Act No. 13, Section 1.

SECTION 61-6-2370.

Civil penalties.

In lieu of the punishment provided in Section 61-2-250 and notwithstanding any other provision of law, a person or qualified facility found guilty of violating the provisions of this subarticle is punishable by a civil fine of not less than one hundred dollars.

HISTORY: 1997 Act No. 13, Section 1.

Subarticle 9

Miscellaneous Provisions

Editor's Note

2005 Act No. 139, Section 25, provides as follows:

"This act establishes a license to sell alcoholic liquors by the drink. All statutes and regulations applicable to minibottle licenses or permits or applications for licenses or permits apply to licenses or permits for alcoholic liquors by the drink. All minibottle licenses or permits in effect before the effective date of this act are considered to be licenses or permits to sell alcoholic liquors by the drink after the effective date of this act through the expiration of the license or permit."

SECTION 61-6-2400.

Taxation.

Alcoholic liquors sold by the drink must be taxed pursuant to Chapter 33, Title 12.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 21.

SECTION 61-6-2410.

Restaurants with Class A licenses.

A restaurant with a Class A license issued by the Department of Health and Environmental Control (DHEC) may serve food or beverages at its adjoining facilities located outside the restaurant if the food is prepared in a kitchen of the restaurant which is subject to inspection by DHEC and is placed on individual plates or in individual serving dishes inside the restaurant, and if uncovered containers in which the beverages are served are filled only to satisfy the order of a customer.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2420.

Restaurants with Class B licenses.

This article does not authorize a Class B Restaurant to sell, dispense, barter, or trade in alcoholic liquors by the drink. The law controlling Class B Restaurants in reference to the sale or dispensing of alcoholic liquors is not affected in any manner.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 22.

SECTION 61-6-2430.

Discounting of prices by wholesale distributor.

A wholesale distributor of alcoholic liquor may discount product price based on quantity purchases if all discounts are on price only for each location, appear on the sales records, and are available to all licensed retail dealers with a wholesaler's basic permit issued pursuant to the Federal Alcohol Administration Act or any other alcoholic liquor retail license.

HISTORY: 2005 Act No. 139, Section 2.

Subarticle 11

Penalties for Violations of Article 5

SECTION 61-6-2600.

Penalties.

Except as otherwise provided in this title, a person who transports, possesses, or consumes alcoholic liquors except in a manner permitted by this article or a person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. In addition, a person licensed to sell alcoholic liquors pursuant to the provisions of this article who acts to avoid the payment of the excise tax imposed on the serving of alcoholic beverages by the drink provided for in Chapter 33, Title 12 or who violates another provision of this article must:

- (1) for a first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than thirty days, or both;
- (2) for a second offense within three years of the first offense, be fined not less than two hundred dollars nor more than five hundred dollars or have his license suspended for not more than one hundred eighty days, or both;
- (3) for a third offense within three years of the first offense, be fined not less than five hundred dollars and have his license revoked permanently;
- (4) for a violation involving the avoidance of taxes, be fined not less than one thousand dollars and permanent revocation of his license.

HISTORY: 1996 Act No. 415, Section 1; 2005 Act No. 139, Section 23.

SECTION 61-6-2610.

Further penalties.

A person, corporation, or organization who has in its possession, custody, or within its control alcoholic liquors which are handled, stored, kept, possessed, transported, used, or distributed in violation of any provision of the ABC Act or with the design of avoiding payment of license taxes provided in Chapter 33 of Title 12, or other taxes must be required to pay a penalty of twenty dollars per container to be assessed by the department as other taxes are collected. The department may, upon good cause shown, remit any penalties provided in this section in whole or in part. In addition, these alcoholic liquors are contraband and may be seized and confiscated without a warrant by the division, its respective agents, or a peace officer, and must be disposed of in accordance with Section 61-6-4310.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 7

Importation of Alcoholic Liquors

SECTION 61-6-2800.

Applicability.

The provisions of this article are applicable, notwithstanding any other provision of law.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2810.

Exemption for South Carolina manufacturers.

A South Carolina manufacturer licensed under the provisions of Article 3 of this chapter is exempt from the provisions of this article.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2820.

Importation by registered producers.

No person other than a registered producer may ship, move, or cause to be shipped or moved alcoholic liquors from a point outside the State to a point inside the State, and then only in accordance with the provisions of this article. No brand may be registered by the producer unless the person registering the brand is either the American producer or the primary American source of supply in the United States of the brand as herein defined; and it is unlawful for a wholesaler in this State to order, purchase, or receive any alcoholic liquors from any producer who is not the primary American source of supply for the brand ordered, purchased, or received. The term "primary American source of supply" means the manufacturer, distiller, vintner, winery, or owner of vinous or spirituous beverages at the time it becomes a marketable product, or bottler, or the exclusive agent of any such person, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2830.

Registration of brand names.

No alcoholic liquors may be shipped or moved into this State unless each brand of alcoholic liquors is registered with the department in accordance with the provisions of this article and regulations of the department promulgated thereunder.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2840.

Applications for certificates of registration.

(A) A producer must apply to the department on forms the department prescribes for a certificate of registration. This certificate must be approved and issued before the shipment of alcoholic liquors by the producer to a point within the State.

(B) A producer, at the time application is made for a certificate of registration, must remit a fee of two hundred dollars to the

department. When a certificate is applied for on or after March first, the fee is one hundred fifty dollars.

(C) A certificate of registration is valid from the date of issue until the second August thirty-first after the issuance of the license.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2850.

Certificates of registration of brand names.

(A) A registered producer, before the shipment of alcoholic liquors to a point within the State, must obtain from the department a certificate of registration for each brand of alcoholic liquors intended to be shipped to a point within this State. The department must provide appropriate forms for application for certificate of registration of brands of alcoholic liquors.

(B) An application for a certificate of registration of brands of alcoholic liquors must be accompanied by a fee of twenty dollars payable to the department for each brand except the first five brands of a registered producer.

(C) A certificate of registration of brands of alcoholic liquors is valid from the date of issue to the second August thirty-first after the issuance of the license.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2860.

Affirmation of corporate policy.

A registered producer of alcoholic liquors must, at the time of application for registration in this State, file with the department an affirmation of corporate policy with regard to sales of all brands owned, controlled, sold, offered for sale, franchised, or distributed by the producer in this State. The affirmation must certify that the producer shall not wilfully sell or offer for sale any alcoholic liquors of a particular brand and proof in any other state at a price lower than the price these liquors are sold or offered for sale to licensed South Carolina wholesalers.

"Price", as used in this section, means platform price at the distillery and does not include price differentials based on transportation costs, containers, or other costs not directly related to the quality and proof of the product concerned. Quantity discount prices for liquors sold to monopoly states or elsewhere must not be considered to be violations of the producer's affirmation if these discount prices are also offered to South Carolina wholesalers for purchases in the same quantities.

A registered producer who fails to file this affirmation or wilfully violates the pledges contained in the affirmation must have its registration and privileges to import and sell alcoholic liquors in the State revoked, canceled, or suspended at the discretion of the department for a period as the department considers necessary and proper.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2870.

Biennial certificate of registration.

No person is qualified as a producer representative unless he applies to the department for a biennial certificate of registration and the certificate has been approved and issued. The department must provide appropriate forms for application for a certificate of registration as a producer representative.

Upon submission of an application for a certificate of registration, a fee of fifty dollars must be paid to the department.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2880.

Interest in wholesale or retail liquor business.

No person having a direct or indirect interest in a wholesale or retail liquor business in this State may qualify as a producer representative.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2890.

Warehouses.

(A) A registered producer may not store alcoholic liquors in a warehouse of the registered producer unless licensed by the department. Application for license to operate a warehouse must be filed on forms prescribed by the department.

(B) When an application for a warehouse license is submitted, a fee of four hundred dollars must be paid to the department. Where application is made for a warehouse license on or after March 1, the fee is one hundred fifty dollars. A warehouse license is valid from the date of issue until the second August 31 after the issuance of the license.

HISTORY: 1996 Act No. 415, Section 1; 1998 Act No. 442, Section 5E.

SECTION 61-6-2900.

Shipment or transfer of imported liquors.

Alcoholic liquors must be shipped or moved from a point outside this State to a point inside the State only by railroad companies, steamship companies, express companies, or truck companies authorized to do business in the State as common carriers by the Department of Public Safety, by wholesalers licensed by the department, or by registered producers in their own trucks. Alcoholic liquors must be shipped or moved only to the warehouse of the food manufacturer licensed pursuant to Section 61-6-710, or the registered producer in care of the producer representative who is registered to handle the property of the registered producer originating the shipment. The shipment of alcoholic liquors must be either stored in the warehouse of the food manufacturer licensed pursuant to Section 61-6-710 or in a licensed warehouse of the registered producer or, after delivery to the producer representative is complete, may then be shipped to a licensed wholesaler by common carriers described in this section, by wholesalers licensed by the department or by registered producers in their own trucks. Shipments of alcoholic liquors from a licensed producer's warehouse to a licensed South Carolina wholesaler may be made in a vehicle owned or operated by the wholesaler. If alcoholic liquors are stored in

the warehouse of a registered producer, or after delivery to the producer representative is complete, they may be shipped to a licensed wholesaler or to a point outside this State. Before any shipment or transfer, the food manufacturer or producer representative, as appropriate, must apply to the department, on forms prescribed by the department, for permission to ship or transfer the alcoholic liquors, and the food manufacturer or producer representative must have received a certificate of approval of the shipment or transfer.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 1.D.

SECTION 61-6-2910.

Invoices covering shipments into State.

Before shipment into this State, the registered producer must mail to the department by first-class mail a correct and complete invoice listing in detail the items in the shipment by quantity, type, brand, size, price; the point of origin; and the point of destination. Before or at the time of shipment, a copy of the bill of lading must be forwarded to the department by first-class mail. Immediately upon acceptance of delivery of the shipment by the producer representative, the producer representative must furnish the department with a copy of the invoice covering the shipment with endorsement thereon showing the date, time, and place delivery was accepted.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2920.

Invoices covering shipments out of State or to wholesaler.

Before shipment to a wholesaler in this State or to any point outside the State, the producer representative must mail to the department a correct and complete copy of the invoice covering the shipment, listing the name and address of the consignee and, in detail, the items in the shipment by quantity, type, brand, size, and price. On all shipments to a point outside this State, the producer representative must at the time of shipment mail to the department a copy of the bill of lading.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2930.

Contraband liquors.

Alcoholic liquors shipped or moved into this State in violation of any provision of this article are contraband and may be seized and sold as provided by Section 61-6-4310.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2940.

Issuance of certificates or licenses.

The department, in its discretion, upon due consideration of the information contained in applications for certificates and licenses provided for in this article, must issue or reject the certificate or license applied for.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2950.

Suspension or revocation of certificates or licenses.

Certificates of registration or licenses provided by this article may be suspended or revoked by the department upon a showing of a violation of law or of any regulation.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2960.

Audit or examination of records.

The applicant for a certificate or license required by this article, as a condition precedent to the issue of the certificate or license, must certify that the department and the division have the right within statutory limitations to audit and examine the books, records, papers, and memoranda of the applicant with respect to the administration and enforcement of laws administered by the department and the division.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2965.

Relationship with other laws.

Licenses issued under this article are subject to the requirements and restrictions of Sections 61-6-110, 61-6-120, 61-6-180, 61-6-910, and 61-6-920.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2970.

Monies received.

All monies received by the department under the provisions of this article must be deposited with the State Treasurer to the credit of the general fund of the State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-2980.

Proof-of-purchase promotions.

A producer may redeem by mail proof-of-purchase certificates for nonalcoholic promotional items.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 13

Offenses, Penalties, and Enforcement

SECTION 61-6-4000.

Relationship with other laws.

This article, except Section 61-6-4720, is complementary to and not in conflict with the laws providing for the lawful sale of beer, wines, and other vinous, fermented, or malt liquors.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4010.

Unlawful manufacture, possession, or sales.

(A) It is unlawful for a person to:

(1) manufacture, store, keep, receive, have in possession, transport, ship, buy, sell, barter, exchange, or deliver alcoholic liquors, except liquors acquired in a lawful manner and except in accordance with the provisions of this title; or

(2) accept, receive, or have in possession alcoholic liquors for unlawful use pursuant to the provisions of this title.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(1) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(2) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(3) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 17.

SECTION 61-6-4020.

Transportation in motor vehicle.

(A) A person who is twenty-one years of age or older may transport lawfully acquired alcoholic liquors to and from a place where alcoholic liquors may be lawfully possessed or consumed. If the cap or seal on the container has been opened or broken, it is unlawful to transport the liquors in a motor vehicle, except in a trunk, luggage compartment, or cargo area that is separate and distinct from the driver's and passengers' compartments. For purposes of this exception, the luggage compartment or cargo area is not required to be a closed trunk that is accessible only from the exterior of the motor vehicle. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days. For purposes of this section, alcoholic liquors means all distilled spirits regardless of the percentage of alcohol by volume that they contain.

(B) Sections 61-6-4290 and 61-6-4300 do not apply to violations of this section, including violations prior to the effective date of this section.

HISTORY: 1996 Act No. 415, Section 1; 2000 Act No. 390, Section 32; 2011 Act No. 51, Section 1, eff June 14, 2011.

Effect of Amendment

The 2011 amendment designated the existing text as subsection (A), and therein, in the first sentence, substituted "; but if" for ". If" and "a trunk, luggage compartment, or cargo area that is separate and distinct from the driver's and passengers' compartments" for "the luggage compartment or cargo area", and inserted the third sentence; and added subsection (B).

SECTION 61-6-4025.

Possession of unlawfully acquired or manufactured alcoholic liquors in vehicle, vessel, or aircraft.

It is unlawful for a person to keep, store, have in possession, carry, ship, or transport in a vehicle, vessel, aircraft or other chattel, any unlawfully acquired or manufactured alcoholic liquors.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4030.

Transportation of alcoholic liquors in taxi or other vehicle for hire.

It is unlawful for a person to transport alcoholic liquors in a motor vehicle used as a taxi or used in the transportation of passengers for hire; however, this prohibition does not apply to lawful alcoholic liquors belonging to a passenger being transported when the alcoholic liquors are in the baggage of the passenger or upon his or her person. If alcoholic liquors are found in the vehicle, the vehicle must be seized and forfeited as provided for in Sections 61-6-4350 to 61-6-4460, and the alcoholic liquors must be seized as contraband and sold as provided in Section 61-6-4310.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4040.

Rendering aid in unlawful transportation.

A person who acts as an advance or rear guard or pilot to a person engaged in the transportation of alcoholic liquors in violation of any law of this State is guilty of the offense of knowingly transporting alcoholic liquors for unlawful purposes and, upon conviction, must be punished for this misdemeanor as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

The buggy, wagon, automobile, aircraft, railroad car, bicycle, motorcycle, or other vehicle or boat, launch, or other vessel used by the person in rendering the aid may be confiscated in the same method and manner as provided by this article for the confiscation of a vehicle actually used in the carrying of these alcoholic liquors.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4050.

Purchase from unlicensed retail dealer.

It is unlawful for a person to purchase or otherwise procure alcoholic liquors other than those purchased from licensed retail dealers in the State or those purchased pursuant to a special food manufacturer's license in Section 61-6-710. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of one hundred dollars or imprisonment for thirty days;

(b) for a second offense, by a fine of two hundred dollars or imprisonment for sixty days; and

(c) for a third or subsequent offense, by a fine of three hundred dollars or imprisonment for ninety days.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 40, Section 1.E.

SECTION 61-6-4060.

Storage in place of business.

(A) It is unlawful for a person to store or have in possession alcoholic liquors in his place of business other than a licensed liquor store. A place of business includes:

(1) A place where goods, wares, or merchandise are sold, offered for sale, or distributed, and also places of amusement;

(2) Residences and transportation vehicles when sale of merchandise is made therefrom; and

(3) Outbuildings, warehouses, and garages when adjacent to or used in connection with a place of business where goods, wares, or merchandise are sold, offered for sale, or distributed.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(1) For a first offense, by a fine of two hundred dollars or imprisonment for sixty days;

(2) For a second offense, by a fine of one thousand dollars or imprisonment for one year; and

(3) For a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4070.

Transfer to person under the age of twenty-one years.

(A) It is unlawful for a person to transfer or give to a person under the age of twenty-one years for the purpose of consumption of alcoholic liquors in the State unless the person under the age of twenty-one is recruited and authorized by a law enforcement agency to test a person's compliance with laws relating to the unlawful transfer or sale of alcoholic liquors to a minor. A person who violates this section is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

(B) A person found guilty of a violation of Section 61-4-90 and this section may not be sentenced under both sections for the same offense.

(C) The provisions of this section do not apply to a:

(1) spouse over the age of twenty-one giving alcoholic liquors to his spouse under the age of twenty-one in their home;

(2) parent or guardian over the age of twenty-one giving alcoholic liquors to his children or wards under the age of twenty-one in their home; or

(3) person giving alcoholic liquors to another person under the age of twenty-one in conjunction with a religious ceremony or purpose if the alcoholic liquors were lawfully purchased.

(D) A person eighteen years of age and over lawfully employed to serve or remove beer, wine, or alcoholic beverages in establishments licensed to sell these beverages are not considered to be in unlawful possession of the beverages during the course and scope of their duties as an employee. The provisions of this subsection do not affect the requirement that a bartender must be at least twenty-one years of age.

(E) This section does not apply to an employee lawfully engaged in the sale or delivery of these beverages in an unopened container.

(F) The provisions of this section do not apply to a student who:

(1) is eighteen years of age or older;

(2) is enrolled in an accredited college or university and a student in a culinary course that has been approved through review by the State Commission on Higher Education;

(3) is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other similar malt or fermented beverage as part of the required curriculum; and

(4) tastes a beverage pursuant to item (3) only for instructional purposes during classes that are part of the curriculum of the accredited college or university.

The beverage must remain at all times in the possession and control of an authorized instructor of the college or university who must

be twenty-one years of age or older. Nothing in this subsection may be construed to allow a student under the age of twenty-one to receive any beer, ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered as part of the student's required curriculum and the beverage is used only for instructional purposes during classes conducted pursuant to the curriculum.

HISTORY: 1996 Act No. 415, Section 1; 1999 Act No. 1, Section 4; 2007 Act No. 103, Section 14.

SECTION 61-6-4075.

Purchase of alcoholic beverage for minor; penalty.

It is unlawful for a person who purchases alcoholic liquors while on licensed premises to give the alcoholic liquors to a person to whom it cannot lawfully be sold on the premises. A person who violates the provisions of this section, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

HISTORY: 2007 Act No. 103, Section 4.

SECTION 61-6-4080.

Sale to person under the age of twenty-one years; penalty; completion of merchant education program; conditional discharge.

(A) A person engaged in the sale of alcoholic liquors who knowingly sells the alcoholic liquors to a person under the age of twenty-one is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days, or both; and

(2) for a second or subsequent offense, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days, or both.

(B) Failure of a person to require identification to verify a person's age is prima facie evidence of a violation of this section.

(C) A person who violates the provisions of this section also is required to successfully complete a DAODAS approved merchant alcohol enforcement education program. The program must be a minimum of two hours and the cost to the person may not exceed fifty dollars.

(D)(1) Whenever any person who has not previously been convicted of any offense under this section, pleads guilty to or is found guilty of a sale in violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires provided that one such condition must be that he complete the merchant education program described in subsection (C). Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section must be without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense under this section. The South Carolina Law Enforcement Division must produce this record upon subpoena or court order. Discharge and dismissal under this section may occur only once with respect to any person.

(2) Upon the dismissal of the person and discharge of the proceedings against him pursuant to item (1), the person may apply to the court for an order to expunge from all official records, other than the nonpublic records to be retained as provided in item (1), all recordation relating to his arrest, indictment or information, trial, finding of guilt, and dismissal and discharge pursuant to this section. If the court determines, after the hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose, except when the person is providing sworn statements or giving testimony under oath. A conditional discharge granted pursuant to this section does not preclude a person from availing themselves of subsequent pre-trial diversion options provided by law.

(3) Before a person may be discharged and the proceedings dismissed pursuant to this subsection, the person must pay a fee of three hundred fifty dollars if the person is in a general sessions court and one hundred fifty dollars if the person is in a summary court. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this item must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is

required to participate in and cooperate fully with the examination.

(4) Conditional discharge may only be granted by the court in accordance with the provisions of this section upon approval of the circuit solicitor or prosecuting officer.

HISTORY: 1996 Act No. 415, Section 1; 2007 Act No. 103, Section 15; 2024 Act No. 211 (H.4248), Section 2, eff June 26, 2024.
Effect of Amendment

2024 Act No. 211, Section 2, added (D).

SECTION 61-6-4085.

Charges against seller and minor purchaser; compliance tester exception.

(A) If a person is charged with a violation of the unlawful sale of alcoholic liquors to minors pursuant to Section 61-6-4080, the minor also must be charged with a violation of the unlawful purchase or possession of alcoholic liquors pursuant to Section 63-19-2450. In addition, if the minor provided false information as to his age pursuant to Section 63-19-2450(A) or if an adult violated the provisions of Section 61-6-4075 regarding purchasing alcoholic liquors for a person who cannot lawfully buy them, these persons also must be charged with their violations.

(B) A person may not be charged with a violation of Section 61-6-4080 if the provisions of subsection (A) are not met.

(C) Nothing in this section requires that charges made pursuant to this section be prosecuted to conclusion; but rather this determination must be made in the manner provided by law.

(D) Notwithstanding the provisions of subsections (A) and (B), a person under the age of twenty-one may be recruited and authorized by a law enforcement agency to test an establishment's compliance with laws relating to the unlawful transfer or sale of alcoholic liquors to a minor. The testing must be under the direct supervision of a law enforcement agency, and the agency must have the person's parental consent. If the requirements of this subsection are met, a person may be charged with a violation of Section 61-6-4080 without the requirement that the minor also be charged.

HISTORY: 2007 Act No. 103, Section 5.

SECTION 61-6-4090.

Effect of conviction or plea.

If a permittee or licensee, or servant, agent, or employee of the permittee or licensee pleads guilty or nolo contendere to, or is convicted of a criminal offense which occurred on the licensed premises, the conviction or plea constitutes proof that the offense occurred and the record thereof is admissible in a contested case hearing before the Administrative Law Court.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4100.

Distilleries.

It is unlawful for a person in this State to manufacture, sell, give, or have in his possession a distillery, commonly called a still, or any integral part of a distillery, or an apparatus, appliance, device, or substitute therefor to be used for the purpose of manufacturing alcoholic liquors, in violation of the laws of this State.

The unexplained possession of any part of a still, apparatus or appliance, or any device or substitute therefor, commonly or generally used for or that is suitable to be used in the manufacture of prohibited alcoholic liquors is prima facie evidence of the violation of this section.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4110.

Distilling or manufacturing; violations.

It is unlawful for a person to knowingly permit or allow another person to have or possess or locate on his premises an apparatus for the distilling or manufacture of alcoholic liquors in violation of the laws of this State.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4120.

Materials used in the manufacture of alcoholic liquors.

It is unlawful to make, manufacture, transport, possess, or knowingly permit upon one's premises mash, wort, wash, buck, or other similar material or compound suitable for or commonly used in the manufacture of alcoholic liquors with the intent that the material or compound be used in the manufacture of alcoholic liquors in violation of the laws of this State; the making, manufacture, transportation, possession, or knowingly permitting upon one's premises such material or compound is considered to be a part of the process of the manufacture of alcoholic liquors; and a person found in possession of the material or compound or found at a place where the material or compound is stored, kept, made, manufactured, or found is prima facie guilty of a violation of this section.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4130.

Presence at distillery, prima facie evidence of guilt.

A person found at a distillery or other place where alcoholic liquors are being manufactured in violation of the laws of this State is considered prima facie guilty of manufacturing alcoholic liquors or aiding and abetting in their manufacture and, upon conviction, must be punished as if the person personally manufactured the alcoholic liquors.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4140.

Employment of persons under the age of twenty-one years.

It is unlawful for a person under the age of twenty-one years to work as an employee or otherwise in a retail, wholesale, or manufacturing liquor business or business establishment or for a person knowingly to employ another person under the age of twenty-one years in one of these businesses or business establishments. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of one hundred dollars or imprisonment for thirty days;

(b) for a second offense, by a fine of two hundred dollars or imprisonment for sixty days; and

(c) for a third or subsequent offense, by a fine of three hundred dollars or imprisonment for ninety days.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4150.

Sale from vehicle, vessel, or aircraft.

Except as authorized by law, it is unlawful for a person to sell alcoholic liquors from any vehicle, vessel, or aircraft.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(a) for a first offense, by a fine of not less than six hundred dollars or imprisonment for six months;

(b) for a second offense, by a fine of one thousand five hundred dollars or imprisonment for one year; and

(c) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4155.

Unlawful use of alcohol without liquid device; penalties; exceptions.

(A) As used in this section, "alcohol without liquid device" means a device, machine, apparatus, or appliance that is designed or marketed for the purpose of mixing alcohol with pure or diluted oxygen, or another gas, to produce an alcoholic vapor that an individual can inhale or snort. An alcohol without liquid device does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication.

(B) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess an alcohol without liquid device.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(1) for a first offense, by a fine of three hundred dollars;

(2) for a second offense, by a fine of seven hundred fifty dollars or imprisonment for not more than six months, or both;

(3) for a third or subsequent offense, by a fine of three thousand dollars or imprisonment for not more than two years, or both.

(C) Except as provided in subsection (D) of this section, an alcohol without liquid device must be seized by a law enforcement officer and be taken before any magistrate of the county in which the alcohol without liquid device is seized, the magistrate shall immediately examine it, and if satisfied that it is an alcohol without liquid device, direct that it be destroyed immediately after conviction of the violator.

(D) This section shall not apply to a health care provider that operates primarily for the purpose of conducting scientific research, a state institution conducting bona fide research, a private college or university conducting bona fide research, or to a pharmaceutical company or biotechnology company conducting bona fide research.

HISTORY: 2008 Act No. 320, Section 1, eff upon approval (became law without the Governor's signature on June 17, 2008).

SECTION 61-6-4157.

Powdered or crystalline alcohol; penalties; exceptions.

(A) As used in this section, "powdered or crystalline alcohol" is alcohol prepared or sold in a powdered or crystalline form that contains any amount of alcohol when hydrolyzed for either direct use or reconstitution for human consumption.

(B)(1) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered or crystalline alcohol.

(2) It is unlawful for a holder of a license pursuant to the provisions of this chapter for on-premises or off-premises consumption of alcoholic liquors to use powdered or crystalline alcohol as an alcoholic beverage.

(3) Any person or license holder that violates this section is guilty of a misdemeanor and, upon conviction, must be punished as

follows:

- (a) for a first offense, by a fine of not more than three hundred dollars or imprisonment for not more than thirty days, or both;
- (b) for a second offense, by a fine of not more than seven hundred fifty dollars or imprisonment for not more than six months, or both;
- (c) for a third or subsequent offense, by a fine of not more than three thousand dollars or imprisonment for not more than two years, or both.

(C) This section does not apply to the use of powdered or crystalline alcohol for commercial uses specifically approved by state law, or for bona fide research purposes by a:

- (1) health care provider that operates primarily for the purpose of conducting scientific research;
- (2) state institution;
- (3) private college or university; or
- (4) pharmaceutical or biotechnology company.

HISTORY: 2014 Act No. 253 (H.4399), Section 2.A, eff June 6, 2014; 2015 Act No. 73 (S.179), Section 2, eff June 5, 2015.

Effect of Amendment

2015 Act No. 73, Section 2, rewrote (A), substituting the definition of "powdered or crystalline alcohol" for "powdered alcohol"; in (B)(1), (B)(2), and (C), added "or crystalline"; and in (C), inserted "specifically approved by state law, or for".

SECTION 61-6-4160.

Sunday sales; Christmas Day sales; penalties.

It is unlawful to sell alcoholic liquors on Sunday except as authorized by law, on Christmas Day, or during periods proclaimed by the Governor in the interest of law and order or public morals and decorum. Full authority to proclaim these periods is conferred upon the Governor in addition to all his other powers. A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

- (a) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days;
- (b) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and
- (c) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1; 2014 Act No. 223 (H.3512), Section 6.A, eff June 2, 2014.

Effect of Amendment

2014 Act No. 223, Section 6.A, in the first paragraph, substituted "on Christmas Day" for "on statewide election days" in the first sentence, and inserted "a provision of" before "this section" in the last sentence.

SECTION 61-6-4170.

Billboards encouraging underage drinking; penalty.

(A) It is unlawful for a person to advertise alcoholic liquors by means of billboards along public highways and streets by using any subject matter, language, or slogan addressed to and intended to encourage persons under twenty-one years of age to purchase or drink alcoholic liquors.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

- (1) for a first offense, by a fine of two hundred dollars or imprisonment for sixty days;
- (2) for a second offense, by a fine of one thousand dollars or imprisonment for one year; and
- (3) for a third or subsequent offense, by a fine of two thousand dollars or imprisonment for two years.

HISTORY: 1996 Act No. 415, Section 1; 2003 Act No. 70, Section 18.

SECTION 61-6-4180.

Possession of firearm or weapon.

If a person unlawfully manufactures, transports, or sells alcoholic liquors or aids or assists in any manner in one or more of these acts and at the time of the unlawful manufacturing, transporting, selling, aiding, or assisting has on or about his person or has on or in a vehicle which he uses to aid him in any such purpose or in his actual or constructive possession a firearm or weapon of like kind, he is guilty of a misdemeanor and, upon conviction, must be imprisoned not less than one year nor more than three years, or be fined not less than five hundred dollars nor more than fifteen hundred dollars.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4190.

Refusal or frustration of inspection.

A person who, upon demand of an officer or agent of the division:

- (1) refuses to allow full inspection of the premises or any part of the premises which is licensed to sell alcoholic liquors; or
- (2) refuses to allow full inspection of the stocks and invoices of the licensee; or
- (3) prevents or in any way hinders an inspection, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than sixty days, or both.

A person found guilty of a violation of Section 61-4-230 and this section may not be sentenced under both sections for the same offense.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4200.

Dispossession or attempted dispossession of alcoholic liquors.

A person who dispossesses, rescues, or attempts to dispossess or rescue from a constable or other officer alcoholic liquors taken or

detained by the officer charged with the enforcement of the ABC Act must, upon conviction, be imprisoned for not less than three months nor more than one year or fined not less than five hundred dollars nor more than fifteen hundred dollars, or both.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4210.

General penalties.

A person who violates any provision of the ABC Act, except where a different punishment is expressly provided, must, upon conviction, be punished by a fine or imprisonment in the discretion of the court of general sessions.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4220.

Effect of conviction, plea, or bond forfeiture as prior offense.

A conviction, plea of guilty, plea of nolo contendere, or forfeiture of bond for a violation on or after March 28, 1956, of any state or federal law relating to alcoholic liquors constitutes a prior offense for the purpose of a prosecution, or for the purpose of imposition of sentence for a subsequent violation of this article, except Section 61-6-4720.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4230.

Sentencing.

The trial judge in his discretion may impose sentences under the provisions of this article, except Section 61-6-4720, or any portion of this article, of a fine or imprisonment of not less than one-half the fine or imprisonment prescribed for conviction under these provisions.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4240.

Reports of convictions, pleas, or bond forfeitures.

Clerks of court, magistrates, city recorders, and other public officers in this State having charge or responsibility with respect to the keeping of records of convictions, the entry of pleas of guilty or nolo contendere, or the forfeitures of bond posted for violations of this article, except Section 61-6-4720, must report to the department each conviction, plea of guilty, nolo contendere, or bond forfeiture within ten days after the conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bond, or after the receipt of this report, as the case may be. These reports must be made upon forms provided by the department, arranged in duplicate; and it is the duty of the department to acknowledge the filing of each report by signing the duplicate of the report and returning it to the officer making the report. The officer making the report must keep it as evidence of his compliance with the requirements that he made the report.

A person who violates this section is subject to a penalty of twenty-five dollars for each offense, to be collected by the Attorney General of this State, or the solicitors of the State under the direction of the Attorney General, and paid into the general fund of the State.

The reports or certified copies of these reports must be received as evidence under the provisions of this article, except Section 61-6-4720.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4250.

Certificates of convictions, pleas, or bond forfeiture.

The clerk of court of each county in the State must, at the conclusion of each term of the court of general sessions in the county, forward to the department a certificate on forms prescribed and furnished by the department showing the name of each person who is convicted, pleads guilty, enters a plea of nolo contendere, or forfeits bond for the violation of any provision of this article except Section 61-6-4720. The department must maintain a file of these violations. A copy of the department's records pertaining to the convictions, certified as correct by the director or his designee, is admissible in all courts as prima facie evidence of the facts recited in the records. The department must, upon receipt of a record of conviction, plea of guilty, plea of nolo contendere, or forfeiture of bond for the violation of the provisions of this article prohibiting the transportation of alcoholic liquors, forward to the Department of Public Safety a certified copy of the record.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4260.

Effect of conviction, plea, or bond forfeiture upon license.

A conviction, a plea of guilty, a forfeiture of bond, or a plea of nolo contendere, under the provisions of this article except Section 61-6-4720, automatically revokes a beer, wine, or liquor license which this State has issued to the party convicted, pleading guilty, forfeiting bond, or pleading nolo contendere; however, as an alternative to the revocation of a beer, wine, or liquor license, the department may in its discretion impose a monetary penalty in lieu of the revocation.

For a first offense, the license must either be revoked for one year, or the licensee must pay a penalty of two hundred fifty dollars to the department. For a subsequent offense, the offender's license or licenses must be revoked for a period of two years, or the licensee must pay a penalty of five hundred dollars to the department. If the department exercises its right to impose the monetary penalty provided in this section in lieu of a revocation of a license and if the penalty is not paid within ten days of demand by the department, the license or licenses must be automatically revoked.

A person convicted, pleading guilty, forfeiting bond, or pleading nolo contendere who does not possess a license to sell beer, wine, or liquors, for a first offense, is not eligible for the issuance of a license for a period of one year. For a subsequent offense, he is not

eligible for the issuance of a license for a period of two years.

Penalties provided for in this section are in addition to any fines and penalties imposed upon the licensees by any court of competent jurisdiction for violation of the laws of this State.

Penalties provided for in this section must be paid to the State Treasurer for credit to the general fund of the State for public school use.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4270.

Monetary penalties.

For violations of Articles 3, 5, 7, and 13 of this chapter, or of Chapter 21 or 33 of Title 12, and for a violation of any regulation pertaining to alcoholic liquors, the department may, in its discretion, impose a monetary penalty upon the holder of a liquor license in lieu of suspension or revocation.

In these cases, the amount of any penalty imposed must be determined within the limits prescribed in this section in each case by the department after a hearing as provided in the South Carolina Revenue Procedures Act and the Administrative Procedures Act. For these violations:

(1) retail liquor licensees are subject to a penalty of not less than one hundred dollars nor more than one thousand five hundred dollars; and

(2) wholesale liquor licensees are subject to a penalty of not less than five hundred dollars nor more than five thousand dollars.

The department in its discretion may suspend payment of a fine or a monetary penalty imposed under this section.

If the department imposes a monetary penalty under this section which is not paid or a contested case hearing requested within thirty days after demand by the department, the license or licenses may be suspended or revoked by the department.

Penalties provided for in this section are in addition to any fines and penalties imposed upon the licensees by any court of competent jurisdiction for violation of the laws of this State.

Penalties provided for in this section must be paid to the State Treasurer for credit to the general fund of the State for public school use.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4280.

Transferability of licenses or permits.

Licenses and permits are the property of the department, are not transferable, and, upon the termination of a business or upon a change of ownership, possession, or control, or upon a substantial change in the character of the property or facilities or nature of business for which a license or permit has been issued, must be surrendered immediately to the department.

When a person or business has multiple licenses or permits for locations within three hundred feet of each other, administrative penalties may be applied to all the licenses and permits.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4290.

Suspension of driver's license.

The Department of Public Safety, upon notice that a person has been convicted, pleaded guilty, forfeited bond, or entered a plea of nolo contendere for the violation of any provision of this article prohibiting the transportation of alcoholic liquors, must suspend the driver's license of the person for a period of six months for a first offense, for a period of one year for a second offense, and for a period of two years for a third and subsequent offense. During the period of the suspension under this section, no vehicle may be registered in the person's name under the laws of this State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4300.

Seizure of alcoholic liquors or vehicle, vessel, or aircraft.

If alcoholic liquors are sold from a vehicle, vessel, aircraft, or other chattel in violation of law, or if alcoholic liquors are possessed, carried, shipped, stored in, kept in, or transported in a vehicle, vessel, or aircraft in violation of law, the alcoholic liquors must be seized and sold as contraband as provided in Section 61-6-4310, and the vehicle, vessel, aircraft, or other chattel must be seized by a peace officer and delivered to the sheriff of the county where the seizure is made, who must proceed to forfeit and sell the chattel as provided in Sections 61-6-4350 to 61-6-4460.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4310.

Sale of seized items.

Alcoholic liquors seized by the department, its agents, or by the division must be sold by the department at public auction to the highest bidder after advertisement. The proceeds of the sale must be turned over to the State Treasurer after first paying the cost of confiscation and sale. Alcoholic liquors seized by a peace officer, except the department, its authorized agents, or by the division, must be delivered to the sheriff of the county in which the seizure is made. The sheriff must take possession of the alcoholic liquors so seized and sell them at public auction to the highest bidder after advertisement. The proceeds of the sale, after payment of the costs of confiscation and sale, must be immediately turned over to the treasurer of the county in which the seizure was made.

However, if a municipal officer makes a seizure, the chief of police must take possession of the alcoholic liquors so seized and sell them at public auction to the highest bidder after advertisement. The proceeds of the sale, after payment of costs of confiscation and sale, must be turned over to the treasurer of the municipality in which the seizure was made. No sale of alcoholic liquors seized and

sold in accordance with the provisions of this section may be made to a person other than a licensed manufacturer, wholesaler, or retail dealer.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4320.

Destruction of alcoholic liquors.

Only those alcoholic liquors which have been manufactured by a licensed manufacturer or producer, as defined in the ABC Act, or alcoholic liquors of unquestioned purity and content may be sold at public auction as provided in this article. Other liquors which are confiscated must be destroyed by the proper officers.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4330.

Bidding process.

No alcoholic liquors sold under the provisions of this article may be delivered within five days after the sale, during which time the department in its discretion may reject any bid and order the liquors resold until a satisfactory bid is made. However, if confiscated liquors are offered for sale after advertisement, as provided in this article, on two different dates and no bids are made, the liquors must be destroyed by the proper officers.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4340.

Confiscation of certain vehicles, vessels, and aircraft.

A vehicle, vessel, aircraft, or other chattel found at a site where alcoholic liquors are being or have been recently manufactured in violation of the law, and which vehicle, vessel, aircraft, or other chattel contains sugar, meal, yeast, or other materials used in the manufacture of alcoholic liquors, or containers used to haul alcoholic liquors, must be confiscated and sold as provided by this article.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4350.

Storage of seized chattel.

The respective sheriffs of this State must safely store and keep chattels delivered to them pursuant to this article in the jail yard, county shops, or on other county property, if this may be safely done, but must not incur unnecessary expenses in connection with the storage of a chattel seized and delivered to them.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4360.

Notice of motor vehicle seizure.

(A) If a chattel seized under this article is a vehicle registered with the Department of Motor Vehicles, the sheriff must obtain from the Department of Motor Vehicles the name and address of the person in whose name the car is registered and must notify the person by registered mail of the seizure. If the chattel is a vehicle registered in another state, the sheriff must request from the Department of Motor Vehicles the name and address of the registered owner of the vehicle and must notify the owner in like manner.

(B) Immediately upon notification from the sheriff as required by subsection (A) or upon notice from the department that the name of the registered owner of the seized vehicle cannot be ascertained, the sheriff must give notice of the seizure made under this article by advertisement at least once a week for a period of three weeks in a paper of general circulation in the county. The advertisement must allege the seizure, describe the chattel, set forth in general terms the grounds of forfeiture of the seized property, and the date upon which the sale is to be made, which date must be not less than sixty days after seizure of the chattel.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4370.

Sale of chattel.

If, before the date set for sale of a chattel seized under this article, no person claiming an interest in the chattel, as owner, lienholder, or otherwise appears and gives notice to the sheriff as required in Section 61-6-4390, the chattel must be sold at public auction to the highest bidder.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4380.

Proceeds of sale.

If a chattel has been seized by municipal officers, the proceeds of a sale under Section 61-6-4370, less the necessary expenses of advertising and storage, must be paid to the municipality for its use. Otherwise, the proceeds must be paid to the county treasurer of the county where the chattel was seized.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4390.

Actions to recover possession of chattel.

Before sale of a chattel under Section 61-6-4370, the owner, any person indebted or liable for the purchase price of the chattel, and any lienholder may bring an action to recover possession of the chattel or to recover the value of his interest in the property from the proceeds of the sale; in a proceeding under this section, the sheriff must be made a party defendant. The solicitor of the circuit in which the seizure occurred must defend all these suits.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4400.

Stay of sale; appraisals.

Upon service upon the sheriff of a proceeding under Section 61-6-4390, he must stay the sale, retain the chattel, and await the order of the court. The sheriff must have the chattel appraised as appraisals are provided for in attachment cases under Section 15-19-270, must transmit the appraisal to the court, and must keep a copy of the appraisal in his office.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4410.

Bonds for immediate possession of chattel.

If the owner or other person claiming an interest in a chattel seized under this article desires to obtain immediate possession of the chattel, the court may order delivery to the claimant upon execution by him of a bond payable to the sheriff having possession of the seized property, in an amount equal to the appraised value of the chattel, with security to be approved by the clerk of court. The bond must be conditioned on returning the chattel at the time of the hearing of the proceeding or at a time as the court may order. In addition, the court may order the claimant to pay the difference between the appraised value of the chattel as of the time it has been so released on bond and the appraised value as of the time of its return; and conditioned further that if the chattel is not returned as ordered, the bond stands in lieu of and is forfeited in the same manner as the chattel. Notwithstanding the provisions of this section, the court may, in its discretion, refuse to order delivery of possession.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4420.

Proof of claim.

In a proceeding brought to recover possession of a chattel seized under this article or to recover the value of an interest therein, no claim shall be allowed unless the claimant proves: (a) that he has an interest in the chattel, as owner or otherwise, which he acquired in good faith; (b) that he had at no time knowledge or reason to believe that the chattel was being or would be used in violation of the laws of this State relating to liquor; and (c) if it appears that the interest asserted by the claimant was acquired after March 28, 1956, and arises out of or is subject to any contract or agreement under which a person having a record or reputation for violating state or federal laws relating to liquor, has a right with respect to the chattel, that, before the claimant acquired his interest, or other person acquired his right under the contract or agreement, whichever occurred later, the claimant, his officer, or agent was informed, in answer to his inquiry, at the headquarters of the sheriff and police chief of the locality in which the other person acquired his right under the contract or agreement and of the locality in which the other person then resided, that the other person had no such record or reputation.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4430.

Release of seized chattel.

If the claimant is the owner of the chattel and he prevails in a proceeding under Section 61-6-4390, the court must release the chattel from forfeiture and restore it to the owner.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4440.

Settlement of claims; joint claimants.

If the claimant in a proceeding under Section 61-6-4390 is a lienholder whose claim is allowed and whose interest is first in order of priority among the claims and is of an amount equal to or in excess of the appraised value of the chattel, the court must release the chattel from forfeiture and order its return to him. If the claim is less than the appraised value of the chattel, the claimant may have the chattel delivered to him upon payment of the difference. If the claims of two or more lienholders whose interests are not subject to any prior or intervening interests claimed and allowed in the proceedings are allowed and are of a total amount equal to or in excess of the appraised value of the chattel, the court must, at the request of these claimants, order return of the chattel to the joint requesting claimants as are designated in the request. If the total amount of the claim is less than the appraised value of the chattel, the claimants may, upon payment of the difference, have the chattel delivered to those who are designated in the request.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4450.

Distribution of proceeds.

If delivery is not demanded by the claimant or claimants in a proceeding under Section 61-6-4390, the court must order the sale of the chattel by the sheriff. Out of the proceeds of the sale the following must be paid in the following order of priority:

(1) the claim or claims allowed in order of their priority as determined by the court;

(2) the costs; and

(3) the residue must be paid to the municipality or to the county treasurer as set forth in Section 61-6-4380.

If no claim is proven and established as provided in this section, the court must order the sale of the chattel by the sheriff and the proceeds from the sale, after payment of costs, paid as set forth in this section.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4460.

Clear title.

A person who purchases any chattel at a sale made by the sheriff under the provisions of this article acquires full and complete title

to the chattel free and clear of prior claims, liens, or encumbrances.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4470.

Proceedings against confiscated alcoholic liquors.

For the purpose of confiscating alcoholic liquors under the ABC Act, the provisions of Sections 12-21-2900 to 12-21-2950 must be followed as nearly as practicable.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4480.

Sheriffs' reports of seized chattels.

The sheriff of each county must, upon seizure of or delivery to him of a chattel seized under the provisions of this article, report the seizure of the chattel to the department setting forth in the report a description of the chattel, the name of the owner if known, the grounds upon which the chattel was seized, by whom the chattel was seized, and the appraised value of the chattel if an appraisal has been made. The sheriff must, after the chattel has been sold or disposed of in accordance with the provisions of this article, make a report to the department setting forth the amount of the sale, the purchaser, the disposition of the proceeds, or whatever disposition has been made of the chattel by the sheriff pursuant to an order of the court.

The department must establish a system for the filing and recording of these reports.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4490.

Preemption of field.

Ordinances of political subdivisions of this State prohibiting the acts prohibited by the provisions of this article, except Section 61-6-4720, are hereby suspended, it being declared that the State has occupied the field of the subjects covered thereby. Judicial and law enforcement officers of political subdivisions of this State must enforce these provisions within their respective jurisdictions.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4500.

Municipal court jurisdiction.

Municipal courts must try and determine all cases involving a violation of this article, except Section 61-6-4720, occurring within the limits of the municipality in cases where the penalties prescribed do not exceed a fine of one hundred dollars or imprisonment for thirty days. These courts have jurisdiction over these criminal cases the same as that had by magistrates, with the right and duty of sending these cases occurring within the municipal limits but beyond their jurisdiction to try to higher courts. A person convicted hereunder in municipal court must be treated as a municipal prisoner.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4510.

Municipal police officers.

Municipal police officers have the power of constables to enforce the provisions of this article, except Section 61-6-4720, in cases arising within the municipal limits; and in addition, have all powers to enforce these provisions as they have to enforce municipal ordinances. When in fresh and continuous pursuit of a suspect for violations of these provisions occurring within the municipal limits, police officers may follow and arrest the suspect anywhere in the State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4520.

Federal labeling law.

It is unlawful for a person to sell or otherwise introduce into commerce alcoholic liquors lawful under the provisions of this title, unless labeled in accordance with the provisions of the Federal Alcoholic Administration Act and rules and regulations promulgated thereunder. A violation of the provisions of this section subjects the alcoholic liquors found in the possession of a person violating this section to seizure, confiscation, and sale, as provided in Section 61-6-4310.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4530.

Notes of indebtedness.

A note or other evidence of indebtedness contracted in the sale or transportation of unlawful liquors is null and void. Nor may an action or suit for the recovery of the indebtedness be entertained in any court in this State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4540.

Search warrants.

Upon affidavit, which may be on information and belief, to the effect that contraband liquors are being unlawfully concealed, kept, or stored in any place, a search warrant may be issued by a magistrate of the county empowering an officer or person who may be deputized to enter the place and to search the premises for the purpose of seizing the contraband liquors concealed, kept, or stored. The liquors, when seized, must be disposed of as provided for the disposition of unlawful liquors.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4550.

Discount prices.

No person who holds a biennial license to sell alcoholic liquors for on-premises consumption may advertise, sell, or dispense these

beverages for free, at a price less than one-half of the price regularly charged, or on a two or more for the price of one basis. Alcoholic liquors may be sold at a price less than the price regularly charged from four o'clock p.m. until eight o'clock p.m. only. The prohibition against dispensing the beverages for free does not apply to dispensing to a customer on an individual basis, to a fraternal organization in the course of its fund-raising activities, to a person attending a private function on premises for which a biennial license has been issued, or to a customer attending a function sponsored by the person who holds a biennial license. However, no more than two functions may be sponsored each year, and must be authorized by the department. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or imprisoned not less than three months, in the discretion of the court.

HISTORY: 1996 Act No. 415, Section 1.

Subarticle 1

Authorized and Unauthorized Possession and Consumption of Alcoholic Liquors

SECTION 61-6-4700.

Consumption of alcoholic liquor on premises.

It is unlawful for a person to drink alcoholic liquors on the premises of a retail, wholesale, or manufacturing alcoholic liquor business or business establishment. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

- (a) for a first offense, by a fine of one hundred dollars or imprisonment for thirty days;
- (b) for a second offense, by a fine of two hundred dollars or imprisonment for sixty days; and
- (c) for a third or subsequent offense, by a fine of three hundred dollars or imprisonment for ninety days.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4710.

Lawful possession or consumption.

(A) A person who is twenty-one years of age or older may possess or consume lawfully acquired alcoholic liquors:

- (1) in a private residence, hotel room, or motel room;
- (2) or on other property not engaged in business or commercial activity, at private gatherings, receptions, or occasions of a single and isolated nature and not on a repetitive or continuous basis, with the express permission of the owner and any other person in possession of the property, and to which the general public is not invited. However, this must not be construed to authorize the possession or consumption of alcoholic liquors on premises open to the general public for which a license has been obtained pursuant to Sections 61-6-1600 or 61-6-1610.

(3) in separate and private areas of an establishment whether or not the establishment includes premises which are licensed pursuant to Sections 61-6-1600 or 61-6-1610, where specific individuals have leased these areas for a function not open to the general public.

(B) It is unlawful for a person to possess or consume alcoholic liquors upon any premises where the person has been forbidden to possess or consume alcoholic liquors by the owner, operator, or person in charge of the premises.

A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-6-4720.

Consumption of alcoholic liquor in public conveyance.

A person who drinks alcoholic liquors in a public conveyance in this State is considered guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned not more than thirty days. This section does not apply to a railroad dining or club car or to an aircraft of a commercial airline transporting passengers for hire.

HISTORY: 1996 Act No. 415, Section 1.

Title 61 - Alcohol and Alcoholic Beverages

CHAPTER 8

Nuisances

SECTION 61-8-10.

Common nuisances.

The unlawful sale, barter, exchange, storage or keeping in possession in this State of spirituous, malt, vinous, fermented, brewed (whether lager or rice beer) or other liquors or beverages or a compound or mixture thereof which contains alcohol and is used as a beverage is hereby declared a common nuisance.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-8-20.

Arrest warrants and search warrants.

Any person may appear before a magistrate in the county and swear out an arrest warrant on personal knowledge or on information and belief charging a nuisance, giving the names of witnesses against the keeper or manager of the place and his aides and assistants, if any. The magistrate must direct the arrest warrant either to the sheriff of the county or to a special constable commanding the defendant to be arrested and brought before him to be dealt with according to law and may issue a search warrant in which the premises in question must be particularly described, commanding the sheriff or constable to search thoroughly the premises in question and to seize all alcoholic liquors found thereon, to seize all vessels, bar fixtures, screens, bottles, glasses, and appurtenances apparently used or suitable for use in retailing liquors, and to make a complete inventory thereof and deposit it with the sheriff. Liquors so seized must, if no action to recover them is begun within thirty days after the seizure or if an action is begun and the judgment of the court is adverse to the plaintiff, be destroyed publicly by the sheriff of the county.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-8-30.

Disposition; binding over for trial.

Under the arrest warrant, the defendant must be arrested and brought before a magistrate and the case must be disposed of as other crimes, except that when the magistrate commits or binds over the parties for trial to the next term of court of general sessions for the county, he must make out each paper in the case in duplicate and file one with the clerk of the court for the county and immediately transmit the other to the solicitor of the circuit.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-8-40.

Restraining orders or injunctions.

Upon receipt of any such paper, the solicitor immediately must apply to a circuit judge at chambers in that circuit, or to the nearest circuit judge if there is none in that circuit, for an order or injunction restraining the defendants, their servants, or agents from keeping, receiving, bartering, selling, or giving away alcoholic liquors until the further order of the court or perpetually after hearing after notice to the defendant. The circuit judge must grant the restraining order or injunction without requiring a bond or undertaking upon the hearing or receipt by him of the magistrate court papers from the solicitor. A violation of the restraining order or injunction is considered a contempt of court and punishable as contempt by the court or another circuit judge, as for the violation of an order or injunction.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-8-50.

Contempt proceedings.

A person who violates the terms of a restraining order granted in such proceedings must be punished for contempt by a fine of not less than two hundred dollars nor more than one thousand dollars and by imprisonment not less than ninety days nor more than one year. In contempt proceedings arising out of the violation of an injunction granted under the provisions of this chapter, the court or, in vacation, any judge thereof has power to try summarily and punish the party guilty as required by law. The affidavits upon which the attachment for contempt issues are prima facie evidence for the State. At the hearing upon the charge for contempt, evidence may be oral or in the form of affidavits, or both. The defendant shall not necessarily be discharged upon his denial of the fact stated in the moving papers. The clerk of court must, upon the application of either party, issue subpoenas for witnesses and, except as provided in this section, the practice in these contempt proceedings must conform as nearly as possible to the practice in the court of common pleas.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-8-60.

Writs of replevin.

Liquors seized as provided in this chapter and the vessels containing the liquors must not be taken from the custody of the officers in possession thereof by a writ of replevin or other process, except as provided in Section 61-8-20. No suit shall lie for damages alleged to arise by seizure and detention of liquors under this chapter.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-8-70.

Solicitor's failure to prosecute.

When a solicitor neglects or refuses to perform a duty or to take any steps required of him by a provision of this chapter, the Attorney General, on his own motion or by request of the Governor, must, in person or by an assistant, proceed to the locality and

perform the neglected duty and take steps as are necessary in the place of the solicitor. The Attorney General may, in his discretion, cause a prosecution to be instituted not only in the matter neglected but also against the solicitor for malfeasance or misfeasance in office, for official misconduct, or for other charges justified by facts, and may pursue the prosecution to the extent of a conviction and dismissal from office of the solicitor. In this event, the Attorney General may appoint one or more additional assistants who must each receive while actually employed the same compensation, to be paid from the litigation fund of the Attorney General. Any duty imposed in this chapter upon a solicitor may be performed by the Attorney General or other person authorized by him to perform the duty.

HISTORY: 1996 Act No. 415, Section 1.

Title 61 - Alcohol and Alcoholic Beverages

CHAPTER 10

Alcohol

ARTICLE 1

Sale by Wholesale Druggists; Monthly Statement

SECTION 61-10-10.

Sales by wholesale druggists.

A wholesale druggist may lawfully sell, in wholesale quantities only, pure alcohol for medical purposes only or grain alcohol to be used by chemists or bacteriologists actually engaged in scientific work to retail druggists and to public or charitable hospitals or to medical or pharmaceutical colleges. A wholesale druggist must at the end of each month in which one of these sales has been made file with the clerk of the court of the county in which he does business a statement in writing under oath giving the name of the purchaser, the price paid, the date of sale, and the quantity and character of the alcohol sold. If the wholesale druggist making the sale is not a resident of this State, the statement must be filed in the office of the clerk of the court of the county in which the purchaser resides.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-20.

Sales by retail druggists.

A retail druggist whose place of business is located in a municipality of this State and who is a registered or licensed pharmacist or who regularly employs a registered or licensed pharmacist may sell, in the manner set out in this article and upon filing a bond in the sum of five thousand dollars to be approved by the clerk of the court of the county in which the druggist does business, conditioned for a faithful observance of the provisions of this article, pure alcohol for medical purposes only and grain alcohol to chemists and bacteriologists actually engaged in scientific work and for these purposes only. Nothing contained in this article prohibits the druggist from using alcohol in the compounding of prescriptions or other medicines, the sale of which would not subject him to the payment of a special tax required of liquor dealers by the federal government nor prohibits the druggist from compounding or selling medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia and National Formulary which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in these preparations and no more alcohol than is necessary to hold the medicinal agents in solution and which are manufactured and sold as medicines and not as beverages.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-30.

Retail sales for medicinal purposes.

No sale of pure alcohol for medicinal purposes may be made by a retail druggist except upon the prescription of a regular practicing physician of this State who, before writing the prescription, makes an actual examination of the person for whom the prescription is issued.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-40.

Prescriptions.

No prescription may be filled except on the day it is issued or the following day. No more than one-half pint of alcohol may be sold and delivered on one prescription. When a prescription is filled, it may not be refilled. No druggist who is also a practicing physician may fill his own prescription for pure alcohol nor shall the prescription be filled at a drugstore in which the physician is financially interested. The delivery of the alcohol sold by prescription must be made directly to the person for whom the prescription is issued, to the physician, or to a person authorized by the physician; or in case of a minor, to his parent, guardian, physician, or a person authorized by the physician.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-50.

Form of prescriptions.

A prescription issued pursuant to this article must be substantially in the following form: "State of South Carolina - County. To - druggist. I, -, a regular licensed and practicing physician under the laws of this State, do hereby certify that I have examined -, a patient in my charge, and I do hereby prescribe for the use of the patient - alcohol. I further certify that the use of this alcohol is, in my judgment, absolutely necessary to alleviate or cure the illness or disease from which the patient is now suffering and that I am not interested in the drugstore to which this prescription is directed nor in the profits on the drugs herein prescribed.

Dated --, --- M. D."

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-60.

Retail sales for artistic, scientific, or mechanical purposes.

A retail druggist whose place of business is located in a municipality of the State may sell alcohol in quantities not greater than five gallons to be used in the arts or for scientific or mechanical purposes and the druggist may sell, in like quantities, to chemists and bacteriologists engaged in scientific work and for these purposes only.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-70.

Written statement of purpose.

A person desiring to purchase alcohol for any purpose set forth in Section 61-10-60 must sign a written printed statement giving his name, residence, occupation, the purpose for which he intends to use the alcohol, and a certification that the alcohol is purchased in good faith for this purpose only.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-80.

Records retention.

The druggist must retain prescriptions for alcohol and the statements required by Section 61-10-70 for inspection as required by law for the retention of the prescription of narcotics and other drugs.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-90.

Penalties.

A druggist or physician who violates the provisions of this article must, in addition to the punishment provided in this article, have his license revoked for not more than one year for each offense.

HISTORY: 1996 Act No. 415, Section 1.

ARTICLE 3

Other Regulations

SECTION 61-10-210.

Manufacture from wood products or molasses.

A person may manufacture ethyl and methyl alcohol from sawdust, slabs or any other wood substance, or from molasses.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-220.

Bonds.

A person who engages in the manufacture of alcohol under the provisions of this article must enter into a bond to the State in the sum of ten thousand dollars, with surety, to be approved by the Governor, conditioned for the faithful observance of and compliance with the provisions of this article. When any provision of this article is violated, the Attorney General and the circuit solicitors, may sue in any county in this State for the penalty of the bond for the benefit of the State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-230.

Sales or shipment of undenatured ethyl alcohol.

(A) A person engaged in the manufacture of ethyl alcohol as provided in Section 61-10-210:

(1) may not sell it in this State unless it is denatured;

(2) may ship ethyl alcohol undenatured to points outside this State for use in manufacturing and in the sciences and arts, but only in the manner provided in this subsection. This alcohol may be carried from a warehouse authorized under the provisions of this article and delivered to a common carrier and immediately shipped to its destination outside this State. This alcohol may also be transported to another bonded warehouse outside this State when the shipment is made under bond, as required by federal revenue laws.

(B) It is prima facie evidence of the violation of the provisions of this article if ethyl alcohol so manufactured and not denatured is found in this State and not in the custody of a United States revenue officer or not in course of shipment to another state. However, a reasonable time must be allowed for conveying the alcohol directly from a warehouse to a common interstate carrier.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-240.

Beverage or medicinal purposes.

No alcohol manufactured under the provisions of this article may be used as a beverage or for medicinal purposes.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-250.

Storage in warehouses.

A person who manufactures alcohol under the provisions of this article must, while the alcohol remains in this State, store and keep it in a general United States bonded warehouse or in another warehouse and file with the Secretary of State a declaration setting forth the exact location, description, and dimension of each warehouse used and to be used for this purpose. It is unlawful to store or keep alcohol manufactured under the provisions of this article in a place other than that described in the declaration.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-260.

Records.

A person who manufactures alcohol under the provisions of this article must keep a record which shows the quantity of alcohol manufactured, the quantity transported or shipped, and to whom and where the alcohol was shipped. This record is subject to the inspection of any attorney representing this State.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-270.

Property forfeitures.

(A) If a person who manufactures alcohol under the provisions of this article sells it for or consents to its use as a beverage, either in or outside this State, ethyl alcohol so manufactured, or violates the provisions of this article, he must forfeit to the State all property in this State connected with and incident to the manufacture of the alcohol. The Attorney General and the solicitors must institute an action in a court of competent jurisdiction in any county of this State which the Attorney General or solicitor selects for determining whether the provisions of this article have been violated and whether the property has been thereby forfeited to the State.

(B) Property forfeited under the provisions of this section must be delivered to the Department of Administration.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-280.

Alcoholic ingredient in soft drinks.

A person who manufactures in this State ginger ale or similar soft drinks in which there is an alcoholic ingredient not exceeding one-third of one percent may import alcohol into this State or order and receive alcohol from another state in quantities not exceeding ten gallons, for which no permit is required. However, the person must first file with the clerk of court of the county in which his manufacturing plant is located a bond with an approved surety company as surety in the sum of one thousand dollars, to be forfeited to the State upon the proof of misuse of the alcohol or disposition of it otherwise than as provided in this section for the manufacture of the product. The solicitor, in his discretion, may bring action upon the bond upon information or belief.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-10-290.

Sale of wood or denatured alcohol.

Nothing in this article prohibits the sale of wood or denatured alcohol.

HISTORY: 1996 Act No. 415, Section 1.

Title 61 - Alcohol and Alcoholic Beverages

CHAPTER 12

Disbursement of Revenue for Programs for Alcoholics, Drug Abusers, and Drug Addicts

SECTION 61-12-10.

Disbursement regulated.

Revenue allocated to counties for educational purposes relating to the use of alcoholic liquors and the rehabilitation of alcoholics, drug abusers, and drug addicts pursuant to Section 6-27-40 and Section 12-33-245 must be regulated and disbursed in accordance with the provisions of this chapter.

HISTORY: 1996 Act No. 415, Section 1; 1999 Act No. 100, Part II, Section 10.

SECTION 61-12-20.

Designation of agency or organization; development of county plan.

Before the use of the revenue described in Section 61-12-10, the governing body of each county must:

(a) designate a single existing county agency or organization, either public or private, as the sole agency in the county for alcohol and drug abuse planning for programs funded by the revenue described in Section 61-12-10 or create a new agency for that purpose;

(b) develop a county plan in accordance with the state plan for alcohol abuse and alcoholism and the state plan for drug abuse required by Public Laws 91-616 and 92-255 for the prevention and control of alcohol and drug abuse and obtain written approval of the plan by the Department of Alcohol and Other Drug Abuse Services. Written approval must be given by the Department of Alcohol and Other Drug Abuse Services if the plan is reasonable. If approval is denied, the county may appeal to the Governor. The appeal must state fully the reasons why it is made. If the Governor considers the nonapproval of the plan by the Department of Alcohol and Other Drug Abuse Services to be unreasonable, he must communicate his reasons to the Department of Alcohol and Other Drug Abuse Services and require it to reexamine the plan in light of his objections. Following the reexamination, no further appeal may be taken.

HISTORY: 1996 Act No. 415, Section 1; 1999 Act No. 100, Part II, Section 10.

SECTION 61-12-30.

Citizen participation and consumer input.

The single county agency, as provided for in Section 61-12-20, must provide for citizen participation and consumer input in the development and implementation of the county alcohol and drug abuse plan through an existing board or advisory committee or, where none exists or where citizen participation is nonexistent, through the establishment of a county advisory committee, which must consult with and advise the single county agency in the development and implementation of the county plan.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-12-40.

Expenditure of revenue funds.

Revenue funds received in accordance with this chapter must be expended only for activities and services which are called for in, and are consistent with, the recommendations of the approved county alcohol and drug abuse plan.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-12-50.

Administration and accounting.

Each county governing body must:

(a) establish methods of administration necessary for the proper and efficient operation of the programs and services or projects, including the provision of annual reports of progress toward implementing county plans to the Department of Alcohol and Other Drug Abuse Services;

(b) provide for accounting procedures necessary to assure proper disbursement of and accounting for the funds, including an annual audit of fiscal records, a copy of which must be furnished to the Department of Alcohol and Other Drug Abuse Services.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-12-60.

Construction.

The provisions of this chapter must not be construed as prohibiting two or more counties from joining together in plans, programs, and projects or in designating a single agency to administer multicounty plans required by item (b) of Section 61-12-20.

HISTORY: 1996 Act No. 415, Section 1.

SECTION 61-12-70.

Funds supplemental to federal, state, or local funding.

Funds disbursed pursuant to the provisions of this chapter must be used only to supplement and increase the level of federal, state, local, and other funding that in the absence of these funds would be made available, and must in no event be used to supplant federal, state, local, and other funds.

HISTORY: 1996 Act No. 415, Section 1; 1999 Act No. 100, Part II, Section 10.

Title 56 - Motor Vehicles

CHAPTER 1

Driver's License

ARTICLE 1

General Provisions

SECTION 56-1-5.

Department of Motor Vehicles Established; transfer of power from the Department of Public Safety; appointment, powers, and duties of the Executive Director; independent review.

(A) The South Carolina Department of Motor Vehicles is hereby established as an administrative agency of the state government.

(B) Upon the signature of the Governor, all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit within the Department of Public Safety are transferred to and devolved upon the Department of Motor Vehicles.

(C) The Executive Director of the Department of Motor Vehicles shall be appointed by the Governor and confirmed by the Senate. The executive director shall serve at the pleasure of the Governor.

(D) The executive director is the executive and administrative head of the Department of Motor Vehicles. The executive director shall administer the policies defined by the department and the affairs of the department.

(E) The executive director may appoint assistants, deputies, and employees as the executive director considers necessary and proper to administer the affairs of the department and may prescribe their duties, powers, and functions.

(F) The Legislative Audit Council shall conduct an independent review of the Department of Motor Vehicles every three years.

HISTORY: 2003 Act No. 51, Section 3.

SECTION 56-1-10.

Definitions.

For the purpose of this title, unless otherwise indicated, the following words, phrases, and terms are defined as follows:

(1) "Driver" means every person who drives or is in actual physical control of a vehicle.

(2) "Operator" means every person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(3) "Owner" means a person, other than a lienholder, having the property interest in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. This term also includes a person to whom a moped is registered if the moped is not titled.

(4) "Department" means the Department of Motor Vehicles when the term refers to the duties, functions, and responsibilities of the former Motor Vehicle Division of the Department of Public Safety and means the Department of Public Safety otherwise and in Section 56-3-840.

(5) "State" means a state, territory, or possession of the United States and the District of Columbia, or the Commonwealth of Puerto Rico.

(6) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part of it is open to the use of the public for purposes of vehicular travel.

(7) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(8) "Motorcycle" means every motor vehicle having no more than two permanent functional wheels in contact with the ground or trailer and having a saddle for the use of the rider, but excluding a tractor and a moped.

(9) "Nonresident" means every person who is not a resident of this State.

(10) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this State pertaining to the operation by the person of a motor vehicle, or the use of a vehicle owned by the person, in this State.

(11) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(12) "Cancellation of driver's license" means the annulment or termination by formal action of the Department of Motor Vehicles of a person's driver's license because of some error or defect in the license or because the licensee is no longer entitled to the license; the cancellation of a license is without prejudice, and application for a new license may be made at any time after the cancellation.

(13) "Revocation of driver's license" means the termination by formal action of the Department of Motor Vehicles of a person's driver's license or privilege to operate a motor vehicle on the public highways, which privilege to operate is not subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the department.

(14) "Suspension of driver's license" means the temporary withdrawal by formal action of the Department of Motor Vehicles of a person's driver's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be as specifically designated.

(15) "Autocycle" means every motor vehicle having no more than three permanent functional wheels in contact with the ground, having seating that does not require the operator to straddle or sit astride it and having an automotive-type steering device, but excluding a tractor or motorcycle three-wheel vehicle.

(16) "Alcohol" means a substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and

isopropanol.

(17) "Alcohol concentration" means:

(a) the number of grams of alcohol for each one hundred milliliters of blood by weight; or

(b) as determined by the South Carolina Law Enforcement Division for other bodily fluids.

(18) "Motorcycle three-wheel vehicle" means every motor vehicle having no more than three permanent functional wheels in contact with the ground to include motorcycles with detachable side cars, having a saddle type seat for the operator, and having handlebars or a motorcycle type steering device but excluding a tractor or autocycle.

(19) "Low speed vehicle" or "LSV" means a four-wheeled motor vehicle, other than an all terrain vehicle, whose speed attainable in one mile is more than twenty miles an hour and not more than twenty-five miles an hour on a paved level surface, and whose gross vehicle weight rating (GVWR) is less than three thousand pounds.

(20) "All terrain vehicle" or "ATV" means a motor vehicle measuring fifty inches or less in width, designed to travel on three or more wheels and designed primarily for off-road recreational use, but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

(21) "Operator" or "driver" means a person who is in actual physical control of a motor vehicle.

(22) "Person" means every natural person, firm, partnership, trust, company, firm, association, or corporation. Where the term "person" is used in connection with the registration of a motor vehicle, it includes any corporation, association, partnership, trust, company, firm, or other aggregation of individuals which owns or controls the motor vehicle as actual owner, or for the purpose of sale or for renting, as agent, salesperson, or otherwise.

(23) "Office of Motor Vehicle Hearings" means the Office of Motor Vehicle Hearings created by Section 1-23-660. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct all contested case hearings or administrative hearings arising from department actions.

(24) "Administrative hearing" means a "contested case hearing" as defined in Section 1-23-310. It is a hearing conducted pursuant to the South Carolina Administrative Procedures Act.

(25) "Home jurisdiction" means the jurisdiction which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(26) "Moped" means a cycle, defined as a motor vehicle, with or without pedals, to permit propulsion by human power, that travels on not more than three wheels in contact with the ground whether powered by gasoline, electricity, alternative fuel, or a hybrid combination thereof. Based on the engine or fuel source, the moped must be equipped not to exceed the following limitations: a motor of fifty cubic centimeters; or designed to have an input exceeding 750 watts and no more than 1500 watts. If an internal combustion engine is used, the moped must have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(27) "Daylight hours" means after six o'clock a.m. and no later than six o'clock p.m. However, beginning on the day that daylight saving time goes into effect through the day that daylight saving time ends, "daylight hours" means after six o'clock a.m. and no later than eight o'clock p.m. All other hours are designated as nighttime hours.

(28) "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(29) "Electric-assist bicycles" and "bicycles with helper motors" means low-speed electrically assisted bicycles with two or three wheels, each having fully operable pedals and an electric motor of no more than 750 watts, or one horsepower, and a top motor-powered speed of less than twenty miles an hour when operated by a rider weighing one hundred seventy pounds on a paved level surface, that meet the requirements of the Federal Consumer Product Code provided in 16 C.F.R., Part 1512, and that operate in a manner such that the electric motor disengages or ceases to function when their brakes are applied or the rider stops pedaling. Manufacturers and distributors of electric-assist bicycles shall apply a label that is affixed permanently, in a prominent location, to each electric-assist bicycle, indicating its wattage and maximum electrically assisted speed. The owner or user of an electric-assist bicycle shall not remove or tamper with the label. If a user tampers with or modifies an electric-assist bicycle, changing the speed capability, he must replace the label indicating the vehicle's wattage or horsepower. Electric-assist bicycles and bicycles with helper motors are not mopeds.

(30) "Salvage" means a brand added to a vehicle's title by the department to designate a vehicle that has been declared a total loss by an insurance company, has repairs that exceed seventy-five percent of the value of the vehicle before the damage occurred, or has damage to the body, unibody, or frame to the extent that it is unsafe for operation.

(31) "Salvage Rebuilt" means a brand added to a vehicle's title by the department to designate a vehicle with a salvage brand that has been transferred to a new owner who has repaired the vehicle pursuant to Section 56-19-480(E).

(32) "Salvage Flood" means a brand added to a vehicle's title by the department to designate that an insurance company has paid a total loss claim on a vehicle due to damage caused by:

(a) having been submerged in water to a point the level of the water was higher than the door sill of the vehicle or having had water enter the passenger, trunk, or engine compartment of the vehicle; or

(b) having had water come into contact with the electrical or computer components of the vehicle.

(33) "Salvage Flood Rebuilt" means a brand added to a vehicle's title by the department to designate a vehicle with a salvage flood brand that has been transferred to a new owner who has repaired the vehicle pursuant to Section 56-19-480(E).

(34) "Salvage Fire" means a brand added to a vehicle's title by the department to designate an insurance company has paid a total loss claim on a vehicle due to damage caused by fire.

(35) "Salvage Fire Rebuilt" means a brand added to a vehicle's title by the department to designate a vehicle with a salvage fire brand that has been transferred to a new owner who has repaired the vehicle pursuant to Section 56-19-480(E).

(36) "Junk" means a brand added to a vehicle's title by the department to designate an insurance company has determined a vehicle has been damaged to the extent that it cannot be repaired for operation, or that it is only of value as a source of parts or scrap metal.

(37) "Off Road Use Only" means a brand added to a vehicle's title by the department to designate a vehicle's Manufacturer Certificate of Origin or equivalent document of origin designating a vehicle is not manufactured for use on public roads. The department shall not register and license the vehicle pursuant to Section 56-3-350. Vehicles brought into this State from a foreign jurisdiction without a title that clearly says "Off Road Use Only", or its equivalent, which do not meet Federal Motor Vehicle Safety Standards may be subject to this brand at the department's discretion.

HISTORY: 1962 Code Section 46-151; 1952 Code Section 46-151; 1942 Code Section 5982; 1932 Code Section 5982; 1930 (36) 1057; 1959 (51) 421; 1986 Act No. 528, Section 2; 1992 Act No. 486, Sections 2, 3; 1993 Act No. 181, Section 1297; 1996 Act No. 459, Sections 68A-68D; 1998 Act No. 434, Section 1; 2000 Act No. 375, Section 1; 2003 Act No. 51, Section 11; 2005 Act No. 170, Section 3, eff 6 months after approval by the Governor (approved June 7, 2005); 2006 Act No. 381, Section 3, eff June 13, 2006; 2008 Act No. 201, Section 1, eff 12:00 p.m., February 10, 2009; 2008 Act No. 279, Section 2, eff October 1, 2008; 2010 Act No. 216, Section 1, eff June 7, 2010; 2017 Act No. 34 (S.444), Sections 1, 2, eff November 10, 2017; 2017 Act No. 89 (H.3247), Section 1, eff November 19, 2018; 2020 Act No. 114 (H.3174), Section 1, eff February 3, 2020; 2021 Act No. 27 (H.3101), Section 2, eff October 25, 2021.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments made by 2017 Act No. 34 and 2017 Act No. 89 were read together.

Effect of Amendment

2017 Act No. 34, Section 1, rewrote (15), relating to the definition of "autocycle".

2017 Act No. 34, Section 2, in (18), substituted "autocycle" for "automotive three-wheel vehicle".

2017 Act No. 89, Section 1, in (3), inserted "interest in" following "having the property", and added the last sentence, relating to the person to whom a moped is registered; in (8), added "and a moped" following "excluding a tractor"; in (19), inserted "gross vehicle weight rating"; and added (26) to (28), relating to the definitions of "moped", "daylight hours", and "vehicle".

2020 Act No. 114, Section 1, added (29), relating to the definition of "electric-assist bicycles".

2021 Act No. 27, Section 2, added (30) to (37).

SECTION 56-1-15.

Administration of driver's license examination; random testing of driver's license applicants; contractor's failure to conform to licensing laws.

(A) The Department of Motor Vehicles must enter into contracts with persons, corporations, or governmental subdivisions, including public schools, in localities throughout the State to administer the portion of the driver's license examination that tests the driver's license applicant's ability to read and understand highway signs that regulate, warn, and direct traffic, and his knowledge of the traffic laws of the State, and the actual demonstration of his ability to exercise ordinary and reasonable control in the operation of the type of motor vehicle for which the license is sought as contained in Section 56-1-130(A). The department must supervise the provision of services contained in this subsection. The department must supply driver education instructors appropriate testing materials to administer the examinations contained in this section. A person or corporation administering an examination pursuant to this section may charge a fee in excess of the fee charged by the department for the examination.

(B) The department must require all persons obtaining an initial driver's license, and who are required to complete a driver's education course as defined in Section 56-1-175 or 56-1-180, to take the work zone safety program course as established in Section 56-1-219.

(C) The department must randomly test driver's license applicants who successfully complete the driver's license examination pursuant to subsection (A) to ensure that the driver's license instructors are properly certifying that their students have successfully completed a driver's license examination.

(D) If through testing or other review procedures, the department determines that a contractor is not conforming to the law and regulations applicable to licensing, it may:

(1) suspend the authority of a particular individual or entity operating under the contract to administer the tests;

(2) suspend the contract;

(3) cancel the contract.

(E) The department must test randomly a driver's license applicant only at the time the applicant is seeking his initial driver's license at the Department of Motor Vehicles.

HISTORY: 2003 Act No. 51, Section 5; 2024 Act No. 182 (H.5023), Section 2, eff May 20, 2024.

Effect of Amendment

2024 Act No. 182, Section 2, inserted (B) and redesignated former (B) to (D) as (C) to (E), respectively; and in (C), substituted "examination" for "examinations".

SECTION 56-1-20.

Driver's license required; surrender and disposition of out-of-state licenses; local licenses.

No person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's license issued to him under the provisions of this article. No person shall receive a motor vehicle driver's license unless and until he surrenders to the Department of Motor Vehicles all valid operators' licenses in his

possession issued to him by any other state within forty-five days of becoming a resident of this State, unless specifically exempted by law. All surrendered licenses shall be returned by the department to the issuing department, agency, or political subdivision. No person shall be permitted to have more than one valid motor vehicle driver's license or operator's license at any time.

Any person holding a currently valid motor vehicle driver's license issued under this article may exercise the privilege thereby granted upon all streets and highways in the State and shall not be required to obtain any other license to exercise such privilege by any county, municipal, or local board or body having authority to adopt local police regulations; provided, however, that this provision shall not serve to prevent a county, municipal, or local board from requiring persons to obtain additional licenses to operate taxis, buses, or other public conveyances.

HISTORY: 1962 Code Section 46-152; 1952 Code Section 46-152; 1942 Code Section 5983; 1932 Code Section 5983; 1930 (36) 1057; 1959 (51) 421; 2023 Act No. 51 (S.549), Section 37, eff May 18, 2023.

Editor's Note

2023 Act No. 51, Section 40(F), provides as follows:

"[SECTION 40.](F) The remaining SECTIONS of this act, and Sections 56-3-214(A), 56-3-214(B)(1), 56-3-214(B)(2), 56-3-214(B)(3), 56-3-214(G), 56-1-20, 56-23-40, 56-23-60, and 56-23-105 take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 37, in the first undesignated paragraph, in the second sentence, inserted "within forty-five days of becoming a resident of this State, unless specifically exempted by law", and made nonsubstantive changes.

SECTION 56-1-25.

Disclosure of confidential information during transfer of power to Department of Motor Vehicles.

It is unlawful for a person to disclose any confidential information which belongs to the Department of Public Safety Motor Vehicle Division to an individual or entity that is not permitted to have access to the information during or after the transfer of the confidential information from the Motor Vehicle Division to the Department of Motor Vehicles. A person who violates a provision contained in this section is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year and fined not less than one thousand dollars.

HISTORY: 2003 Act No. 51, Section 19.

SECTION 56-1-30.

Persons exempt from licensing requirements.

The following persons are exempt from licenses under this chapter:

(1) Any employee of the United States Government while operating a motor vehicle owned by or leased to the United States Government and being operated on official business, unless the employee is required by the United States Government or the Federal agency by which he is employed to have a state driver's license;

(2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid operator's or chauffeur's license issued to him in his home state or country may operate a motor vehicle, but a person may not claim nonresidence exemption under this provision who does not maintain a permanent residence address in the state or country of which he holds a valid and current operator's or chauffeur's license at which he regularly receives his mail and which address is on file with the motor vehicle authorities of that state or country; also, a person may not claim nonresidence exemption under this provision who for all other intents and purposes has or may remove his residence into this State;

(3) Any nonresident who is at least eighteen years of age and whose home state or country does not require the licensing of operators may operate a motor vehicle for a period of not more than ninety days in any calendar year, if the motor vehicle is duly registered in the home state or country of the nonresident and a nonresident on active duty in the Armed Services of the United States who has a valid license issued by his home state and the nonresident's spouse or dependent who has a valid license issued by his home state;

(4) A person operating or driving implements of husbandry temporarily drawn, propelled, or moved upon a highway. Implements of husbandry include, but are not limited to, farm machinery and farm equipment other than a passenger car.

(5) Any person on active duty in the Armed Services of the United States who has in his immediate possession a valid driver's license issued in a foreign country or by the Armed Services of the United States may operate a motor vehicle in this State for a period of not more than ninety days from the date of his return to the United States; and

(6) A citizen of a foreign jurisdiction whose licensing procedure is at least as strict as South Carolina's, as determined by the Department of Motor Vehicles, who is at least eighteen years of age, who is employed in South Carolina, and who has a valid driver's license issued by that jurisdiction may drive in this State for five years if the foreign jurisdiction provides a reciprocal arrangement for South Carolina residents. The provisions of this item also shall apply to the dependents of foreign nationals who qualify under this section.

HISTORY: 1962 Code Section 46-153; 1952 Code Sections 46-153 to 46-155; 1942 Code Sections 5986, 6000; 1932 Code Sections 5986, 6000; 1930 (36) 1057; 1940 (41) 1680; 1959 (51) 421; 1988 Act No. 362, Sections 2, 3; 1990 Act No. 320, Section 1; 1998 Act No. 258, Section 6; 1999 Act No. 16, Section 1; 2017 Act No. 89 (H.3247), Section 2, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 2, in the introductory paragraph, substituted "chapter" for "article"; in (1), substituted "state" for "State"; and made a nonsubstantive change.

SECTION 56-1-35.

Driver's license for members of the armed services and dependents.

A member of the armed services of the United States or his dependent who becomes a permanent resident of this State, has ninety days to apply for a South Carolina driver's license, and he must be issued a license without examination except for the visual test required by Section 56-1-210 if he has a valid driver's license from another state or territory of the United States. The license expires eight years from the date of issue.

HISTORY: 1988 Act No. 362, Section 1; 2019 Act No. 86 (H.3789), Section 1, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 1, rewrote the section.

SECTION 56-1-40.

Persons who may not be licensed or have their license renewed; beginner's permit.

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 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 special restricted driver's license to a person who is at least sixteen years of age and less than seventeen 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, a driver's license issued pursuant to this item is valid for at least one year but not more than eight years from the date of its issue. Under this provision, a driver's license valid for not more than four years must be issued upon payment of a fee of twelve dollars and fifty cents. A driver's license that is valid for more than four years must be issued upon payment of a fee of twenty-five dollars. 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;
- (8) who must not be issued a license as otherwise provided by the laws of this State.

HISTORY: 1962 Code Section 46-154; 1952 Code Section 46-162; 1942 Code Section 5999; 1932 Code Section 5999; 1930 (36) 1057; 1959 (51) 421, 564; 1960 (51) 1634; 1966 (54) 2424; 1993 Act No. 26, Section 1; 1994 Act No. 497, Part II, Section 121D; 1996 Act No. 459, Section 69; 1998 Act No. 258, Section 7; 2002 Act No. 181, Section 6; 2002 Act No. 282, Section 1; 2019 Act No. 86 (H.3789), Section 2, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 2, in the fifth sentence, deleted "in no event shall" following "However," and substituted "is valid for at least one year but not more than eight years" for "expire less than one year or more than five years", and inserted the sixth and seventh sentences, relating to payments for a driver's license valid for not more than four years and a driver's license valid for more than four years.

SECTION 56-1-50.

Beginner's permit; hours and conditions of vehicle operation; renewal and fee; driver's training course; eligibility for full licensure. Section effective until November 13, 2024. See, also, Section 56-1-50 effective November 13, 2024.

(A) A person who is at least fifteen years of age may apply to the department for a beginner's permit. After the applicant has passed successfully all parts of the examination other than the driving test, the department may issue to the applicant a beginner's permit. A beginner's permit entitles the permittee having the permit in his immediate possession to drive a motor vehicle on public highways under the conditions contained in this section for not more than twelve months.

(B) The permit is valid only in the operation of:

- (1) vehicles after six o'clock a.m. and not later than midnight. Except as provided in subsection (E), while driving, the permittee must be accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7);
- (2) motorcycles.

While driving a motorcycle during nighttime hours, the permittee must be accompanied by a motorcycle-licensed driver twenty-one years of age or older who has had at least one year of driving experience.

(C) The accompanying driver must:

(1) occupy a seat beside the permittee when the permittee is operating a motor vehicle; or

(2) be within a safe viewing distance of the permittee when the permittee is operating a motorcycle or a moped.

(D) A beginner's permit may be renewed or a new permit issued for additional periods of twelve months. However, the department may refuse to renew or issue a new permit where the examining officer has reason to believe the applicant has not made a bona fide effort to pass the required driver's road test or does not appear to the examining officer to have the aptitude to pass the road test. The fee for every beginner's or renewal permit is two dollars and fifty cents, and the permit must bear the full name, date of birth, and residence address and a brief description and unobstructed photograph of the permittee and a facsimile of the signature of the permittee or a space upon which the permittee shall write his usual signature with pen and ink immediately upon receipt of the permit. A permit is not valid until it has been signed by the permittee.

(E) The following persons are not required to obtain a beginner's permit to operate a motor vehicle:

(1) a student at least fifteen years of age regularly enrolled in a high school of this State which conducts a driver's training course while the student is participating in the course and when accompanied by a qualified instructor of the course; and

(2) a person fifteen years of age or older enrolled in a driver training course conducted by a driver training school licensed under Chapter 23 of this title. However, this person at all times must be accompanied by an instructor of the school and may drive only an automobile owned or leased by the school which is covered by liability insurance in an amount not less than the minimum required by law.

(F) A person who has never held a form of license evidencing previous driving experience first must be issued a beginner's permit and must hold the permit for at least one hundred eighty days before being eligible for full licensure.

(G) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(H) A person who holds a motorcycle beginner's permit who has failed the motorcycle driver's license test three or more times must successfully complete a South Carolina technical college motorcycle safety course, or its equivalent, in lieu of passing the motorcycle driver's license test, in order to obtain a motorcycle license. All courses must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in "Manual of Rules and Procedures" published by the National Safety Council. All courses must include successful completion of an examination equivalent to the Department of Motor Vehicles motorcycle skills test. These programs are subject to Section 56-1-15.

HISTORY: 1962 Code Section 46-155; 1952 Code Section 46-167; 1949 (46) 271; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421, 564; 1965 (54) 649; 1966 (54) 2424, 2661; 1967 (55) 557, 935; 1977 Act No. 19; 1980 Act No. 358, Section 1; 1992 Act No. 486, Section 4; 1994 Act No. 497, Part II, Section 121E; 1998 Act No. 258, Section 8; 2002 Act No. 181, Section 1; 2004 Act No. 280, Section 1; 2005 Act No. 176, Section 5, eff June 14, 2005; 2016 Act No. 267 (S.689), Section 1, eff June 7, 2016; 2017 Act No. 89 (H.3247), Section 3, eff November 19, 2018; 2018 Act No. 127 (S.456), Section 1, eff February 5, 2018; 2018 Act No. 259 (H.4676), Section 1, eff November 19, 2018; 2022 Act No. 148 (H.4319), Section 3, eff May 11, 2022.

SECTION 56-1-50.

Beginner's permit; hours and conditions of vehicle operation; renewal and fee; driver's training course; eligibility for full licensure. Section effective November 13, 2024. See, also, Section 56-1-50 effective until November 13, 2024.

(A) A person who is at least fifteen years of age may apply to the department for a beginner's permit. After the applicant has passed successfully the knowledge examination, the department may issue to the applicant a beginner's permit. A beginner's permit entitles the permittee having the permit in his immediate possession to drive a motor vehicle on public highways under the conditions contained in this section for not more than twelve months.

(B) The permit is valid only in the operation of:

(1) vehicles after six o'clock a.m. and not later than midnight. Except as provided in subsection (E), while driving, the permittee must be accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7);

(2) motorcycles.

While driving a motorcycle during nighttime hours, the permittee must be accompanied by a motorcycle-licensed driver twenty-one years of age or older who has had at least one year of driving experience.

(C) The accompanying driver must:

(1) occupy a seat beside the permittee when the permittee is operating a motor vehicle; or

(2) be within a safe viewing distance of the permittee when the permittee is operating a motorcycle or a moped.

(D) A beginner's permit may be renewed or a new permit issued for additional periods of twelve months. However, the department may refuse to renew or issue a new permit where the examining officer has reason to believe the applicant has not made a bona fide effort to pass the required driver's road test or does not appear to the examining officer to have the aptitude to pass the road test. The fee for every beginner's or renewal permit is two dollars and fifty cents, and the permit must bear the full name, date of birth, and residence address and a brief description and unobstructed photograph of the permittee and a facsimile of the signature of the permittee or a space upon which the permittee shall write his usual signature with pen and ink immediately upon receipt of the permit. A permit is not valid until it has been signed by the permittee.

(E) The following persons are not required to obtain a beginner's permit to operate a motor vehicle:

- (1) a student at least fifteen years of age regularly enrolled in a high school of this State which conducts a driver's training course while the student is participating in the course and when accompanied by a qualified instructor of the course;
 - (2) a person fifteen years of age or older enrolled in a driver training course conducted by a driver training school licensed under Chapter 23 of this title. However, this person at all times must be accompanied by an instructor of the school and may drive only an automobile owned or leased by the school which is covered by liability insurance in an amount not less than the minimum required by law; and
 - (3) a person who has satisfied the beginner's permit requirements set forth in law or with sufficient previous driving experience that exempts the person from the beginner's permit requirements when performing the driving test with a department employee.
- (F) A person who is at least fifteen years of age who has never held a form of license evidencing previous driving experience first must be issued a beginner's permit and must hold the beginner's permit for at least one hundred eighty days before being eligible for full licensure as set forth in this title. A person obtaining solely a moped operator's license pursuant to Section 56-1-1720 is not required to hold a beginner's permit before operating a moped.
- (G) A person who is eighteen years old or older may attempt the driving test to obtain a regular motor vehicle driver's license after maintaining a beginner's permit for at least thirty days. This does not apply to motorcycle permits or permits for vehicles with a gross vehicle weight of 26,001 pounds or more.
- (H) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.
- (I) A person who holds a motorcycle beginner's permit who fails the motorcycle driver's license test three or more times must successfully complete a South Carolina technical college motorcycle safety course, or its equivalent, in lieu of passing the motorcycle driver's license test, in order to obtain a motorcycle license. All courses must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in "Manual of Rules and Procedures" published by the National Safety Council. All courses must include successful completion of an examination equivalent to the Department of Motor Vehicles motorcycle skills test. These programs are subject to Section 56-1-15.

HISTORY: 1962 Code Section 46-155; 1952 Code Section 46-167; 1949 (46) 271; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421, 564; 1965 (54) 649; 1966 (54) 2424, 2661; 1967 (55) 557, 935; 1977 Act No. 19; 1980 Act No. 358, Section 1; 1992 Act No. 486, Section 4; 1994 Act No. 497, Part II, Section 121E; 1998 Act No. 258, Section 8; 2002 Act No. 181, Section 1; 2004 Act No. 280, Section 1; 2005 Act No. 176, Section 5, eff June 14, 2005; 2016 Act No. 267 (S.689), Section 1, eff June 7, 2016; 2017 Act No. 89 (H.3247), Section 3, eff November 19, 2018; 2018 Act No. 127 (S.456), Section 1, eff February 5, 2018; 2018 Act No. 259 (H.4676), Section 1, eff November 19, 2018; 2022 Act No. 148 (H.4319), Section 3, eff May 11, 2022; 2024 Act No. 146 (H.4673), Section 1, eff November 13, 2024.

Effect of Amendment

2017 Act No. 89, Section 3, amended the section, deleting the provisions that allowed a permit holder to operate a moped, revising the time of day and conditions upon which a permittee may operate a motorcycle, and deleting an obsolete provision.

2018 Act No. 127, Section 1, added (H), providing that a person who has failed the motorcycle driver's license test three or more times must successfully complete a South Carolina technical college motorcycle safety course, or its equivalent, in lieu of passing the test.

2018 Act No. 259, Section 1, in (B)(1), in the second sentence, substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the permittee's licensed parent or guardian; and".

2022 Act No. 148, Section 3, in (D), in the third sentence, substituted "unobstructed photograph of the permittee" for "color photograph of the permittee".

2024 Act No. 146, Section 1, (A), in the second sentence, substituted "the knowledge examination" for "all parts of the examination other than the driving test"; in (E), added (3); rewrote (F); inserted (G) and redesignated former (G) and (H) as (H) and (I); and made nonsubstantive changes.

SECTION 56-1-70.

Temporary driver's permit.

The Department of Motor Vehicles may, in its discretion, issue a temporary driver's permit to an applicant for a motor vehicle driver's license permitting him to operate a motor vehicle while the Department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. Such permit must be in his immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

HISTORY: 1962 Code Section 46-157; 1959 (51) 421.

SECTION 56-1-80.

Application for license or permit.

Section effective until November 20, 2024. See, also, Section 56-1-80 effective November 20, 2024.

(A) An application for a driver's license or permit must:

- (1) be made upon the form furnished by the department;
- (2) be accompanied by the proper fee and acceptable proof of date and place of birth;
- (3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;
- (4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;
- (5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of

and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, provided that the disclosure is made on a form prescribed by the department and includes a certification from a physician licensed in this State, as defined in Chapter 47, Title 40 that affirms the existence of the medical condition. The medical condition must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The motor vehicle record of a driver may not contain more than three permanent medical conditions unless subitem (A)(8) applies;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record;

(8) allow an applicant voluntarily to disclose that he is autistic, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The applicant must provide documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20; and

(9) include a statement that certain driver's license and driver's record information may be released, upon request, pursuant to subsection (B).

(B)(1) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in item (A)(6) or item (A)(8), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel;

(b) the medical advisory board pursuant to Section 56-1-221;

(c) permitted entities pursuant to the Driver Privacy Protection Act, 18 U.S.C.A. 2721; and

(d) the person to whom the records of the permanent medical condition applies.

(2) The information contained on a driver's license and in the driver's department records pertaining to a person's organ and tissue donor status, as provided for in item (A)(7), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel; and

(b) the South Carolina Donor Referral Network, as provided for in Section 44-43-910.

(3) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in item (A)(6) or item (A)(8), and pertaining to a person's organ and tissue donor status, as provided for in item (A)(7), may not be sold and is exempt from disclosure pursuant to Chapter 4, Title 30, the South Carolina Freedom of Information Act.

(C) Whenever an application is received from a person previously licensed or permitted in another state, the Department of Motor Vehicles may request a copy of the applicant's record from the other state. When received, the record becomes a part of the driver's record in this State with the same effect as though entered on the operator's record in this State in the original instance. Every person who obtains a driver's license or permit for the first time in South Carolina and every person who renews his driver's license or permit in South Carolina must be furnished a written request form for completion and verification of liability insurance coverage. The completed and verified form or an affidavit prepared by the department showing that neither he, nor a resident relative, owns a motor vehicle subject to the provisions of this chapter, must be delivered to the department at the time the license or permit is issued or renewed.

HISTORY: 1962 Code Section 46-158; 1952 Code Sections 46-157, 46-159; 1942 Code Sections 5984, 5987, 6002; 1932 Code Sections 5984, 5987, 6002; 1930 (36) 1057; 1959 (51) 421; 1974 (58) 1973; 1989 Act No. 148, Section 28; 1993 Act No. 181, Section 1298; 1994 Act No. 497, Part II, Section 121F; 1996 Act No. 459, Section 70; 2000 Act No. 225, Section 1; 2007 Act No. 92, Section 3, eff June 14, 2007; 2010 Act No. 277, Section 3, eff July 1, 2011; 2017 Act No. 19 (S.344), Section 1, eff May 9, 2017; 2022 Act No. 217 (H.3037), Section 1, eff July 1, 2022.

SECTION 56-1-80.

Application for license or permit.

Section effective November 20, 2024. See, also, Section 56-1-80 effective until November 20, 2024.

(A) An application for a driver's license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, provided that the disclosure is made on a form prescribed by the department and includes a certification from a physician licensed in this State, as defined in Chapter 47, Title 40 that affirms the existence of the medical condition. The medical condition must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The motor vehicle record of a driver may not contain more than three permanent medical conditions unless item (8) or (9) applies;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record;

(8) allow an applicant voluntarily to disclose that he is autistic, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The applicant must provide documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20;

(9) allow an applicant voluntarily to disclose blood type, provided that the disclosure is made on a form prescribed by the department and includes a certification from a physician or medical provider. Blood type must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The department may use the same symbol used to indicate voluntary disclosure of a permanent medical condition; and

(10) include a statement that certain driver's license and driver's record information may be released, upon request, pursuant to subsection (B).

(B)(1) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in subsection (A)(6) or (8), or blood type, as provided for in subsection (A)(9), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel;

(b) the medical advisory board pursuant to Section 56-1-221;

(c) permitted entities pursuant to the Driver Privacy Protection Act, 18 U.S.C. 2721; and

(d) the person to whom the records of the permanent medical condition applies.

(2) The information contained on a driver's license and in the driver's department records pertaining to a person's organ and tissue donor status, as provided for in subsection (A)(7), must be made available, upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel; and

(b) the South Carolina Donor Referral Network, as provided for in Section 44-43-910.

(3) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in subsection (A)(6) or subsection (8), and pertaining to a person's organ and tissue donor status, as provided for in subsection (A)(7), or blood type, as provided for in subsection (A)(9), may not be sold and is exempt from disclosure pursuant to Chapter 4, Title 30, the South Carolina Freedom of Information Act.

(4) No cause of action may arise nor may liability be imposed against any person, government entity, or government entity officer, agent, or employee arising from any action taken by any person in reliance upon an inaccurate blood type indicated on a person's driver's license or driver's record when the license holder, physician, or medical provider provided the inaccurate blood type on the forms required pursuant to this section.

(C)(1) Whenever an application is received from a person previously licensed or permitted in another state, the Department of Motor Vehicles may request a copy of the applicant's record from the other state. When received, the record becomes a part of the driver's record in this State with the same effect as though entered on the operator's record in this State in the original instance. Every person who obtains a driver's license or permit for the first time in South Carolina and every person who renews his driver's license or permit in South Carolina must be furnished a written request form for completion and verification of liability insurance coverage.

(2) The completed and verified form or an affidavit prepared by the department showing that neither he, nor a resident relative, owns a motor vehicle subject to the provisions of this chapter, must be delivered to the department at the time the license or permit is issued or renewed.

HISTORY: 1962 Code Section 46-158; 1952 Code Sections 46-157, 46-159; 1942 Code Sections 5984, 5987, 6002; 1932 Code Sections 5984, 5987, 6002; 1930 (36) 1057; 1959 (51) 421; 1974 (58) 1973; 1989 Act No. 148, Section 28; 1993 Act No. 181, Section 1298; 1994 Act No. 497, Part II, Section 121F; 1996 Act No. 459, Section 70; 2000 Act No. 225, Section 1; 2007 Act No. 92, Section 3, eff June 14, 2007; 2010 Act No. 277, Section 3, eff July 1, 2011; 2017 Act No. 19 (S.344), Section 1, eff May 9, 2017; 2022 Act No. 217 (H.3037), Section 1, eff July 1, 2022; 2024 Act No. 167 (S.968), Section 1, eff November 20, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, an incorrect reference to a subsection in Section 40-47-20 was removed.

Editor's Note

2010 Act No. 277, Section 5, provides:

"The requirements of Section 56-1-80 of the 1976 Code, as amended by Section 3 of this act, must be met upon the renewal of an existing driver's license or special identification card of a person convicted of a crime of violence as defined in Section 16-23-10(3) in this State on or after July 1, 2011."

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

2022 Act No. 217, Section 3, provides as follows:

"SECTION 3. (A) SECTION 1 takes effect July 1, 2022.

"(B) SECTION 2 takes effect one year after the approval by the Governor."

Effect of Amendment

2017 Act No. 19, Section 1, in (A), added (8), relating to autism designations placed on a driver's license, and made other nonsubstantive changes.

2022 Act No. 217, Section 1, in (A), rewrote (6), made nonsubstantive changes in (7) and (8), and added (9); and rewrote (B).

2024 Act No. 167, Section 1, in (A), in (6), in the third sentence, inserted "or (A)(9)"; inserted (9) and redesignated former (9) as (10); in (B), in (1) and (3), inserted "or blood type, as provided for in item (A)(9),", and inserted (4); in (C), inserted the (1) designator, and inserted the (2) designator in the last undesignated paragraph; and made a nonsubstantive change.

SECTION 56-1-85.

REAL ID Act.

It is hereby declared to be the policy of this State:

(1) The State is committed to the continuing effort of enhancing the security, authentication, and issuance procedure standards of its drivers' licenses and identification cards and of meeting all requirements of the Federal REAL ID Act of 2005 (P.L. 109-13) and accompanying regulations.

(2) The department shall enable qualifying citizens to obtain state drivers' licenses and identification cards that are in compliance with the REAL ID Act.

(3) The department shall not provide direct access to the department's full driver's license database to any other jurisdiction.

HISTORY: 2007 Act No. 70, Section 1, eff June 13, 2007; 2017 Act No. 6 (H.3358), Section 2, eff April 5, 2017.

Effect of Amendment

2017 Act No. 6, Section 2, amended the section, adding the paragraph designators, providing that the state shall meet all the requirements of the federal REAL ID Act, and that the department of motor vehicles shall not provide direct access to its full driver's license database to any other jurisdiction.

SECTION 56-1-87.

REAL ID card issuance.

(A) A person may hold only one Department of Motor Vehicles-issued credential at a time. A REAL ID card may be a driver's license or identification card, but not both.

(B) The department may issue a compliant or noncompliant card. The department may issue a REAL ID compliant credential only to a person who:

(1) presents all supporting documents required for a compliant credential; or

(2) has previously presented proper supporting documents and the department has retained copies of those documents.

(C) The department shall issue a noncompliant credential to a person who opts not to have a REAL ID card, and meets the other requirements necessary to obtain a noncompliant credential.

HISTORY: 2017 Act No. 6 (H.3358), Section 1, eff April 5, 2017.

SECTION 56-1-90.

Evidence required to obtain a driver's license or identification card.

(A) The Department of Motor Vehicles may require every applicant to submit acceptable evidence when applying for or renewing a driver's license, beginner's permit, or identification card that proves the applicants:

(1) date of birth;

(2) place of birth;

(3) gender;

(4) Social Security number;

(5) principal residential address;

(6) full legal name;

(7) when applicable, legal name change; and

(8) when applicable, authorized length of stay in the United States.

An applicant may prove sufficiently the existence and validity of his Social Security number, for purposes of Section 14-7-130, by any document or electronic means considered reliable by the Department of Motor Vehicles, so long as that document or electronic mean does not conflict with other provisions of state or federal law. The numbers also may be obtained from the Department of Revenue pursuant to Section 12-54-240(B)(7), which permits the Department of Revenue to submit taxpayer Social Security numbers to the Department of Motor Vehicles and to the State Election Commission.

This section does not prevent issuance of a driver's license or identification card to a foreign exchange student participating in a valid foreign exchange program.

(B) The department may require applicants to submit acceptable documents in other circumstances if those documents are not already on file with the department.

(C) In the case of a name change that occurred after the applicant's birth, an applicant must present documentation to the department to show name traceability, in addition to the items in subsection (A) if not already on file with the department:

(1) a court order issued pursuant to Chapter 49, Title 15 or an equivalent court order issued by a foreign jurisdiction;

(2) a marriage license issued pursuant to Chapter 1, Title 20 signed by the official that performed the wedding ceremony and signed by both parties to the marriage, or an equivalent marriage license issued by a foreign jurisdiction. An applicant only is entitled to use a marriage license one time per marriage to change his middle name, last name, or both with the department. A marriage license cannot be used to change an applicant's first name;

(3) a change of name allowance following a divorce pursuant to Section 20-3-180 or an equivalent change of name document following a divorce issued by a foreign jurisdiction; or

(4) an unexpired, United States Passport or Passport Card that includes the applicant's full legal name.

If any one of the above documents does not show a link to the applicant's evidence of full legal name, the department may require the applicant to submit more than one document to show traceability from the applicant's original name to his current name.

(D) If an applicant is applying for a permit, driver's license, or identification card that will be issued with a name other than what is presented to the department pursuant to subsection (A), the department may issue any driver's license or identification card in the applicant's preferred name if the applicant presents to the department at least three different documents, acceptable to the department, showing the applicant's full name with the preferred name being the one used for at least fifteen years. These three documents must be in addition to the documents prescribed in subsection (A), and must, at the department's discretion, show a

reasonable link to the documents prescribed in subsection (A).

(E) If an applicant is applying for a permit, driver's license, or identification card under the provisions of subsections (C) or (D), the applicant's social security number must be validated with the Social Security Administration using the applicant's preferred and full name presented to the department before the department may issue a driver's license, permit, or identification card to the applicant.

(F) In the case of the social security number not validating, the department shall not issue any type of REAL ID permit, license, or identification card.

HISTORY: 1962 Code Section 46-158.1; 1974 (58) 2349; 1990 Act No. 451, Section 1; 1993 Act No. 181, Section 1996 Act No. 459, Section 71; 2017 Act No. 6 (H.3358), Section 3, eff April 5, 2017; 2022 Act No. 148 (H.4319), Section 1, eff May 11, 2022.

Effect of Amendment

2017 Act No. 6, Section 3, in the first undesignated paragraph, in the second sentence, substituted "document considered reliable by the Department of Motor Vehicles" for "reasonably reliable document containing the Social Security number", in the third sentence, deleted "or U.S. military identification card", and made other nonsubstantive changes; and deleted the former undesignated second paragraph relating to affidavits for establishment of valid Social Security numbers for replacement licenses.

2022 Act No. 148, Section 1, rewrote the section.

SECTION 56-1-100.

Application by unemancipated minor.

(A) The application of an unemancipated minor for a beginner's permit or driver's license must be signed in the presence of a South Carolina Department of Motor Vehicles employee at the time of application by:

- (1) the father of the minor;
- (2) the mother of the minor;
- (3) the guardian of the minor;
- (4) an individual who has custody, care, and control of the minor;
- (5) any person set forth in subsection (C)(3) below with written approval by the Department of Social Services;
- (6) any person who has been standing in loco parentis of a minor for a continuous period of not less than sixty days; or
- (7) any responsible adult who is willing to assume the obligation imposed under this article and who has written permission, from a person listed in items (1)-(7) above, signed and verified before a person authorized to administer oaths.

(B) The application of an emancipated minor for a beginner's permit or driver's license must be signed in the presence of a South Carolina Department of Motor Vehicles employee at the time of application by a responsible adult who is willing to assume the obligation imposed under this article.

(C) If the Department of Social Services has guardianship or legal custody of a minor, the application may be signed by:

- (1) the father of the minor;
- (2) the mother of the minor; or
- (3) the foster parent, preadoptive parent, or person responsible for the welfare of the child who resides in a childcare facility or residential group care home, upon written approval by the Department of Social Services. The disclosure of information by the Department of Social Services to the Department of Motor Vehicles in order to provide approval for the limited purpose of this code section shall not be a violation of Section 63-7-1990 or any other section of the Children's Code governing the dissemination of confidential information. The foster parent, preadoptive parent, or person responsible for the welfare of a child who resides in a childcare facility or residential group care home must obtain approval from the Department of Social Services prior to the request for an extension of a permit pursuant to Section 56-1-50.

(D) Except as set forth in subsection (C)(3) above, upon the extension of a permit pursuant to Section 56-1-50, authorization by the person who originally signed the application, under subsections (A), (B), or (C) above, is not required.

HISTORY: 1962 Code Section 46-159; 1952 Code Section 46-158; 1942 Code Section 5989; 1932 Code Section 5989; 1930 (36) 1057; 1933 (38) 214; 1949 (46) 271; 1956 (49) 1649; 1959 (51) 421; 1994 Act No. 497, Part II, Section 121G; 2017 Act No. 2 (S.198), Section 1, eff April 5, 2017.

Effect of Amendment

2017 Act No. 2, Section 1, amended the section by adding the paragraph designators, deleting the term "instruction permit", and revising the list of persons who must sign the application of an unemancipated minor.

SECTION 56-1-110.

Imputed liability of person signing application for damages caused by uninsured minor.

Any negligence or wilful misconduct of a minor when driving a motor vehicle upon a highway must be imputed to the person who has signed the application of such minor for a beginner's permit, instruction permit, or driver's license, which person is jointly and severally liable with such minor for any damage caused by such negligence or wilful misconduct, except that if such minor is protected by a policy of liability insurance in the form and in the amounts as required under Chapter 9 of this title and Sections 38-77-140 through 38-77-310, then such parent or guardian or other responsible adult is not subject to the liability otherwise imposed under this section.

HISTORY: 1962 Code Section 46-160; 1959 (51) 421; 1987 Act No. 155, Section 17.

SECTION 56-1-120.

Release from imputed liability by cancellation of permit or license.

Any person who has signed the application of a minor for a permit or license may thereafter file with the Department of Motor Vehicles a verified written request that the permit or license of such minor so granted be cancelled. Thereupon, the person who

signed the application of such minor shall be relieved from the liability imposed under Section 56-1-110 by reason of having signed such application on account of any subsequent negligence or wilful misconduct of such minor in operating a motor vehicle, and the license or permit of such minor shall be cancelled by the Department.

HISTORY: 1962 Code Section 46-161; 1959 (51) 421.

SECTION 56-1-125.

Registration with U.S. Selective Service when applying for driver's license or identification card.

(A) Upon receiving proper authority from the United States Government, a United States male citizen or immigrant who is less than twenty-six years of age must be registered for the United States Selective Service when applying to the Department of Motor Vehicles for the issuance, renewal, or a duplicate copy of:

- (1) a driver's license;
- (2) a commercial driver's license; or
- (3) an identification card.

(B) The department shall forward in an electronic format the necessary personal information required for registration of individuals identified in this section to the Selective Service System.

(C) An individual's submission of an application contained in subsection (A) serves as an indication that the individual has registered with the Selective Service System or that he is authorizing the department to forward to the Selective Service System information necessary for his registration.

(D) The department shall inform the individual who is at least eighteen years of age and less than twenty-six years of age, on his application, that his submission of the application for a license or identification card serves as his consent to be registered with the Selective Service System, if required by federal law.

(E) The department shall inform the individual who is less than eighteen years of age, on his application, that his submission of the application for a license or identification card serves as his consent to be registered with the Selective Service System upon attaining eighteen years of age, if required by federal law. His application also must be signed by any individual listed in Section 56-1-100(A)(1-7). By signing the application, the signatory authorizes the department to register the applicant with the Selective Service System upon attaining eighteen years of age, if required by federal law. The applicant or any individual listed in Section 56-1-100(A)(1-7) may decline the Selective Service System registration. If the applicant or any individual listed in Section 56-1-100(A)(1-7) declines the Selective Service System registration, the department may issue a license or identification card, but the applicant must renew the license or identification card upon attaining eighteen years of age.

(F) This section takes effect upon the department's receipt from the federal government of the funds necessary to implement this section.

HISTORY: 2003 Act No. 51, Section 6; 2018 Act No. 259 (H.4676), Section 2, eff November 19, 2018.

Effect of Amendment

2018 Act No. 259, Section 2, in the second sentence, substituted "any individual listed in Section 56-1-100(A)(1-7)" for "his parent or guardian"; in the third sentence, substituted "signatory" for "parent or guardian"; in the fourth sentence, substituted "any individual listed in Section 56-1-100(A)(1-7)" for ", parent, or guardian"; and in the fifth sentence, substituted "any individual listed in Section 56-1-100(A)(1-7)" for ", parent, or guardian".

SECTION 56-1-130.

License examinations; basic and classified licenses.

(A) The Department of Motor Vehicles shall examine every applicant for a driver's license, except as otherwise provided in this article. The examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, and his knowledge of the traffic laws of this State and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the type of motor vehicle, including motorcycles, for which a license is sought. The department may require a further physical and mental examination as it considers necessary to determine the applicant's fitness to operate a motor vehicle upon the highways, the further examination to be at the applicant's expense. The department shall make provisions for giving an examination in the county where the applicant resides. The department shall charge an appropriate fee for each complete examination or reexamination required in this article.

(B) The department must require all persons obtaining an initial driver's license, and who are required to complete a driver's education course as defined in Section 56-1-175 or 56-1-180, to take the work zone safety program course as established in Section 56-1-219.

(C) No persons, except those exempted under Section 56-1-30 and Section 56-1-50(E), or those holding beginners' permits under Section 56-1-50, shall operate any classification of motor vehicle without first being examined and duly licensed by the driver examiner as a qualified driver of that classification of motor vehicle.

(D)(1) A basic driver's license authorizes the licensee to operate motor vehicles, autocycles, motorcycle three-wheel vehicles, excluding a motorcycle with a detachable side car, or combinations of vehicles which do not exceed twenty-six thousand pounds gross vehicle weight rating; provided, that the driver has successfully demonstrated the ability to exercise ordinary and reasonable control in the operation of a motor vehicle in this category. A basic driver's license also authorizes the licensee to operate farm trucks provided for in Sections 56-3-670, 56-3-211, and 56-3-215, which are used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising. Notwithstanding another provision of law, the holder of a conditional license, or special restricted license operating a farm truck for the purposes provided in this subsection, may operate the farm truck without an accompanying adult after six o'clock a.m. and no later than nine o'clock p.m., but may not operate a farm

truck on a freeway. A person operating a farm truck while holding a conditional driver's license or a special restricted license may not use the farm truck for ordinary domestic purposes or general transportation.

(2) A classified driver's license shall authorize the licensee to operate a motorcycle, motorcycle three-wheel vehicle, including a motorcycle with a detachable side car, or those vehicles in excess of twenty-six thousand pounds gross vehicle weight rating which are indicated by endorsement on the license. The endorsement may include classifications such as: motorcycles, two-axle trucks, three- or more axle trucks, combination of vehicles, motor buses, or oversize or overweight vehicles. The department shall determine from the driving demonstration the endorsements to be indicated on the license.

HISTORY: 1962 Code Section 46-162; 1952 Code Section 46-161; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1974 (58) 2349; 1980 Act No. 358, Section 2; 1992 Act No. 486, Section 5; 1996 Act No. 459, Section 72; 1998 Act No. 258, Section 9; 2000 Act No. 375, Section 2; 2002 Act No. 181, Section 7; 2008 Act No. 347, Section 20, eff June 16, 2008; 2009 Act No. 42, Section 2, eff June 2, 2009; 2017 Act No. 34 (S.444), Section 3, eff November 10, 2017; 2024 Act No. 182 (H.5023), Section 3, eff May 20, 2024.

Editor's Note

Section 56-1-60, referred to herein, which provided for student's instruction permits, was repealed by 1976 Act No. 738, Section 11. Sections 56-3-680 and 56-3-690, referred to herein, were repealed by 1979 Act No. 83, Section 2. Comparable provisions appear in Section 56-3-670.

Effect of Amendment

2017 Act No. 34, Section 3, in (C), inserted the (1) and (2) paragraph identifiers, and in (C)(1), substituted "autocycles" for "automotive three-wheel vehicles".

2024 Act No. 182, Section 3, inserted (B) and redesignated former (B) and (C) as (C) and (D), respectively; in (C), substituted "Section 56-1-50(E)" for Section 56-1-60"; in (D)(1), in the second sentence, substituted "56-3-211, and 56-3-215" for "56-3-680, and 56-3-690"; and made nonsubstantive changes.

SECTION 56-1-135.

Designated driver for fire extinguishment, special endorsement; safety officers.

(A) Notwithstanding the provisions of Section 56-1-130, a paid or volunteer firefighter of a lawfully and regularly organized fire department designated to drive a firefighting vehicle may have a special endorsement affixed to his driver's license which authorizes him to drive this vehicle for the purpose of carrying out the duties and responsibilities of a fire department and related activities.

(B) Every political subdivision and unincorporated community operating a lawfully and regularly organized fire department of this State shall designate a law enforcement officer or the fire chief or his designee as its safety officer. The safety officer shall meet the qualifications set forth in the Department of Motor Vehicle guidelines. However, he does not have to be a full-time employee. A firefighter desiring to drive the vehicle referred to in subsection (A) shall demonstrate his ability to exercise ordinary and reasonable control in the operation of this vehicle to a safety officer. The fire department, including volunteer fire departments, shall submit to the Department of Motor Vehicles a list of the persons designated to drive the vehicle.

(C) It is the responsibility of the agency or fire department who operates the vehicle to keep the list of designated drivers current. Changes in the list of drivers must be reported to the Department of Motor Vehicles within thirty days from the change.

HISTORY: 1988 Act No. 532, Section 29; 1989 Act No. 165, Section 1; 1993 Act No. 181, Section 1300.

SECTION 56-1-140.

Issuance of license; necessary fees, signature, and contents; veteran designation.

(A) Upon payment of a fee of twenty-five dollars for a license that is valid for eight years, the department shall issue to every qualified applicant a driver's license as applied for by law. The license must bear on it a distinguishing number assigned to the licensee, the full name, date of birth, residence address, a brief description and unobstructed photograph of the licensee's face, any marking otherwise required or in compliance with law, and a facsimile of the signature of the licensee. No license is valid until it has been so signed by the licensee. The license authorizes the licensee to operate only those classifications of vehicles as indicated on the license.

(B) An applicant for a new, renewed, or replacement driver's license may apply to the department to obtain a veteran designation on the front of his driver's license by providing a:

(1) United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service in the United States armed forces;

(2) National Guard Report of Separation and Record of Service, also known as an NGB Form 22, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service of at least twenty years in the National Guard; or

(3) Veterans Identification Card (VIC) or a letter from a Military Reserve component notifying the recipient of the person's eligibility for retirement pay at age sixty (twenty-year letter). A Veterans Health Identification Card (VHIC) may not be accepted.

(C) The department may determine the appropriate form of the veteran designation on the driver's license authorized pursuant to this section.

(D) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1962 Code Section 46-163; 1952 Code Sections 46-156, 46-160, 46-163; 1942 Code Sections 5984, 5985, 5992; 1932 Code Sections 5984, 5985, 5992; 1930 (36) 1057; 1947 (45) 74; 1959 (51) 421; 1965 (54) 649; 1974 (58) 2349; 1976 Act No. 738

Section 10; 1985 Act No. 201, Part II, Section 86A; 1994 Act No. 497, Part II, Section 55B; 2003 Act No. 51, Section 12; 2005 Act No. 176, Section 6, eff June 14, 2005; 2012 Act No. 147, Section 1, eff April 23, 2012; 2016 Act No. 275 (S.1258), Section 11, eff July 1, 2016; 2017 Act No. 6 (H.3358), Section 4, eff April 5, 2017; 2019 Act No. 86 (H.3789), Section 3, eff November 24, 2019; 2022 Act No. 148 (H.4319), Section 2, eff May 11, 2022.

Effect of Amendment

2017 Act No. 6, Section 4, rewrote the section, revising the cost and frequency of the renewal period for a driver's license, revising the content of a driver's license, and eliminating the fee associated with the placement of a veteran designation on a driver's license. 2019 Act No. 86, Section 3, rewrote (B), revising the documents that must be provided to the Department of Motor Vehicles to obtain a veteran designation on a driver's license, inserted the (C) identifier in the undesignated paragraph following (B), and redesignated (C) as (D).

2022 Act No. 148, Section 2, in (A), in the second sentence, substituted "unobstructed photograph of the licensee's face" for "laminated colored photograph of the licensee".

SECTION 56-1-143.

Contribution to Donate Life South Carolina when obtaining or renewing driver's license.

An applicant for a new or renewal driver's license, commercial driver's license, motorcycle driver's license, identification card, issuance of a vehicle title or transfer of title, or issuance or renewal of a vehicle license plate must be given an opportunity in writing to make a voluntary contribution of five dollars, more or less, to be credited to Donate Life South Carolina established in Section 44-43-1310. Any voluntary contribution must be added to the driver's license, identification card, title, or license plate fee and must be transferred to the State Treasurer and credited to Donate Life South Carolina as provided for in Section 44-43-1310. An amount equal to the incremental cost of administration of the contribution must be paid by the trust fund from amounts received pursuant to this section to the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 before funds are expended by the trust fund.

HISTORY: 1996 Act No. 262, Section 4; 2009 Act No. 42, Section 1, eff June 2, 2009; 2016 Act No. 275 (S.1258), Section 12, eff July 1, 2016.

SECTION 56-1-146.

Surrender of driver's license by person convicted of certain crimes.

When a person is convicted of or pleads guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011, in this State, the clerk of court must notify by mail, electronic mail, or facsimile the Department of Motor Vehicles within thirty days of the conviction of guilt or nolo contendere plea. The Department of Motor Vehicles must then notify the person who was convicted of the crime of violence as defined in Section 16-23-10(3) that he must surrender his driver's license or special identification card to the Department of Motor Vehicles by mail or in person, and the Department of Motor Vehicles shall issue to the person by mail or in person a driver's license or special identification card with the identifying code as referenced in Section 56-1-148. If the person convicted of a crime of violence as defined in Section 16-23-10(3) fails to surrender his driver's license or special identification card to the Department of Motor Vehicles, the driver's license or special identification card is considered canceled.

HISTORY: 2010 Act No. 277, Section 1, eff July 1, 2011.

Editor's Note

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

SECTION 56-1-148.

Identifying code affixed on driver's license of person convicted of certain crimes.

(A) As used in this chapter "identifying code" means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011. The symbol, number, or letter of the alphabet shall not be defined on the driver's license or special identification card.

(B) In addition to the contents of a driver's license provided for in Section 56-1-140 or a special identification card provided for in Section 56-1-3350, a person who has been convicted of or pled guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011, must have an identifying code determined by the department affixed to the reverse side of his driver's license or special identification card. The code must identify the person as having been convicted of a violent crime. The code must be developed by the department and made known to the appropriate law enforcement officers and judicial officials of this State.

(C) The presence of a special identifying code on a person's driver's license or special identification card may not be used as a grounds to extend the detention of the person by a law enforcement officer or grounds for a search of the person or his vehicle.

(D) A person whose driver's license or special identification card has been canceled pursuant to Section 56-1-146 may apply for a new license or special identification card in a manner prescribed by the department. The department must issue by mail or in person a new license or special identification card with the identifying code required by this section. The department must not issue a new driver's license to a person during any period of suspension or revocation for any reason other than Section 56-1-146 and a driver's license may only be issued after the period of suspension or revocation has ended and the person is otherwise eligible to be issued a license.

(E) The intent of placing an identifying code on a driver's license or special identification card that identifies a person who has been

convicted of a crime of violence as defined in Section 16-23-10(3) is to promote the state's fundamental right to provide for the public health, welfare, and safety of its citizens and law enforcement officers. Notwithstanding this legitimate stated purpose, this provision is not intended to violate the guaranteed constitutional rights of persons who have violated our state's laws.

(F) If a person's conviction or guilty plea for a crime of violence as defined in Section 16-23-10(3) is reversed on appeal, or if the person is subsequently pardoned, then the person may apply for a driver's license or special identification card that does not have the identifying code affixed.

(G) A person who is not convicted of a subsequent crime of violence as defined in Section 16-23-10(3) for five years after he has completely satisfied the terms of his sentence or during the term of the person's probation or parole, whichever the sentencing judge determines is appropriate, may file an application with the department to have the identifying code affixed to his driver's license or special identification card removed.

(H) A person must provide appropriate supporting documentation prescribed by the department to verify his eligibility to have the identifying code removed pursuant to subsection (F) or (G). Upon verification and payment of the fee provided in Section 56-1-140, the person must be issued a new driver's license or special identification card.

HISTORY: 2010 Act No. 277, Section 2, eff July 1, 2011; 2016 Act No. 275 (S.1258), Section 13, eff July 1, 2016; 2018 Act No. 159 (S.499), Section 1, eff May 3, 2018.

Editor's Note

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

Effect of Amendment

2018 Act No. 159, Section 1, deleted (D), which related to a fifty-dollar fee associated with placing the identifying code on a driver's license; redesignated (E) to (I) as (D) to (H); and in (D), in the second sentence, deleted "after payment of the fifty-dollar fee provided in subsection (C)" following "required by this section".

SECTION 56-1-170.

Restricted licenses; penalties for violations; hearings; special restricted driver's licenses.

(A) The Department of Motor Vehicles upon issuing a driver's license has authority, whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or other restrictions applicable to the licensee as the department determines to be appropriate to assure the safe operation of a motor vehicle by the licensee. The department may either issue a special restricted license or may set forth the restrictions on the usual license form. The department shall not discriminate against a handicapped person by treating him in a different manner than it treats a nonhandicapped person. A handicapped person shall have the option of taking the same test as a nonhandicapped person and, upon satisfactory completion of the test, shall be issued a license comparable to which a nonhandicapped person would be qualified to receive. A person who has been issued a driver's license without restrictions who was handicapped at the time of the issuance of the license may have his driver's license renewed without restrictions unless he has received an additional handicap.

The department may, upon receiving satisfactory evidence of any violation of the restrictions of the license, suspend or revoke the license. A licensee aggrieved by the action of the department may request a contested case hearing before the Office of Motor Vehicle Hearings in accordance with its rules of procedure.

Any person who operates a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-165; 1959 (51) 421; 1979 Act No. 166 Section 1; 1999 Act No. 115, Section 2; 2001 Act No. 79, Section 2.B; 2008 Act No. 279, Section 3, eff October 1, 2008; 2016 Act No. 275 (S.1258), Section 14, eff July 1, 2016.

SECTION 56-1-171.

Suspension for failure to pay child support; route-restricted license.

(A) A person whose driver's license has been suspended for failure to comply with an order for child support may obtain a special route-restricted driver's license from the Department of Motor Vehicles. The special route-restricted driver's license allows the

person to only operate a motor vehicle as transportation between his home and work, or as a part of his work duties, or as transportation to a college, university, technical college, or any other institution of higher learning in which he is enrolled.

(B) If the Department of Motor Vehicles issues a special route-restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the Department of Motor Vehicles by the person.

(C) The fee for a special route-restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(D) The operation of a motor vehicle outside the time limits and route imposed by a special route-restricted driver's license by the person issued that license is a violation of Section 56-1-460.

(E) If after six months of obtaining the special route-restricted driver's license the person is still substantially out of compliance with the order for support, the Department of Social Services shall notify the Department of Motor Vehicles to suspend the special route-restricted driver's license. The Department of Motor Vehicles shall suspend the special route-restricted driver's license until the Department of Social Services notifies the Department of Motor Vehicles to withdraw the suspension.

(F) The fee for a special route-restricted driver's license must be in accordance with Section 56-1-140.

HISTORY: 2007 Act No. 46, Section 1, eff June 4, 2007.

SECTION 56-1-175.

Issuance of conditional driver's license.

(A) The Department of Motor Vehicles 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, 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 (D);
- (3) completed at least forty hours of driving practice, including at least ten hours of driving practice during darkness, supervised by any licensed individual listed in Section 56-1-100(A)(1-7);
- (4) passed successfully the road tests or other requirements the department may prescribe; and
- (5) satisfied the school attendance requirement contained in Section 56-1-176.

(B) A conditional driver's license is valid only in the operation of vehicles during daylight hours. The holder of a conditional license must be accompanied by a licensed adult twenty-one years of age or older after six o'clock p.m. or eight o'clock p.m. during daylight saving time. A conditional driver's license holder may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7). The accompanying driver must:

- (1) occupy a seat beside the conditional license holder when the conditional license holder is operating a motor vehicle; or
- (2) be within a safe viewing distance of the conditional license holder when the conditional license holder is operating a motorcycle or a moped.

(C) A conditional driver's license holder may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult who is twenty-one years of age or older. This restriction does not apply when the conditional driver's license holder is transporting family members, or students to or from school.

(D) A driver training course, as used in this section, means a driver's training course administered by a driver's training school or a private, parochial, or public high school conducted by a person holding a valid driver's instructor permit contained in Section 56-23-85.

(E) For purposes of issuing a conditional driver's license pursuant to this section, the department must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program that is equivalent to an approved course or program in this State. The department must establish procedures for approving qualified driver's training courses or programs for out-of-state students.

HISTORY: 1998 Act No. 258, Section 3; 2002 Act No. 181, Section 2; 2017 Act No. 89 (H.3247), Section 4, eff November 19, 2018; 2018 Act No. 259 (H.4676), Section 3, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 4, amended the section, deleting the provision that allows a licensee to operate a motor scooter and the provision that defined the term "daylight hours", and providing the location that an accompanying driver must be seated when the licensee is operating a motor vehicle.

2018 Act No. 259, Section 3, in (A), in (3), substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the person's licensed parent or guardian"; and in (B), in the third sentence, substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the holder's licensed parent or guardian".

SECTION 56-1-176.

Conditions for issuance of conditional driver's license and special restricted driver's license.

(A) School attendance is a condition for the issuance of a conditional driver's license and a special restricted driver's license. The Department of Motor Vehicles may not issue a conditional driver's license or a special restricted driver's license to a person pursuant to Section 56-1-175 or Section 56-1-180 unless the person:

- (1) has a high school diploma or certificate, or a General Education Development Certificate; 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, and:

(a) the person 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 is not suspended or expelled from school.

(B) Documentation of enrollment status must be presented to the department by the applicant on a form approved by the department. The documentation must indicate whether the student is in compliance with the requirements as provided in item (2).

HISTORY: 1998 Act No. 258, Section 4; 2002 Act No. 181, Section 3.

SECTION 56-1-180.

Special restricted licenses for certain minors.

(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 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 any licensed individual listed in Section 56-1-100(A)(1-7);

(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.

(B) A special restricted driver's license is valid only in the operation vehicles during daylight hours. The holder of a special restricted driver's license must be accompanied by a licensed adult, twenty-one years of age or older after six o'clock p.m. or eight o'clock p.m. during daylight saving time. The holder of a special restricted driver's license may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7). The accompanying driver must:

(1) occupy a seat beside the conditional license holder when the conditional license holder is operating a motor vehicle; or

(2) be within a safe viewing distance of the conditional license holder when the conditional license holder is operating a motorcycle or a moped.

(C) The restrictions in this section may be modified or waived by the department if the restricted licensee proves to the department's satisfaction that the restriction interferes or substantially interferes with:

(1) employment or the opportunity for employment;

(2) travel between the licensee's home and place of employment or school;

(3) travel between the licensee's home or place of employment and vocational training;

(4) travel between the licensee's church, church-related and church-sponsored activities; or

(5) travel between the licensee's parentally approved sports activities.

(D) The waiver or modification of restrictions provided for in subsection (C) must include a statement of the purpose of the waiver or modification executed by the parents or legal guardian of the holder of the restricted license and documents executed by the driver's employment or school official, as is appropriate, evidencing the holder's need for the waiver or modification.

(E) A special restricted license holder may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult twenty-one years of age or older. This restriction does not apply when the special restricted license holder is transporting family members or students to or from school.

(F) A driver training course, as used in this section, means a driver's training course administered by a driver's training school or a private, parochial, or public high school conducted by a person holding a valid driver's instruction permit contained in Section 56-23-85.

(G) For purposes of issuing a special restricted driver's license pursuant to this section, the department must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program that is equivalent to an approved course or program in this State. The department must establish procedures for approving qualified driver's training courses or programs for out-of-state students.

HISTORY: 1962 Code Section 46-166; 1959 (51) 564; 1960 (51) 1634; 1966 (54) 2424; 1967 (55) 670; 1992 Act No. 490, Section 1998 Act No. 258, Section 10; 2002 Act No. 181, Section 4; 2017 Act No. 89 (H.3247), Section 5, eff November 19, 2018; 2018 Act No. 259 (H.4676), Section 4, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 5, amended the section, deleting the provision that allows a licensee to operate a motor scooter and the provision that defined the term "daylight hours", and providing the location that an accompanying driver must be seated when the licensee is operating a motor vehicle.

2018 Act No. 259, Section 4, in (A), in (3), substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the person's licensed parent or guardian"; and in (B), in the third sentence, substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the holder's licensed parent or guardian".

SECTION 56-1-185.

Removal of restrictions postponed; suspension of license.

(A) A person while operating a motor vehicle under a conditional or a special restricted driver's license who is convicted of a traffic offense or involved in an accident in which he was at fault shall have the removal of the restrictions postponed for twelve months and is not eligible to be issued a regular driver's license until one year from the date of the last traffic offense or accident in which he was at fault or until he is seventeen years of age.

(B) A person while operating a motor vehicle under a beginner's permit or a conditional or a special restricted driver's license who is convicted of one or more point-assessable traffic offenses totaling six or more points, as determined by the values contained in Section 56-1-720, shall have his license suspended by the Department of Motor Vehicles for six months. This suspension shall not preclude other penalties otherwise provided for the same violations.

HISTORY: 1988 Act No. 532, Section 1; 1998 Act No. 258, Section 11; 2002 Act No. 181, Section 5.

SECTION 56-1-187.

Permitting dependent to operate motor vehicle without learner's permit or in violation of permit restrictions; civil penalties; admissibility of civil fine in private cause of action.

A parent or guardian who knowingly and wilfully permits his dependent to operate a motor vehicle in violation of a restriction imposed on a beginner's permit pursuant to Section 56-1-50, a conditional driver's license pursuant to Section 56-1-175, or a special restricted driver's license pursuant to Section 56-1-180, or knowingly permits his dependent to operate a motor vehicle without a valid beginner's permit or driver's license, must be assessed a civil fine in an amount up to five hundred dollars. Upon the magistrates or municipal court receiving notice of the dependent's violation through transmittal to the court of the traffic ticket or through other means, the court shall determine the names of the parents or guardians from the records of the Department of Motor Vehicles. The court shall then notify the dependent's parents or guardians by certified mail at the address shown on the traffic ticket, unless the department's records show a different address, of the violation and the fact that they may be subject to a civil fine. Failure to receive the notice does not prohibit the imposition of the civil fine pursuant to this section. If, while operating the motor vehicle in violation of a restriction, the dependent causes great bodily injury or death, the parent or guardian must be assessed a civil fine in an amount up to one thousand dollars. The court may suspend the imposition of the fine, conditioned upon the parent or guardian completing, to the satisfaction of the court, public service with a nonprofit organization, community service, or parenting classes. This section does not apply to a motor vehicle operated on private property. A civil fine imposed pursuant to this section does not give rise to a private cause of action based solely upon the fact that the fine was imposed. The imposition of a civil fine is not admissible for the purpose of establishing the liability of a parent or guardian in a private cause of action to which the parents or guardians are a party.

HISTORY: 2008 Act No. 336, Section 1, eff June 16, 2008.

Editor's Note

2008 Act No. 336, Section 1.A, provides as follows:

"This section may be cited as "Tyler's Law"."

SECTION 56-1-190.

License must be carried and exhibited on demand.

A licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display it upon demand of an officer or agent of either the Department of Motor Vehicles or the Department of Public Safety or a law enforcement officer of the State. No points pursuant to Section 56-1-720 may be assessed. No points for insurance merit rating system and recoupment purposes may be assessed.

HISTORY: 1962 Code Section 46-167; 1952 Code Section 46-165; 1942 Code Section 5993; 1932 Code Section 5993; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 134, Section 1; 1994 Act No. 497, Part II, Section 36P.

SECTION 56-1-200.

Duplicate for lost or destroyed license; fee.

(A) If a driver's license is lost or destroyed, the person to whom the license was issued, upon payment of a fee of ten dollars, may obtain a duplicate or substitution of it upon furnishing proof satisfactory to the Department of Motor Vehicles that the license has been lost or destroyed.

(B) Three dollars of the revenue from each fee collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund based on the actual date of receipt by the Department of Motor Vehicles.

(C) The balance of the revenue from each fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1962 Code Section 46-168; 1952 Code Section 46-169; 1942 Code Section 5995; 1933 (38) 554; 1947 (45) 74; 1959 (51) 421; 1994 Act No. 497, Part II, Section 55C; 2005 Act No. 176, Section 7, eff June 14, 2005; 2008 Act No. 353, Section 2, Pt 13E, eff July 1, 2009; 2016 Act No. 275 (S.1258), Section 15, eff July 1, 2016.

SECTION 56-1-205.

Hearing impaired designations on driver's licenses.

An applicant for the issuance or renewal of a driver's license may request that a notation be placed on the license indicating that the applicant is hearing impaired.

The department shall place the notation on the driver's license if requested by the applicant and if the applicant provides an original certificate from a licensed physician, as defined in Section 40-47-5, that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears.

This section shall apply to a driver's license issued after 2012.

HISTORY: 2012 Act No. 147, Section 3.A, eff April 23, 2012.

SECTION 56-1-210.

Expiration of license; renewal and re-examination; persons on active military duty.

(A) A license expires eight years from the date of issue.

(B) A license is renewable on or before its expiration date upon application and the payment of the required fee.

(C) The department may renew a driver's license of a resident by mail or electronically upon payment of the required fee, if the renewal is a digitized license.

(D) For cause shown, the department may require the submission by the applicant of evidence satisfactory to the department of the applicant's mental and physical fitness to drive and his knowledge of traffic laws and regulations. If the evidence is not satisfactory to the department, the department may require an examination of the applicant as upon an original application. Parallel parking is not required as a part of the driver's test.

(E) If a person's license expires and he is unable to renew it before its expiration date because he is on active military duty outside this State for a continuous period of at least thirty days immediately before the expiration date or because he is the spouse or dependent living for a continuous period of at least thirty days immediately before the expiration date with a person on active military duty outside this State, within sixty days after returning to this State, the person may renew his license in the manner permitted by this section as though the license had not expired. The department may require proof from the person that he qualifies for renewal of his license under this paragraph. Upon request, the person shall provide the department with a copy of his military service record, a document of his branch of military service showing the date of active military duty outside the State, or other evidence presented by the person showing the dates of service.

HISTORY: 1962 Code Section 46-169; 1952 Code Section 46-166; 1942 Code Section 5994; 1932 Code Section 5994; 1930 (36) 1057; 1945 (44) 32; 1959 (51) 421; 1965 (54) 649; 1967 (55) 330; 1982 Act No. 352; 1988 Act No. 372; 1994 Act No. 487, Section 1; 1994 Act No. 497, Part II, Section 55D; 1996 Act No. 459, Section 74; 2003 Act No. 51, Section 13; 2017 Act No. 6 (H.3358), Section 5, eff April 5, 2017; 2019 Act No. 86 (H.3789), Section 4, eff November 24, 2019.

Effect of Amendment

2017 Act No. 6, Section 5, amended (A), (C), and (D), revising the expiration date of a license issued after October 1, 2017, revising the criteria that must be met by a person who seeks to have a license renewed, and making other nonsubstantive changes.

2019 Act No. 86, Section 4, in (A), substituted "expires eight years from the date of issue" for "issued or renewed on or after October 1, 2017, expires on the licensee's birth date on the eighth calendar year in which it is issued".

SECTION 56-1-215.

Renewal of expired license.

Notwithstanding any other provision of law, if a person's license expires, the person may have his license renewed without taking the road test or a written examination required pursuant to Section 56-1-130 if the person applies for his license renewal within nine months of the expiration of his license.

HISTORY: 2003 Act No. 51, Section 20.

SECTION 56-1-218.

Driver's license extensions.

(A) Notwithstanding any other provision of law, a member of the Armed Forces of the United States, who is deployed or mobilized outside of this State, or receives orders for a permanent change of station outside of this State, or a civilian employee of the Department of Defense performing temporary duty outside of the State in support of the armed forces, whose license expires while serving outside of this State or whose license expires within ninety days from the beginning of service outside of this State, may apply for an extension on the expiration of the license.

(B) The department must grant the extension if the service member, or a civilian employee of the Department of Defense, provides copies of the orders that require service outside of this State and a valid military identification card, or in the case of a civilian employee, the civilian employee's Department of Defense issued identification card, or military orders supporting services outside of the State. The extension shall expire ninety days after the member is discharged from the service or returns to this State. If the orders do not specify a return date, the service member is deemed to have returned on the date that the commanding officer of the unit provides as the return date to the department. The license is deemed to expire only upon the expiration of the extension.

(C) The provisions of this section also apply to dependents residing with the service member.

(D) The department may prescribe forms and policies to implement the provisions of this section. The department must post the application form on its website, and the application must be able to be processed by mail or electronically.

HISTORY: 2014 Act No. 285 (S.999), Section 1, eff June 9, 2014.

SECTION 56-1-219.

Work zone safety program.

The Department of Motor Vehicles shall establish a work zone safety program. The work zone safety program shall be designed to educate the motoring public on the dangers of committing moving violations while traveling in highway construction work zones. The department shall develop and house on its website an online work zone awareness presentation for all persons obtaining an initial license that includes, but is not limited to, facts and figures representing the dangers of motorists committing work zone moving violations, testimonials from highway construction workers and their families, information on the importance of awareness and slowing down in work zones, and a question-and-answer section to ensure participants understand and retain the information presented. The Department of Motor Vehicles is authorized to contract for the production, development, and maintenance of the webpage through a vendor. The department shall maintain in its database a record of those completing the program.

HISTORY: 2024 Act No. 182 (H.5023), Section 1, eff May 20, 2024.

SECTION 56-1-220.

Vision screenings required for initial license; certification of minimum standards for renewal; unlawful operation of vehicle with

defective vision; penalty.

(A) Unless otherwise exempted, the department shall require vision screening for all persons obtaining an initial license and upon license renewal. The vision screening must be offered by the department, however, a person's screening must be waived upon the submission of a certificate of vision examination dated within the previous thirty-six months from an ophthalmologist or optometrist licensed in any state.

(B) Active-duty members of the Armed Services are exempt from the requirements of this section, provided they provide the department with a Leave and Earnings Statement dated within thirty-one days of applying for or renewing their driver's license and a nonexpired military identification card.

(C) The renewal license forms distributed by the department must be designed to contain a certification that the vision of the person screened meets the minimum standards required by the department or have been corrected to meet these requirements. The certification must be executed by the person conducting the screening. A Certificate of Vision Examination form must be executed by the certifying ophthalmologist or optometrist and must be transmitted to the department electronically pursuant to its electronic specifications. The minimum standards of the department shall not require a greater degree of vision than 20/40 corrected in one eye. Persons using bioptic lenses must adhere to the provisions contained in Section 56-1-222.

(D) A person whose vision is corrected to meet the minimum standards shall have the correction noted on his driver's license by the department.

(E) It is unlawful for a person whose vision requires correction in order to meet the minimum standards of the department to drive a motor vehicle in this State without the use of the correction.

(F) Unless otherwise provided in this section, any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 46-169.1; 1965 (54) 649; 1993 Act No. 181, Section 1302; 2003 Act No. 51, Section 14; 2016 Act No. 275 (S.1258), Section 16, eff July 1, 2016; 2017 Act No. 6 (H.3358), Section 6, eff April 5, 2017; 2018 Act No. 220 (H.4672), Section 1, eff October 1, 2020; 2023 Act No. 51 (S.549), Section 38, eff May 18, 2024.

Editor's Note

2023 Act No. 51, Section 40(A), provides as follows:

"SECTION 40. (A) SECTION 1 and Section 56-1-220 take effect twelve months after the approval by the Governor."

Effect of Amendment

2017 Act No. 6, Section 6, in (A), substituted "The department shall require vision screening for all persons obtaining an initial license" for "Vision screenings are required for all persons before having their licenses renewed by the Department of Motor Vehicles"; deleted former (B) and (C), relating to a certificate from an ophthalmologist or optometrist and exceptions relating to the year 2008; redesignated the remaining paragraphs accordingly; and in (B), inserted "if a screening is required", and added the fourth sentence.

2018 Act No. 220, Section 1, in (A), in the first sentence, inserted "and upon license renewal", and in the second sentence, substituted "must be offered by the department, however, a person's screening must" for "may"; and in (B), in the first sentence, deleted "if a screening is required" at the end, and inserted the third sentence, relating to the execution of a Certificate of Vision Examination form.

2023 Act No. 51, Section 38, in (A), in the first sentence, substituted "Unless otherwise exempted, the" for "The", and in the second sentence, substituted "thirty-six months" for "twelve months"; and inserted (B) and redesignated former (B) to (E) as (C) to (F).

SECTION 56-1-221.

Medical Advisory Board.

(A) There is created an advisory board composed of thirteen members. One member must be selected by the Commissioner of the Department of Health and Environmental Control from his staff, ten members must be appointed by the South Carolina Medical Association, and two members must be appointed by the South Carolina Optometric Association. The member selected by the Commissioner of the Department of Health and Environmental Control must be the administrative officer of the advisory board. To the maximum extent possible, the members of the board appointed by the South Carolina Medical Association and the South Carolina Optometric Association must be representative of the disciplines of the medical and optometric community treating the mental or physical disabilities that may affect the safe operation of motor vehicles. The identity of physicians and optometrists serving on the board, other than the administrative officer, may not be disclosed except as necessary in proceedings under Sections 56-1-370 or 56-1-410. The members of the board may receive no compensation.

(B) The board shall advise the executive director of the Department of Motor Vehicles on medical criteria and vision standards relating to the licensing of drivers.

(C) Having cause to believe that a licensed driver or applicant may not be physically or mentally qualified to be licensed, the Department of Motor Vehicles may obtain the advice of the board. The board may formulate its advice from records and reports or may cause an examination and report to be made by one or more members of the board or any other qualified person it may designate. The additional examination is at the expense of the applicant or licensed driver. The licensed driver or applicant may cause a written report to be forwarded to the board by a physician or optometrist of his choice, and it must be given consideration by the board.

(D) Members of the board and other persons making examinations are not liable for their opinions and recommendations presented pursuant to subsection (C).

(E) Reports received or made by the board or its members for the purpose of assisting the department in determining whether a

person is qualified to be licensed are for the confidential use of the board and the department and may not be divulged to a person or used as evidence in a trial except that the reports may be admitted in proceedings under Sections 56-1-370 and 56-1-410, and a person conducting an examination pursuant to subsection (C) may be compelled to testify concerning his observations and findings in those proceedings.

HISTORY: 1988 Act No. 667.

SECTION 56-1-222.

Driver's licenses issued to wearers of bioptic telescopic lenses.

(A) Notwithstanding the provisions contained in Section 56-1-220, a person diagnosed with low vision acuity who uses bioptic telescopic lenses for vision assistance may be issued a driver's license by the Department of Motor Vehicles if he:

- (1) submits a vision report form that complies with subsection (B);
- (2) submits proof that he has been trained to operate a motor vehicle while wearing bioptic telescopic lenses as evidenced by having completed successfully a driver-training course or program that meets the criteria listed in subsection (C) for these programs; and
- (3) meets all other qualifications for obtaining a driver's license, including passing the department-administered road test while wearing bioptic telescopic lenses. A person applying for a driver's license pursuant to this section who fails to pass the road test after three attempts must present certification of repeat completion of a driver-training course or program that meets the criteria listed in subsection (C).

(B) An applicant for a driver's license who will use bioptic telescopic lenses for vision assistance while driving must submit a vision report form supplied by the department. The report must be completed by an optometrist or ophthalmologist. The report must include:

- (1) the applicant's vital data;
- (2) the bioptic telescopic system vendor's name and type, strength (in X-power), and the date the bioptic telescopic system was dispensed to the applicant;
- (3) a statement regarding whether the applicant has a potentially progressive condition; and
- (4) certification by an optometrist or ophthalmologist that the applicant:
 - (a) is not impaired in the movement of his eyes, head, or neck;
 - (b) possesses sound cognitive and perceptual skills, reaction time, range of motion, and coordination of upper and lower extremities needed to operate a motor vehicle;
 - (c) is able to detect and recognize the colors of traffic signals and devices showing standard red, green, and amber colors or passes the large disc D-15 color test, or both;
 - (d) has visual acuity of at least 20/120 in the better functioning eye when looking through the carrier lens of a bioptic telescopic aid;
 - (e) has improved visual acuity of at least 20/40 using the bioptic telescopic aid in the better functioning eye;
 - (f) has a binocular horizontal visual field diameter of not less than one hundred twenty degrees and a vertical field of not less than eighty degrees without the use of visual field expanders. If the applicant is monocular, the horizontal visual field may not be less than seventy degrees temporally and thirty-five degrees nasally;
 - (g) has the signed approval of an optometrist or ophthalmologist to apply for driving privileges using a bioptic telescope;
 - (h) has successfully completed an In-Clinic Pre-Driver Bioptic Evaluation and Training Program as contained in subsection (C) that was provided by a doctorate level Eye Care Professional (ECP), Certified Driving Rehabilitation Specialist (CDRS), Certified Low Vision Therapist (CLVT), or Certified Orientation and Mobility Specialist (COMS), or such other designations of qualification as may be recognized by the department who are certified in Bioptic Driving Training; and
 - (i) has successfully completed a recognized Bioptic Driving Behind-the-Wheel Training Program provided by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training recognized by the department.

(C) A person applying for a driver's license pursuant to this section must complete successfully a bioptic driver training course or program certified to train individuals to use bioptic telescopic glasses while operating a motor vehicle. The applicant must pass this training before he is eligible to take the behind-the-wheel driver's test administered by the department. This program shall consist of the following two parts:

(1) Part 1 is the In-Clinic Pre-Driver Bioptic Evaluation and Training Program and is supervised or reviewed by the optometrist or ophthalmologist that prescribed the bioptic telescope. This portion of the program is conducted by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training recognized by the department. An applicant must satisfactorily complete all components of Part 1 prior to advancing to the behind-the-wheel aspect of the Bioptic Training Program.

(a) The evaluation portion of Part 1 includes a preliminary interview, an assessment of cognitive and perceptual skills, a commentary drive screening, a reaction time screening, and a preliminary in-car driver's evaluation (including an upper and lower extremities and range of motion skills screening) by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department.

(b) The training portion of Part 1 requires a minimum of ten hours of commentary driving skills training as a front seat passenger. Commentary driver training must include, but is not limited to, instruction and reinforcement in the following areas:

- (i) space cushion driving skills;
- (ii) critical object awareness skills;
- (iii) basic bioptic utilization skills;

(iv) joining and leaving traffic formations; and

(v) lane changing skills (including mirror and blind spot awareness skills).

(2) Part 2 is the Behind-the-Wheel Bioptic Driving Program. This program is conducted on-road by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training. The course or program must consist of the following minimum training requirements:

(a) for a person with no previous driving experience, the course shall consist of at least thirty hours of behind-the-wheel driving skills with a bioptic telescopic lens system in place and under the supervision of an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training. For a person with previous driving experience, the course shall consist of at least twenty hours behind-the-wheel driving skills under the supervision of an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training;

(b) review and integrated reinforcement of the proper and appropriate use of the bioptic telescopic lens system while driving a motor vehicle, including cleaning and focusing procedures and vertical spotting exercises; and

(c) the award of a Certificate of Completion of Training to a trainee when he successfully completes the Behind-the-Wheel Bioptic Driver's Training Program. He must present this certificate to the department in order to take the on-the-road portion of the driver's license test with his bioptic telescope system in place. He also shall provide a copy of the certificate to the supervising optometrist or ophthalmologist.

The applicant must apply for a driver's license and take the department road test within twelve months of having completed the Behind-the-Wheel Bioptic Driving Program. The road test is the same standard road test taken by all other persons applying for a regular driver's license.

(D) A person who is licensed to drive using bioptic telescopic aid is subject to restrictions placed on his license. Restrictions may include, but are not limited to:

(1) driving only during daylight hours;

(2) the vehicle being operated by the bioptic driver must be equipped with both left and right side mirrors;

(3) the bioptic driver shall not be permitted to operate a motorcycle, moped, or motor scooter;

(4) the bioptic driver may not drive during adverse weather conditions that significantly reduce the visibility of the roadway or other traffic and traffic control devices;

(5) a maximum speed of fifty miles per hour;

(6) no other mental or physical handicaps; and

(7) no driving on an interstate highway.

Any restrictions must be confirmed and finalized by the department's certified driver licensing examining officer. Any restrictions must be eligible for review and reconsideration after one year, as determined and recommended by the examining optometrist or ophthalmologist and approved by the department.

(E) An applicant who is issued a driver's license pursuant to this section must have the low vision report updated annually within sixty days of the annual anniversary date of driver's licensure by an optometrist or ophthalmologist and submit it to the department for review. The eye care professional that examines the applicant and completes the report shall indicate at the top of the report whether the applicant's vision condition has deteriorated so that the applicant no longer meets the requirements of subsection (B)(4). The department shall review the report.

(F) If the report indicates a progressive loss of vision but the applicant still meets the vision requirements of subsection (B)(4), the applicant may be required to take additional driver training and additional on-road testing before his license may be renewed.

(G) If the report indicates that the applicant no longer meets the requirements of subsection (B)(4), the department immediately shall revoke the license held by the applicant. To be issued a new valid license, the applicant must retake the department-administered road test and meet the requirements of subsection (B)(4).

(H) Nothing in this section permits an applicant who uses bioptic telescopic lenses for vision assistance to apply for a license to operate a motorcycle or a commercial driver's license.

HISTORY: 2016 Act No. 196 (S.21), Section 1, eff June 3, 2017.

Editor's Note

2016 Act No. 196, Section 2, provides as follows:

"SECTION 2. The department shall promulgate any regulations as may be necessary to implement the provisions of Section 1."
SECTION 56-1-225.

Reexamination of drivers involved in four accidents within twenty-four months.

Any person licensed to drive a motor vehicle in this State who is involved as a driver in four accidents in any twenty-four month period, which are reported to the director, may, in the discretion of the Department of Motor Vehicles, be required to take any portion of the driver's license examination deemed appropriate. Any person who has had four such accidents and fails to submit to such test within thirty days after having been notified by the department shall have his driver's license suspended until he takes and passes such test.

HISTORY: 1976 Act No. 733 Sections 1, 2; 1993 Act No. 181, Section 1303; 1996 Act No. 459, Section 246A.

SECTION 56-1-230.

Notification of change of address or name.

Whenever any person after applying for or receiving a driver's license shall move permanently from the address named in such

application or in the license issued to him or when the name of a licensee is changed by marriage or otherwise, such person shall within ten days thereafter notify the Department of Motor Vehicles in writing of his old and new address or of such former and new name and of the number of any license then held by him.

HISTORY: 1962 Code Section 46-170; 1952 Code Section 46-168; 1942 Code Section 5988; 1932 Code Section 5988; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-240.

Cancellation and surrender of license.

The Department of Motor Vehicles may cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof or that the licensee failed to give the required or correct information in his application or committed any fraud in making such application and for such other causes as may be authorized by law.

Upon such cancellation the licensee must surrender the license so cancelled by the Department.

HISTORY: 1962 Code Section 46-171; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-245.

Conditions for waiver of license reinstatement fee.

If a driver's license is suspended or revoked because the licensee is determined by the Department of Motor Vehicles to have no motor vehicle liability insurance, the department shall waive the reinstatement fee imposed pursuant to Section 56-1-390 if the licensee had motor vehicle liability coverage when his license was suspended or revoked. The director shall document his reasons for waiving the fee in the records of the department.

HISTORY: 1992 Act No. 427; 1992 Act No. 443, Section 2.

SECTION 56-1-250.

Cancellation of license or permit upon death of person signing minor's application.

The Department of Motor Vehicles upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license or permit shall cancel such license or permit and shall not issue a new license until such time as a new application, duly signed and verified, is made as required by this article.

HISTORY: 1962 Code Section 46-172; 1959 (51) 421.

SECTION 56-1-260.

Effect of cancellation of license.

The cancellation of a driver's license is without prejudice, and application for a new license may be made at any time after such cancellation.

HISTORY: 1962 Code Section 46-173; 1959 (51) 421.

SECTION 56-1-270.

Suspension, revocation, or restriction of license on re-examination.

The Department of Motor Vehicles having good cause to believe that a person holding a South Carolina driver's license is incompetent or otherwise not qualified to be licensed because of physical or mental disability may, upon written notice of at least ten days to the licensee, require him to submit to an examination. Upon the conclusion of such examination the department shall take action as may be appropriate and may suspend or revoke the license of such person or permit him to retain such license or may issue a license subject to restrictions permitted under Section 56-1-170. The license of any person may be suspended or revoked if they refuse or neglect to submit to such an examination.

HISTORY: 1962 Code Section 46-174; 1952 Code Sections 46-174 to 46-176; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1304; 1996 Act No. 459, Section 75.

SECTION 56-1-280.

Mandatory suspension or revocation.

The Department of Motor Vehicles shall revoke or suspend the license of any driver upon receiving a record of such driver's conviction of any offense for which revocation or suspension is required by law.

The department shall revoke the driver's license of any person upon receiving notice of the conviction of such person for:

- (1) Manslaughter resulting from the operation of a motor vehicle; or
- (2) Any felony under the laws of this State in the commission of which a motor vehicle is used.

HISTORY: 1962 Code Section 46-175; 1952 Code Section 46-173; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 11996 Act No. 459, Section 76.

SECTION 56-1-285.

Revocation or refusal to renew license for nonpayment of fees.

The Department of Motor Vehicles may revoke or refuse to renew the driving privilege of a person for failure to remit a tax or fee administered by the department. Upon payment of all taxes and fees administered by the department, and the payment of any applicable fee, the department may reinstate a person's driving privilege.

HISTORY: 1996 Act No. 459, Section 77.

SECTION 56-1-286.

Suspension of license or permit or denial of issuance of license or permit to persons under the age of twenty-one who drive motor vehicles with certain amount of alcohol concentration.

(A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the

issuance of a license or permit to a person under the age of twenty-one who drives a motor vehicle and has an alcohol concentration of two one-hundredths of one percent or more. In cases in which a law enforcement officer initiates suspension proceedings for a violation of this section, the officer has elected to pursue a violation of this section and is subsequently prohibited from prosecuting the person for a violation of Section 63-19-2440, 63-19-2450, 56-5-2930, or 56-5-2933, arising from the same incident.

(B) A person under the age of twenty-one who drives a motor vehicle in this State is considered to have given consent to chemical tests of the person's breath or blood for the purpose of determining the presence of alcohol.

(C)(1) A law enforcement officer who has arrested a person under the age of twenty-one for a violation of Chapter 5 of this title (Uniform Act Regulating Traffic on Highways), or any other traffic offense established by a political subdivision of this State, and has reasonable suspicion that the person under the age of twenty-one has consumed alcoholic beverages and driven a motor vehicle may order the testing of the person arrested to determine the person's alcohol concentration.

(2) A law enforcement officer may detain and order the testing of a person to determine the person's alcohol concentration if the officer has reasonable suspicion that a motor vehicle is being driven by a person under the age of twenty-one who has consumed alcoholic beverages.

(D)(1) A test must be administered at the direction of the primary investigating law enforcement officer. At the officer's direction, the person first must be offered a breath test to determine the person's alcohol concentration. If the person physically is unable to provide an acceptable breath sample because the person has an injured mouth or is unconscious or dead, or for any other reason considered acceptable by licensed medical personnel, a blood sample may be taken. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to the State Law Enforcement Division's policies. The primary investigating officer may administer the test. Blood samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, or other medical personnel trained to obtain these samples in a licensed medical facility. Blood samples must be obtained and handled in accordance with procedures approved by the division. The division shall administer the provisions of this subsection and shall promulgate regulations necessary to carry out the subsection's provisions. The costs of the tests administered at the officer's direction must be paid from the state's general fund. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person shall pay twenty-five dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

(2) The person tested or giving samples for testing may have a qualified person of the person's choice conduct additional tests at the person's expense and must be notified in writing of that right. A person's request or failure to request additional blood tests is not admissible against the person in any proceeding. The person's failure or inability to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the officer's direction. The officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance shall, at a minimum, include providing transportation for the person to the nearest medical facility which provides blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood to determine the person's alcohol concentration, the State Law Enforcement Division shall test the blood and provide the result to the person and to the officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

(E) A qualified person and the person's employer who obtain samples or administer the tests or assist in obtaining samples or administering of tests at the primary investigating officer's direction are immune from civil and criminal liability unless the obtaining of samples or the administering of tests is performed in a negligent, reckless, or fraudulent manner. A person may not be required by the officer ordering the tests to obtain or take any sample of blood or urine.

(F) If a person refuses upon the primary investigating officer's request to submit to chemical tests as provided in subsection (C), the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) six months; or

(2) one year, if the person, within the three years preceding the violation of this section, has been previously convicted of violating 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, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(G) If a person submits to a chemical test and the test result indicates an alcohol concentration of two one-hundredths of one percent or more, the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) three months; or

(2) six months, if the person, within the three years preceding the violation of this section, has been previously convicted of violating 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, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(H)(1) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, 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 three months, the ignition interlock device is required to be affixed to the motor vehicle for three months.

(2) The person must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(3) 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 cannot subsequently choose to serve the suspension.

(I) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension or ignition interlock restricted license requirement pursuant to subsection (F) or (G) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program. After the person's driving privilege is restored, the person shall continue the services of the Alcohol and Drug Safety Action Program. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until completion of the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before the person's driving privilege can be restored at the conclusion of the suspension period or ignition interlock restricted license requirement.

(J)(1) A test may not be administered or samples taken unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(a) the person does not have to take the test or give the samples but that the person's privilege to drive must be suspended or denied for at least six months if the person refuses to submit to the tests, and that the person's refusal may be used against the person in court;

(b) the person's privilege to drive must be suspended for at least three months if the person takes the test or gives the samples and has an alcohol concentration of two one-hundredths of one percent or more;

(c) the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense;

(d) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and

(e) the person shall enroll in an Alcohol and Drug Safety Action Program within thirty days of the issuance of the notice of suspension if the person does not request a contested case hearing or within thirty days of the issuance of notice that the suspension has been upheld at the contested case hearing.

(2) The primary investigating officer promptly shall notify the department of a person's refusal to submit to a test requested pursuant to this section as well as the test result of a person who submits to a test pursuant to this section and registers an alcohol concentration of two one-hundredths of one percent or more. The notification must be in a manner prescribed by the department.

(K) If the test registers an alcohol concentration of two one-hundredths of one percent or more or if the person refuses to be tested, the primary investigating officer shall issue a notice of suspension, and the suspension is effective beginning on the date of the alleged violation of this section. The person, within thirty days of the issuance of the notice of suspension, shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 if the person does not request an administrative hearing. If the person does not request an administrative hearing and does not enroll in an Alcohol and Drug Safety Action Program within thirty days, the suspension remains in effect, and a temporary alcohol license must not be issued. If the person drives a motor vehicle during the period of suspension without a temporary alcohol license, the person must be penalized for driving while the person's license is suspended pursuant to Section 56-1-460.

(L)(1) Within thirty days of the issuance of the notice of suspension the person may:

(a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure; and, either:

(b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941; or

(c) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty-five dollars of the fee must be distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive a motor vehicle pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter.

(2) The ignition interlock restriction must be maintained on the temporary alcohol license for three months. If the contested case hearing has not reached a final disposition by the time the ignition interlock restriction has been removed, then the person can obtain a temporary alcohol license without an ignition interlock restriction.

(3) At the contested case hearing, if:

(a) the suspension is upheld, the person shall enroll in an Alcohol and Drug Safety Action Program and the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension periods provided for in subsections (F) and (G); and

(b) the person must enroll in the Ignition Device Program pursuant to Section 56-5-2941.

(4) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

(M) The periods of suspension provided for in subsections (F) and (G) begin on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continue until the person applies for a temporary alcohol license and requests an administrative hearing.

(N) If a person does not request a contested case hearing, the person has waived the person's right to the hearing and the person's suspension must not be stayed but shall continue for the periods provided for in subsections (F) and (G).

(O) The notice of suspension must advise the person of the requirement to enroll in an Alcohol and Drug Safety Action Program and of the person's right to obtain a temporary alcohol license and to request a contested case hearing. The notice of suspension also must advise the person that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person shall enroll in an Alcohol and Drug Safety Action Program, and the person waives the person's right to the contested case hearing, and the suspension continues for the periods provided for in subsections (F) and (G).

(P) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings.

(1) The scope of the hearing is limited to whether the person:

(a) was lawfully arrested or detained;

(b) was given a written copy of and verbally informed of the rights enumerated in subsection (J);

(c) refused to submit to a test pursuant to this section; or

(d) consented to taking a test pursuant to this section, and the:

(i) reported alcohol concentration at the time of testing was two one-hundredths of one percent or more;

(ii) individual who administered the test or took samples was qualified pursuant to this section;

(iii) test administered and samples taken were conducted pursuant to this section; and

(iv) the machine was operating properly.

(2) Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

(3) The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

(4) A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing and must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(Q) A contested case hearing is a contested proceeding under the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal shall stay the suspension until a final decision is issued.

(R) A person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered to be informed and not to have withdrawn the consent provided for in subsection (B) of this section.

(S) When a nonresident's privilege to drive a motor vehicle in this State has been suspended under the procedures of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license or permit.

(T) A person required to submit to a test must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of any additional tests to the officer before any trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(U) A person whose driver's license or permit is suspended under this section is not required to file proof of financial responsibility.

(V) The department shall administer the provisions of this section, not including subsection (D), and shall promulgate regulations necessary to carry out its provisions.

(W) Notwithstanding any other provision of law, no suspension imposed pursuant to this section is counted as a demerit or result in any insurance penalty for automobile insurance purposes if at the time the person was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one-hundredths of one percent.

HISTORY: 1998 Act No. 434, Section 2; 2000 Act No. 390, Sections 3-5; 2001 Act No. 79, Section 2.C; 2003 Act No. 61, Section 4; 2006 Act No. 381, Section 8, eff June 13, 2006; 2008 Act No. 201, Section 2, eff February 10, 2009; 2012 Act No. 212, Section 2, eff June 7, 2012; 2012 Act No. 264, Section 2, eff June 18, 2012; 2014 Act No. 158 (S.137), Section 2, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 17, eff July 1, 2016; 2023 Act No. 55 (S.36), Section 1, eff May 19, 2024; 2024 Act No. 130 (H.3518), Section 1, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 1, rewrote the section.

2024 Act No. 130, Section 1, in (L), in (1)(a), inserted "and, either:" at the end, in (3)(b), substituted "the person must enroll in the Ignition Device Program" for "enroll in the Ignition Interlock Device Program", and made a nonsubstantive change.

SECTION 56-1-288.

Tax refund garnishment for failure to comply with financial responsibility.

The Department of Motor Vehicles may garnish a person's income tax refund instead of revoking a person's driver's license or vehicle registration for failure to satisfy financial responsibility requirements of Title 56.

HISTORY: 1996 Act No. 459, Section 78.

SECTION 56-1-290.

Revocation for operating unlicensed taxis in certain counties.

In addition to the grounds for suspension or revocation of license set forth elsewhere in this article and in Chapter 5 of this title, the Department of Motor Vehicles shall forthwith revoke for a period of six months the license of any person upon receiving satisfactory evidence of the conviction of any such person who has been found guilty of operating a vehicle for hire without a license in violation of Section 58-23-1210.

HISTORY: 1962 Code Section 46-176; 1954 (48) 1791; 1993 Act No. 181, Section 1306; 1996 Act No. 459, Section 79.

SECTION 56-1-292.

Suspension for failure to pay for gasoline.

In addition to the grounds for suspension or revocation of a driver's license provided in this article and in Chapter 5 of this title, the Department of Motor Vehicles shall suspend the driver's license of a person upon receiving satisfactory evidence that the person has been convicted of a violation of Section 16-13-185 and that the sentencing judge has imposed a sentence which includes a suspension of the person's driver's license.

HISTORY: 2000 Act No. 223, Section 2.

SECTION 56-1-300.

Suspension or revocation of license without preliminary hearing.

In addition to other authority of law, the Department of Motor Vehicles may suspend or revoke the license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that licensee:

- (1) Has been convicted of an offense for which mandatory revocation or suspension is required upon conviction; or
- (2) Has been convicted of an offense in another state which if committed in this State would be grounds for suspension or revocation.

HISTORY: 1962 Code Section 46-177; 1959 (51) 421; 1993 Act No. 181, Section 1307; 1996 Act No. 459, Section 80.

SECTION 56-1-310.

Suspension or revocation of nonresident's driving privilege.

The privilege of driving a motor vehicle on the highways of this State given to a nonresident under this article shall be subject to suspension or revocation by the Department of Motor Vehicles in like manner and for like cause as a driver's license issued under the laws of this State may be suspended or revoked.

HISTORY: 1962 Code Section 46-178; 1959 (51) 421; 1993 Act No. 181, Section 1308; 1996 Act No. 459, Section 81.

SECTION 56-1-320.

Suspension or revocation of resident's license or nonresident's driving privilege upon conviction in another state.

(A) The Department of Motor Vehicles may, in its discretion, suspend or revoke the license of any resident of this State or the privilege of a nonresident to drive a motor vehicle in this State upon receiving notice of the conviction of the person in another state of an offense therein which, if committed in this State, would be grounds for the suspension or revocation of the South Carolina license.

However, if a resident of this State has his driver's license revoked or suspended for a motor vehicle violation in another jurisdiction, the department must review the revocation or suspension period for the out-of-state conviction and apply the laws of this State if the out-of-state revocation or suspension period exceeds the revocation or suspension period provided under the laws of this State for that offense. If the laws of this State are applied to an out-of-state conviction, the department must restore the person's privilege to drive in South Carolina once the person has cleared the suspension pursuant to this title, regardless of whether the person's privilege to drive has been restored in the state where the conviction occurred, provided the person is otherwise eligible for the issuance or renewal of a South Carolina license. If the laws of this State, which are applied to an out-of-state conviction, permit the issuance of a special route restricted driver's license for transportation between home and work, college, or university, the department shall permit a special route restricted license according to the requirements of this state's applicable law.

If another state restores limited or restricted driving privileges to the person whose license has been suspended or revoked, the restoration of privileges shall also be valid in this State, and the department must issue a driver's license to the person under the same terms and conditions under which driving is authorized in the state of conviction.

(B) The department may not refuse to issue or renew a driver's license to a person who:

- (1) is still under suspension or revocation in another jurisdiction for an out-of-state conviction which was not reported to the department within the one-year period provided for in Section 56-1-650(C);
- (2) has received notice of clearance from the jurisdiction where the revocation or suspension has terminated or that all requirements necessary for reissuance of driving privileges in that jurisdiction are met; or
- (3) does not have a letter of clearance from the jurisdiction where the conviction occurred and is still under suspension or revocation in that jurisdiction for a conviction which was not reported to the department within the one-year period provided for in Section 56-1-650(C).

HISTORY: 1962 Code Section 46-179; 1959 (51) 421; 1976 Act No. 484; 1993 Act No. 181, Section 1309; 1996 Act No. 459, Section 82; 1997 Act No. 150, Section 2; 1998 Act No. 258, Section 1; 1999 Act No. 115, Section 3.

SECTION 56-1-330.

Courts shall report certain convictions.

Every court having jurisdiction over offenses committed under this article or other state laws or municipal ordinances regulating the operation of motor vehicles on highways shall forward to the Department of Motor Vehicles a record of the conviction of any person

in such court for a violation of such laws other than regulations governing standing or parking where a matter of safety is not involved.

HISTORY: 1962 Code Section 46-180; 1952 Code Section 46-171; 1942 Code Section 5998; 1932 Code Section 5998; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1310; 1996 Act No. 459, Section 83.

SECTION 56-1-340.

Reports of convictions and records may be sent to other states; fees.

The Department of Motor Vehicles may, upon receiving a record of the conviction in this State of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this State, forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. Whenever the department receives a request for a driver's record from another state, the record shall be forwarded without charge.

HISTORY: 1962 Code Section 46-181; 1959 (51) 421; 1993 Act No. 181, Section 1311; 1996 Act No. 459, Section 84.

SECTION 56-1-345.

Fees charged for Freedom of Information Act request.

The Department of Motor Vehicles may charge and collect fees in accordance with Section 30-4-30 of the Freedom of Information Act for providing copies of registration, title, and driver's license information records maintained by the department.

HISTORY: 2003 Act No. 51, Section 7.

SECTION 56-1-350.

Notice of cancellation, suspension, or revocation of license; surrender of license.

In all cases of cancellation, suspension, or revocation of drivers' licenses, the Department of Motor Vehicles shall notify the licensee as prescribed in Section 56-1-360 that his license has been canceled, suspended, or revoked, and such licensee shall within ten days after notice of cancellation, suspension, or revocation return his license to the department. Any person wilfully failing to return his license as required by this section may, on conviction thereof, be fined one hundred dollars or imprisoned for thirty days.

HISTORY: 1962 Code Section 46-182; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1312; 1996 Act No. 459, Section 85.

SECTION 56-1-360.

Form and proof of notice.

When notice is required concerning a person's driver's license, the notice must be given by the Department of Motor Vehicles by depositing the notice in the United States mail with postage prepaid addressed to the person at the address contained in the driver's license records of the department. The giving of notice by mail is complete ten days after the deposit of the notice. A certificate by the director of the department or his designee that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of suspension have been met even if the notice has not been received by the addressee.

HISTORY: 1962 Code Section 46-183; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1989 Act No. 169, Section 1; 1993 Act No. 181, Section 1313; 1996 Act No. 459, Section 86.

SECTION 56-1-365.

Surrender of driver's license; fine; Department of Motor Vehicles to receive disposition and license surrender information; notice to defendant of suspension or revocation; multiple offenses; punishable offense.

(A) A person who forfeits bail posted for, is convicted of, or pleads guilty or nolo contendere in general sessions, municipal, or magistrates court to an offense which requires that his driver's license be revoked or suspended shall surrender immediately or cause to be surrendered his driver's license to the clerk of court or magistrate upon the verdict or plea. The defendant must be notified at the time of arrest of his obligation to bring, and surrender his license, if convicted, to the court or magistrate at the time of his trial, and if he fails to produce his license after conviction, he may be fined in an amount not to exceed two hundred dollars. If the defendant fails subsequently to surrender his license to the clerk or magistrate immediately after conviction, he must be fined not less than fifty dollars nor more than two hundred dollars.

(B) The Department of Motor Vehicles shall electronically receive disposition and license surrender information from the clerk of court or magistrate immediately after receipt. Along with the driver's license, the clerks and magistrates must give the department's agents tickets, arrest warrants, and other documents or copies of them, including any reinstatement fee paid at the time of the verdict, guilty plea, or plea of nolo contendere, as necessary for the department to process the revocation or suspension of the licenses. If the department does not collect the license surrender information and disposition immediately, the magistrate or clerk must forward the license surrender information, disposition, and other documentation to the department within five business days after receipt. A clerk or magistrate who wilfully fails or neglects to forward the driver's license and disposition as required in this section is liable to indictment and, upon conviction, must be fined not exceeding five hundred dollars.

(C) The department shall notify the defendant of the suspension or revocation. Except as provided in Section 56-5-2990, if the defendant surrendered his license to the magistrate or clerk immediately after conviction, the effective date of the revocation or suspension is the date of surrender. If the magistrate or clerk wilfully fails to electronically forward the disposition and license surrender information to the department within five business days, the suspension or revocation does not begin until the department receives and processes the license and ticket, provided that the end date of the term of suspension or revocation shall be calculated from the date of surrender and not the date the department receives and processes the ticket.

(D) If the defendant is already under suspension for a previous offense at the time of his conviction or plea, the court shall use its judicial discretion in determining if the period of suspension for the subsequent offense runs consecutively and commences upon the expiration of the suspension or revocation for the prior offense, or if the period of suspension for the subsequent offense runs

concurrently with the suspension or revocation of the prior offense.

(E) If the defendant fails to surrender his license, the suspension or revocation operates as otherwise provided by law.

(F) If the defendant surrenders his license, upon conviction, and subsequently files a notice of appeal, the appeal acts as a supersedeas as provided in Section 56-1-430. Upon payment of a ten-dollar fee and presentment by the defendant of a certified or clocked-in copy of the notice of appeal, the department shall issue him a certificate which entitles him to operate a motor vehicle for a period of six months after the verdict or plea. The certificate must be kept in the defendant's possession while operating a motor vehicle during the six-month period, and failure to have it in his possession is punishable in the same manner as failure to have a driver's license in possession while operating a motor vehicle.

HISTORY: 1988 Act No. 532, Section 30; 1993 Act No. 181, Section 1314; 1996 Act No. 459, Section 87; 1998 Act No. 379, Section 3; 1999 Act No. 100, Part II, Section 104; 2008 Act No. 201, Section 18, eff 12:00 p.m. February 10, 2009; 2016 Act No. 185 (H.3685), Section 4, eff January 1, 2017.

SECTION 56-1-370.

Review of cancellation, suspension, or revocation of license.

The licensee may, within ten days after notice of suspension, cancellation, or revocation, except in cases where the suspension, cancellation, or revocation is made mandatory upon the Department of Motor Vehicles, request in writing an administrative hearing with the Division of Motor Vehicle Hearings in accordance with the rules of procedure of the Administrative Law Court and the State Administrative Procedures Act, in the judicial circuit where the licensee was arrested unless the Division of Motor Vehicle Hearings and the licensee agree that the hearing may be held in another jurisdiction. The hearing must be heard by a hearing officer of the Division of Motor Vehicle Hearings. Upon the review, the hearing officer shall either rescind the department's order of suspension, cancellation, or revocation or, good cause appearing therefor, may continue, modify, or extend the suspension, cancellation, or revocation of the license. If the administrative hearing results in the continued suspension, cancellation, or revocation of the license, the term of the suspension, cancellation, or revocation of the license is deemed to commence upon the date of the administrative hearing, as long as information is transmitted electronically to the Department of Motor Vehicles on the date of the hearing, and not on the date of the notice provided by the Department of Motor Vehicles.

HISTORY: 1962 Code Section 46-184; 1952 Code Section 46-177; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1959 (51) 421; 1980 Act No. 501; 1988 Act No. 616, Section 1; 1993 Act No. 181, Section 1315; 1996 Act No. 459, Section 88; 2006 Act No. 381, Section 4, eff June 13, 2006; 2016 Act No. 185 (H.3685), Section 5, eff January 1, 2017.

SECTION 56-1-380.

Period of suspension or revocation; renewal or restoration of license.

The Department of Motor Vehicles shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one year, except as otherwise permitted or authorized by law.

Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of at least one year from the date on which the revoked license was surrendered to and received by the department, or as may otherwise be provided for by law, such person may make application for a new license as provided by law, but the department shall not then issue a new license unless and until it is satisfied, after investigation of the character, habits, and driving ability of such person, that it will be safe to grant the privilege of driving a motor vehicle on the public highways.

HISTORY: 1962 Code Section 46-185; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1316; 1996 Act No. 459, Section 89.

SECTION 56-1-385.

Reinstatement of permanently revoked driver's license.

(A) Notwithstanding any other provision of law, a person whose driver's license or privilege to operate a motor vehicle has been revoked permanently pursuant to Section 56-5-2990 for an offense that occurred prior to October 1, 2014, excluding persons convicted of felony driving under the influence of alcohol or another controlled substance under Section 56-5-2945, may petition the circuit court in the county of his residence for reinstatement of his driver's license and shall serve a copy of the petition upon the solicitor of the circuit. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person's driver's license upon the following conditions:

(1) the person must not have been convicted in this State or any other state of an alcohol or drug violation during the previous seven-year period;

(2) the person must not have been convicted of or have charges pending in this State or another state for a violation of driving while his license is canceled, suspended, or revoked during the previous seven-year period;

(3) the person must have completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency; and

(4) the person's overall driving record, attitude, habits, character, and driving ability would make it safe to grant him the privilege to operate a motor vehicle.

(B)(1) A person may not seek reinstatement of his driver's license pursuant to this section if the person subsequently is convicted of, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56-5-2930 or for a

violation of another law or ordinance of this State or any other state or of a municipality of this State or any other state that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics.

(2) Nothing in this section may be construed to prohibit a person whose license has been revoked pursuant to Section 56-5-2930 before the effective date of this section from seeking reinstatement of his license pursuant to the provisions in this section.

(C) If a person's privilege to operate a motor vehicle is restored pursuant to this section, a subsequent violation of driving under the influence of alcohol or another controlled substance or felony driving under the influence of alcohol or another controlled substance will require the cancellation of the person's driver's license and the imposition of the full period of suspension and revocation for a previous violation.

(D) Before a person may have his driver's license reinstated under this section he must:

(1) pay a two hundred dollar filing fee to the court; and

(2) successfully complete the requirements to obtain a driver's license contained in this article.

HISTORY: 1998 Act No. 258, Section 14; 2023 Act No. 55 (S.36), Section 2, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 2, in (A), in the first sentence, inserted "for an offense that occurred prior to October 1, 2014".

SECTION 56-1-390.

Fee for reinstatement of license; disposition of fee proceeds.

(1) Whenever the Department of Motor Vehicles suspends or revokes the license of a person under its lawful authority, the license remains suspended or revoked and must not be reinstated or renewed nor may another license be issued to that person until he also remits to the department a reinstatement fee of one hundred dollars for each suspension on his driving record that has not been reinstated. The reinstatement fee may be paid to the clerk of court or magistrate at the time of the verdict, guilty plea, or plea of nolo contendere for the offense for which the license is suspended or revoked. If the fee is paid at the time of the verdict, guilty plea, or plea of nolo contendere, the clerk or magistrate shall remit the fee to the department pursuant to the procedures set forth in Section 56-1-365(B). The director or his designee may waive or return the reinstatement fee if it is determined that the suspension or revocation is based upon a lack of notice being given to the department or other similar error.

(2) The fees collected by the Department of Motor Vehicles under this provision must be distributed as follows: seventy dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, and one dollar must be credited to the "Keep South Carolina Beautiful Fund" established pursuant to Section 56-3-3950. From the "Keep South Carolina Beautiful Fund", the Department of Transportation shall expend funds necessary to employ, within the Department of Transportation, a person with training in horticulture to administer a program for beautifying the rights-of-way along state highways and roads. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1962 Code Section 46-185.1; 1970 (56) 1911. 1990 Act No. 596, Section 1; 1993 Act No. 181, Section 1317; 1994 Act No. 497, Part II, Section 86A; 1996 Act No. 459, Section 90; 1999 Act No. 100, Part II, Section 104; 2001 Act No. 79, Section 2.D; 2005 Act No. 176, Section 8, eff June 14, 2005; 2016 Act No. 275 (S.1258), Section 18, eff July 1, 2016.

SECTION 56-1-395.

Driver's license reinstatement fee payment program.

(A) The Department of Motor Vehicles shall establish a driver's license reinstatement fee payment program. A person who is a South Carolina resident, is eighteen years of age or older, and has had his driver's license suspended may apply to the Department of Motor Vehicles to obtain a license valid for no more than twelve months to allow time for payment of reinstatement fees. If the person has served all of his suspensions, has met all other conditions for reinstatement, and owes two hundred dollars or more of South Carolina reinstatement fees only for suspensions that are listed in subsection (E), the Department of Motor Vehicles may issue a twelve-month license upon payment of a forty-dollar administrative fee and payment of ten percent of the reinstatement fees owed. Of the forty-dollar administrative fee, the department may retain five dollars to cover the cost of operating the program. The remainder must be credited to the State Highway Fund established in Section 57-11-20.

(B) During the period of the twelve-month license, the person must make periodic payments of the reinstatement fees owed. Monies paid shall be applied to suspensions in chronological order, with the oldest fees being paid first. The department may provide the person with a fee schedule that shows how much the person may pay every month to satisfy the fees that he owes in a timely manner. The department may allow a person to make payments toward the payment program online. However, the first and final payments must be paid in person at one of the department's branch offices.

(C) When all fees are paid, and the department records demonstrate that the person has no other suspensions, the person is eligible to renew his regular driver's license.

(D) If all fees are not paid by the end of the twelve-month period, existing suspensions shall be reactivated.

(E) This subsection applies only to a person whose driver's license has been suspended pursuant to Sections 34-11-70, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1), 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-520, 56-10-530, and 56-25-20.

(F) No person may participate in the payment program more than one time in any two-year period. Once a person has participated in the payment program for a suspension, the person cannot enter into another payment program for the same suspension. If the person receives another payment program-qualifying suspension pursuant to subsection (E) while already enrolled in the payment program, the person cannot add the new suspension to the existing payment program. If a person who is currently participating in a payment plan commits a subsequent infraction for which his license is suspended for some period of time, then he may no longer participate

in the payment plan for the prior offense.

HISTORY: 2010 Act No. 273, Section 15.A, eff January 2, 2011; 2016 Act No. 275 (S.1258), Section 19, eff July 1, 2016; 2023 Act No. 51 (S.549), Section 1, eff May 18, 2024.

Editor's Note

Section 56-10-270, referenced in subsection (E), was repealed by 2002 Act No. 324, Section 10.

2023 Act No. 51, Section 40(A), provides as follows:

"SECTION 40. (A) SECTION 1 and Section 56-1-220 take effect twelve months after the approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 1, rewrote the section.

SECTION 56-1-396.

Driver's license suspension amnesty period.

(A) The Department of Motor Vehicles shall establish a driver's license suspension amnesty period.

(B) The amnesty period must be for one week on an annual basis at the department's discretion.

(C) During the amnesty period, a person whose driver's license is suspended prior to the amnesty period may apply to the department to have qualifying suspensions cleared.

(D) If the person has met all conditions for reinstatement other than service of the suspension period, including payment of all applicable fees, the department must reinstate the person's driver's license.

(E) If the qualifying suspensions are cleared, but nonqualifying suspensions remain to be served, the department must recalculate the remaining suspension start dates to begin as soon as feasible.

(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 56-1-185, 56-1-290, 56-1-460(A)(1), and 56-10-520. Qualifying suspensions do not include suspensions pursuant to Section 56-5-2990 or 56-5-2945, and do not include suspensions pursuant to Section 56-1-460, if the person drives a motor vehicle when the person's license has been suspended or revoked pursuant to Section 56-5-2990 or 56-5-2945.

HISTORY: 2010 Act No. 273, Section 15.B, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 11, eff April 21, 2016; 2023 Act No. 51 (S.549), Section 2, eff May 18, 2023.

Editor's Note

Section 56-10-270, referenced in subsection (F), was repealed by 2002 Act No. 324, Section 10.

Effect of Amendment

2023 Act No. 51, Section 2, in (F), in the first sentence, substituted "Sections 56-1-185, 56-1-290, 56-1-460(A)(1), and 56-10-520" for "Sections 34-11-70, 56-1-120, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1), 56-2-2740, 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-270, 56-10-520, 56-10-530, and 56-25-20".

SECTION 56-1-400.

Surrender of license; issuance of new license; endorsing suspension and ignition interlock device on license.

(A)(1) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that the license be surrendered to the department. At the end of the suspension period, other than a suspension for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or pursuant to the point system, the department shall issue a new license to the person.

(2) If the person has not held a license within the previous nine months, the department shall not issue or restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or for violations under the point system, until the person has filed an application for a new license, submitted to an examination as upon an original application, and satisfied the department, after an investigation of the person's driving ability, that it would be safe to grant the person the privilege of driving a motor vehicle on the public highways. The department, in the department's discretion, where the suspension is for a violation under the point system, may waive the examination, application, and investigation. A record of the suspension must be endorsed on the license issued to the person, showing the grounds of the suspension.

(B) If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56-5-2941, the restriction on the license issued to the person must conspicuously identify the person as a person who only may drive a motor vehicle with an ignition interlock device installed, and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Section 56-1-286; 56-1-1090; 56-5-2945; 56-5-2951; 56-5-2990; or 56-5-2947, except if the conviction was for Section 56-5-750.

(C) For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. The fee for an ignition interlock restricted license is one hundred dollars, which shall be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(D) Unless the person establishes that the person is entitled to the exemption set forth in subsection (G), no ignition interlock restricted license may be issued by the department without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order.

(E) If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended indefinitely. If the person subsequently decides to have the ignition interlock device installed, the device must be installed for the length of time set forth in subsection (B).

(F) This provision does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23, Chapter 5 of this title.

(G)(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 ignition 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; or

(c) a person participating in the Ignition Interlock Device Program as an habitual offender as provided for in Section 56-1-1090(A).

(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.

(H) Nothing in this section shall be construed to require a person to obtain an ignition interlock device unless one or more of the offenses that resulted in the suspension were alcohol related.

HISTORY: 1962 Code Section 46-186; 1952 Code Sections 46-179, 46-349; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1949 (46) 466; 1955 (49) 177; 1959 (51) 421; 1965 (54) 461; 1984 Act No. 478, Section 1; 1993 Act No. 181, Section 1318; 1996 Act No. 459, Section 91; 2007 Act No. 103, Section 23.B, eff January 1, 2008; 2008 Act No. 285, Section 2, eff January 1, 2009; 2014 Act No. 158 (S.137), Section 3, eff October 1, 2014; 2015 Act No. 34 (S.590), Section 1, eff June 1, 2015; 2016 Act No. 275 (S.1258), Section 20, eff July 1, 2016; 2023 Act No. 55 (S.36), Section 3, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 3, rewrote the section.

SECTION 56-1-420.

Effect of dissolution of injunction restraining suspension or revocation of license.

If any court restrains or enjoins the Department of Motor Vehicles from enforcing the suspension or revocation of any license and the suspension or revocation is finally determined to have been properly put into effect by the department, the time during which the revocation or suspension was made ineffective by the judicial order shall not be considered part of the time during which the suspension or revocation was in effect. It is the purpose of this section to ensure that the license shall be suspended or revoked for the full term of such suspension or revocation, if proper in the first place.

HISTORY: 1962 Code Section 46-188; 1959 (51) 421; 1993 Act No. 181, Section 1320; 1996 Act No. 459, Section 93.

SECTION 56-1-430.

Appeal from conviction making suspension or revocation mandatory as supersedeas.

Upon conviction of an offense making mandatory the suspension or revocation of the driver's license of the person so convicted, an appeal taken from such conviction shall act as a supersedeas so as to preclude for a period of six months from the date of conviction any such suspension or revocation.

HISTORY: 1962 Code Section 46-189; 1959 (51) 421; 2008 Act No. 201, Section 19, eff 12:00 p.m. February 10, 2009.

SECTION 56-1-440.

Penalties for driving without license; summary court jurisdiction.

(A) A person who drives a motor vehicle on a public highway of this State without a driver's license in violation of Section 56-1-20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned

for forty-five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty-five days nor more than six months. However, a charge of driving a motor vehicle without a driver's license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

(B) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.

HISTORY: 1962 Code Section 46-191; 1952 Code Section 46-181; 1942 Code Section 1637; 1932 Code Section 1637; Cr. C. '22 Section 590; 1920 (31) 895; 1933 (38) 214; 1959 (51) 421; 1988 Act No. 532, Section 2; 1999 Act No. 100, Part II, Section 103A; 2001 Act No. 90, Section 1; 2010 Act No. 273, Section 14.A, eff June 2, 2010.

SECTION 56-1-450.

Penalties for unlawful operation after conviction for which suspension or revocation of license mandatory.

Any person not licensed under this article or lawfully operating as a nonresident under this article, convicted of a violation for which suspension or revocation of driver's license or privilege to operate is made mandatory, who shall thereafter operate a motor vehicle in this State before such time as he obtains a driver's license from the Department of Motor Vehicles or until the Department shall find that he is properly qualified to operate as a nonresident, shall be punished by a fine of one hundred dollars or imprisonment for thirty days, and the period of time during which the Department may not issue to him a driver's license or find that he is properly qualified to operate as a nonresident shall be extended as provided in Section 56-1-460. Such license shall not be issued nor shall such findings be made until the lapse of the period of time counting from the date of conviction during which such person's license would have been subject to suspension or revocation had he been properly licensed at the time of such offense.

HISTORY: 1962 Code Section 46-192; 1959 (51) 421.

SECTION 56-1-460.

Penalties for driving while license cancelled, suspended or revoked; route restricted license.

(A)(1) Except as provided in item (2), a person who drives a motor vehicle on a public highway of this State when the person's license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both; and

(c) for a third or subsequent offense, fined one thousand dollars, and imprisoned for up to ninety days or confined to a person's place of residence pursuant to the Home Detention Act for up to ninety days. No portion of a term of imprisonment or confinement under home detention may be suspended by the trial judge except when the court is suspending a term of imprisonment upon successful completion of the terms and conditions of confinement under home detention. For purposes of this item, a person sentenced to confinement pursuant to the Home Detention Act is required to pay for the cost of such confinement.

(d) Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, an offense punishable under this item may be tried in magistrates or municipal court.

(e)(i) A person convicted of a first or second offense of this item, as determined by the records of the department, and who is employed or enrolled in a college or university at any time while the person's driver's license is suspended pursuant to this item, may apply for a route restricted driver's license permitting the person to drive only to and from work or the person's place of education and in the course of the person's employment or education during the period of suspension. The department may issue the route restricted driver's license only upon a showing by the person that the person is employed or enrolled in a college or university and that the person lives further than one mile from the person's place of employment or place of education.

(ii) When the department issues a route restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A person holding a route restricted driver's license pursuant to this item shall report to the department immediately any change in the person's employment hours, place of employment, status as a student, or residence.

(iii) The fee for a route restricted driver's license issued pursuant to this item is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remainder of the fees collected pursuant to this item must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(iv) The operation of a motor vehicle outside the time limits and route imposed by a route-restricted license is a violation of subsection (A)(1).

(2) A person who drives a motor vehicle on a public highway of this State when the person's license has been suspended or revoked pursuant to the provisions of Section 56-5-2990 or 56-5-2945 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third or subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

No portion of the minimum sentence imposed pursuant to this item may be suspended.

(B) The Department of Motor Vehicles, upon receiving a record of a person's conviction pursuant to this section upon a charge of driving a vehicle while the person's license was suspended for a definite period of time, shall extend the suspension period for an additional like period. If the original period of suspension has expired or terminated before trial and conviction, the department shall again suspend the person's license for an additional like period of time. If the suspension is not for a definite period of time, the

suspension must be for an additional three months. If the license of a person cited for a violation of this section is suspended solely pursuant to the provisions of Section 56-25-20, the additional period of suspension pursuant to this section is thirty days, and the person does not have to offer proof of financial responsibility as required pursuant to Section 56-9-500 prior to the person's license being reinstated. If the conviction was for a charge of driving while a license was revoked, the department shall not issue a new license for an additional period of one year from the date the person could otherwise have applied for a new license. Only those violations which occurred within a period of five years including and immediately preceding the date of the last violation constitute prior violations within the meaning of this section.

(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.

HISTORY: 1962 Code Section 46-192.1; 1952 Code Section 46-351; 1949 (46) 466; 1956 (49) 1687; 1959 (51) 421; 1967 (55) 201; 1973 (58) 199; 1987 Act No. 84 Section 1; 1993 Act No. 181, Section 1321; 1996 Act No. 459, Section 94; 2000 Act No. 376, Section 1; 2002 Act No. 263, Section 1; 2004 Act No. 176, Section 2; 2010 Act No. 273, Section 18.A, eff January 2, 2011; 2014 Act No. 158 (S.137), Section 4, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 21, eff July 1, 2016.

SECTION 56-1-463.

Inapplicability of penalty provision when suspension based on lack of notice of payment of fines.

Section 56-1-460 specifically does not apply if and when the proposed suspension is based solely on lack of notice being given to the Department of Motor Vehicles when the person has in fact paid any fines or penalties due to the court.

HISTORY: 1987 Act No. 84 Section 3; 1993 Act No. 181, Section 1322; 1996 Act No. 459, Section 95.

SECTION 56-1-464.

Cancellation, suspension, or revocation of license based on out-of-state violation.

Notwithstanding the provisions of Section 56-1-460, a person who drives a motor vehicle on any public highway of the State when his license is canceled, suspended, or revoked solely based on an out-of-state motor vehicle violation for which the penalty is a fine and the fine has not been paid to the out-of-state agency and when the violation is not based upon a charge of driving under the influence of alcohol or drugs or a reckless driving charge may petition the magistrate's court to dismiss the state's charge of driving under suspension based upon the out-of-state violation if:

(1) the person presents to the court a satisfactory resolution of the out-of- state violation as exhibited by an official receipt from the out-of-state agency that the fine has been paid; and

(2) the person pays an assessment to the magistrate's court for a first offense of five hundred dollars; for a second offense of one thousand dollars; for a third offense of one thousand five hundred dollars; and for a fourth and subsequent offense of two thousand dollars. This assessment is not subject to an additional assessment under the provisions of Sections 14-1-207 or 14-1-208.

Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense punishable under this item must be tried exclusively in magistrate's court.

HISTORY: 2002 Act No. 348, Section 7.A.

Editor's Note

2002 Act No. 348, Section 7(B), provides as follows:

"The provisions of Section 56-1-464 as contained in this section apply to any applicable out-of-state offense committed within the last ten years before the effective date of this section, notwithstanding any other provision of this act to the contrary."

SECTION 56-1-465.

Notice of suspension required.

The licensee shall be notified of suspension under Section 56-1-460 the same as is required when the license is suspended due to loss of points as provided in Section 56-1-810.

HISTORY: 1987 Act No. 84 Section 4.

SECTION 56-1-470.

Unlawful to operate vehicle under foreign license while license is suspended or revoked.

Any resident or nonresident whose operator's or chauffeur's license or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this article or other laws of this State shall not operate a motor vehicle in this State under a license, permit or registration certificate issued by any other state or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this article.

HISTORY: 1962 Code Section 46-192.2; 1959 (51) 421.

SECTION 56-1-475.

Driver permitted to drive in State with valid out-of-state license after expiration of state period of suspension.

Notwithstanding the provisions of Section 56-1-400 of the 1976 Code, a person whose driver's license has been suspended by the Department of Motor Vehicles who has moved his residence to another state and has obtained a valid driver's license in such state may lawfully operate a motor vehicle within this State after the expiration of the period of time for which his South Carolina driver's license was suspended.

HISTORY: 1976 Act No. 563; 1993 Act No. 181, Section 1323; 1996 Act No. 459, Section 96.

SECTION 56-1-478.

Reciprocal agreements for collection of fines, fees, and other costs.

The Department of Motor Vehicles may enter into reciprocal agreements with other states and political subdivisions for the collection of fines, fees, or other costs which resulted in the revocation of a person's driving privileges of a person applying for a

driver's license or renewing a driver's license in this State.

HISTORY: 1996 Act No. 459, Section 97.

SECTION 56-1-480.

Unlawful to permit unauthorized person to drive.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized to do so by this article or in violation of any of the provisions of this article.

HISTORY: 1962 Code Section 46-192.3; 1952 Code Sections 46-184, 46-185; 1942 Code Sections 1637, 5997-1; 1932 Code Section 1637; Cr. C. '22 Section 590; 1920 (31) 895; 1933 (38) 214; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421.

SECTION 56-1-490.

Unlawful for parent or guardian to permit unauthorized minor to drive.

No person shall cause or knowingly permit his minor child or ward to drive a motor vehicle upon any highway when such minor child or ward is not authorized under this article or in violation of any of the provisions of this article.

HISTORY: 1962 Code Section 46-192.4; 1952 Code Sections 46-182, 46-183; 1942 Code Sections 5997, 5997-1; 1932 Code Section 5997; 1930 (36) 1057; 1933 (38) 214; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421.

SECTION 56-1-500.

Penalties for violations of article.

It is a misdemeanor for any person to violate any of the provisions of this article unless such violation is by this article or other law of this State declared to be a felony. Every person convicted of a misdemeanor for a violation of any of the provisions of this article for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 46-192.5; 1952 Code Section 46-186; 1942 Code Section 6009; 1932 Code Section 6009; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-510.

Unlawful use of license; fraudulent application.

It is a misdemeanor punishable by a fine of not more than two hundred dollars or imprisonment for not more than thirty days for a first offense and not more than five hundred dollars or imprisonment for not more than six months for a second or subsequent offense for any person:

- (1) to display or cause or permit to be displayed or have in his possession any canceled, revoked, suspended, or fraudulently altered driver's license or personal identification card;
- (2) to lend his driver's or personal identification card to any other person or knowingly permit the use of it by another;
- (3) to display or represent as one's own driver's license or personal identification card any driver's license acquired in violation of this section;
- (4) to fail or refuse to surrender to the Department of Motor Vehicles upon lawful demand any driver's license which has been suspended, canceled, or revoked;
- (5) to use a false or fictitious name in any application for a driver's license or personal identification card or knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;
- (6) to permit any unlawful use of a driver's license or personal identification card issued to him; or
- (7) to do any act forbidden or fail to perform any act required by this article.

HISTORY: 1962 Code Section 46-190; 1959 (51) 421; 1986 Act No. 526, Section 3; 1988 Act No. 559, Section 1; 1993 Act No. 181, Section 1324; 1996 Act No. 459, Section 98.

SECTION 56-1-515.

Unlawful alteration of license; sale or issuance of fictitious license; use of another's license or other false documentation to defraud or violate law; violations and penalties.

(1) It is unlawful for any person to alter a motor vehicle driver's license so as to provide false information on the license or to sell or issue a fictitious driver's license.

(2) It is unlawful for any person to use a motor vehicle driver's license not issued to the person, an altered motor vehicle driver's license, an identification card containing false information, or an identification card not issued to the person to defraud another or violate the law.

(3) Any person violating the provisions of subsection (1) is guilty of a misdemeanor and upon conviction must be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both.

(4) Any person violating the provisions of subsection (2) is guilty of a misdemeanor and upon conviction must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1986 Act No. 526, Section 2.

SECTION 56-1-540.

Files, records, and indexes to be kept.

The Department of Motor Vehicles shall:

(1) File every application for a license received by it and shall maintain suitable indexes containing, in alphabetical order:

(a) all applications denied and on each thereof note of the reasons for such denial;

(b) all applications granted; and

(c) the name of every licensee whose license has been canceled, suspended or revoked by the department and after each such name a

note of the reasons for such action; and

(2) The department shall file all accident reports and abstracts of court records of convictions received by it under the laws of this State and, in connection therewith, maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the department upon application for renewal of license and at other suitable times.

HISTORY: 1962 Code Section 46-192.8; 1952 Code Section 46-170; 1942 Code Section 5991; 1932 Code Section 5991; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1327; 1996 Act No. 459, Section 99.

SECTION 56-1-550.

Fee for expediting request for copy of document or record.

The Department of Motor Vehicles may collect a fee not to exceed twenty dollars per document to expedite a request for copies of documents and records it maintains. This fee is in addition to the normal fees associated with the request. Expedited requests must be available within seventy-two hours of receipt of the request and standard requests within thirty days. Nothing in this section may be construed as circumventing the requirements of Section 30-4-30 of the Freedom of Information Act. The funds collected pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 2008 Act No. 353, Section 2, Pt 13A.1, eff July 1, 2008; 2016 Act No. 275 (S.1258), Section 22, eff July 1, 2016.

ARTICLE 2

Driver License Compact

SECTION 56-1-610.

Short title.

This article is known and may be cited as the Driver License Compact.

HISTORY: 1987 Act No. 72 Section 1.

SECTION 56-1-620.

Legislative findings and policy.

(A) The General Assembly and the states that are party to the compact find that:

(1) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(2) the violation of a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property;

(3) the continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(B) It is the policy of the General Assembly and of each of the party states to:

(1) promote compliance with the laws, ordinances, and administrative regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where the operators drive motor vehicles;

(2) make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized to operate a motor vehicle in any of the party states.

HISTORY: 1987 Act No. 72 Section 1.

SECTION 56-1-630.

Definitions.

As used in this article:

(1) "Party state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(2) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(3) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative regulation, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any of these offenses, and which conviction or forfeiture is required to be reported to the licensing authority.

(4) "Licensing authority" for purposes of South Carolina shall mean the Department of Motor Vehicles.

HISTORY: 1987 Act No. 72 Section 1; 1993 Act No. 181, Section 1329.

SECTION 56-1-640.

Reciprocity in reporting convictions; information to be reported.

The Department of Motor Vehicles shall report each conviction of a person from another party jurisdiction, Canada, or Mexico occurring within South Carolina to the licensing authority of the home jurisdiction of the licensee. The report shall clearly identify the person convicted, describe the violation specifying the section of the statute or ordinance violated, identify the court in which action was taken, indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security, and include any special findings.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 101; 2010 Act No. 216, Section 2, eff June 7, 2010.

SECTION 56-1-650.

Effect of certain convictions on status of license in home state.

(A) A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any of the following:

- (1) manslaughter or homicide resulting from the operation of a motor vehicle as provided by Sections 56-1-280 and 56-5-2910;
- (2) driving a motor vehicle while under the influence, as provided by Section 56-5-2930;
- (3) any felony in the commission of which a motor vehicle is used, as provided by Section 56-1-280;
- (4) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another, as provided by Section 56-5-1210.

(B) If the laws of a member state do not describe the violations listed in subsection (A) in precisely the words used in that subsection, the member state shall construe the descriptions to apply to offenses of the member state that are substantially similar to the ones described. A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any other offense or any other information concerning convictions that the member states agree to report.

(C) For a conviction required to be reported under subsection (A), a member state shall give the same effect to the report as if the conviction had occurred in that state. For a conviction that is not required to be reported under subsection (A), the provisions of Section 56-1-320 shall govern the effect of the reported conviction in this State. For a conviction that is not required to be reported under subsection (A), notice of the conviction must be received by the Department of Motor Vehicles for purposes of suspension or revocation within one year of the date of conviction.

The department shall not post to an individual's driver's record any conviction that is not received by the department within the one-year period for offenses governed by this subsection. For purposes of this title, this means all convictions which occurred after June 4, 1995, which are not required to be reported pursuant to subsection (A). The department may not refuse to issue or renew a resident's driver's license when the individual's privilege to drive is suspended or revoked for an out-of-state conviction which was not reported to the department within one year of the date of conviction, as required in this subsection.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 102; 1997 Act No. 150, Section 3; 1998 Act No. 258, Section 2.

SECTION 56-1-660.

Review of license status in other states upon application for license in party state.

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of, a license to drive issued by any other party state. The licensing authority in the state where application is made may not issue a license to drive if:

- (1) The applicant has held a license, but it has been suspended for a violation and the suspension period has not terminated.
- (2) The applicant has held a license, but it has been revoked for a violation, and the revocation has not terminated, except that after the expiration of one year from the date the license was revoked, the person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any applicant if, after investigation, the licensing authority determines that it will not be safe to grant the person the privilege of driving a motor vehicle on the public highways.
- (3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders the license.

HISTORY: 1987 Act No. 72 Section 1.

SECTION 56-1-670.

Effect on other laws or agreements.

Except as expressly required by provisions of the compact, nothing herein affects the right of the Department of Motor Vehicles to apply any of South Carolina's other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between South Carolina and a nonparty state.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 103.

SECTION 56-1-680.

Administration; exchange of information.

(A) The director or his designee of the Department of Motor Vehicles is the administrator of this compact for South Carolina. The administrators, acting jointly, have the power to formulate all necessary procedures for the exchange of information under this compact.

(B) The department shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 104.

SECTION 56-1-690.

Withdrawal from compact.

Any party state may withdraw from the compact, but no withdrawal may take effect until six months after the executive heads of all other party states have received notice. Withdrawal does not affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

HISTORY: 1987 Act No. 72 Section 1.

ARTICLE 3

Point System for Evaluating Operating Records of Drivers

SECTION 56-1-710.

"Conviction" defined.

The term "conviction" as used in this article shall also include the entry of any plea of guilty, the entry of any plea of nolo contendere and the forfeiture of any bail or collateral deposited to secure a defendant's appearance in court.

HISTORY: 1962 Code Section 46-195; 1955 (49) 249.

SECTION 56-1-720.

Point system established; schedule of points for violations.

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 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

HISTORY: 1962 Code Section 46-196; 1955 (49) 249; 1962 (52) 1976; 1966 (54) 2383; 1970 (56) 2383; 1988 Act No. 532, Section 7; 2017 Act No. 81 (H.4033), Sections 2, 5.A, eff May 19, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, the item relating to improper backing is retained in the schedule of offenses; this item was inadvertently omitted in Section 5.A. of 2017 Act No. 81.

Effect of Amendment

2017 Act No. 81, Section 2, added the violations of "Endangerment of a highway worker, no injury" and "Endangerment of a highway worker, injury results" and the corresponding value of their point violations.

2017 Act No. 81, Section 5.A, deleted the offense of "Failing to give signal or giving improper signal for stopping, turning or suddenly decreased speed".

SECTION 56-1-730.

Warning tickets not assigned point value.

Warning tickets shall not be assigned a point value.

HISTORY: 1962 Code Section 46-196.1; 1955 (49) 249.

SECTION 56-1-740.

Suspension of driver's license or nonresident's privilege to drive; special restricted driver's licenses.

(A) The Department of Motor Vehicles may suspend, for not more than six months, the driver's license and privilege of a person upon a showing by its records, based on a uniform point system as authorized in this article, that the licensee has been convicted with such frequency of offenses against motor vehicle traffic laws or ordinances as to indicate a disrespect for the laws or ordinances and a disregard for the safety of other persons on the highways. For the purposes of this article, a total of twelve points assessed against a driver as determined by the values designated in Section 56-1-720 indicates disrespect and disregard. The privilege of driving a motor vehicle on the highways of this State, given to a nonresident under the laws of this State, is subject to suspension by the department in like manner, and for like cause, the same as a driver's license issued by this State may be suspended.

Periods of suspension of the license or privilege of a person for various accumulation of points must be as follows, with the person having the privilege to request a review of his driving record:

- (1) twelve to fifteen points-three months' suspension;
- (2) sixteen or seventeen points-four months' suspension;
- (3) eighteen or nineteen points-five months' suspension;
- (4) twenty points and over-six months' suspension.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-196.2; 1955 (49) 249; 1988 Act No. 623, Section 1; 1993 Act No. 181, Section 1330; 1996 Act No. 459, Section 105; 1999 Act No. 115, Section 4; 2001 Act No. 79, Section 2.E; 2005 Act No. 176, Section 9, eff June 14, 2005; 2016 Act No. 275 (S.1258), Section 23, eff July 1, 2016.

SECTION 56-1-746.

Suspension of driver's license for alcohol-related offenses; penalties; special restricted licenses.

(A) The Department of Motor Vehicles shall suspend the driver's license of a person convicted of an offense contained in Sections 56-1-510(2), 56-1-510(5), 56-1-515, 61-4-60, 63-19-2440, and 63-19-2450 as follows:

(1) for a conviction for a first offense, for a period of one hundred twenty days; and

(2) for a conviction for a second or subsequent offense, for a period of one year.

(B) For the purposes of determining a prior offense, a conviction for an offense enumerated in subsection (A) within ten years of the date of the violation is considered a prior offense.

(C) Notwithstanding the provisions of Section 56-1-460, a person convicted pursuant to the provisions of this section must be punished pursuant to Section 56-1-440 and is not required to furnish proof of financial responsibility as provided for in Section 56-9-500. The conviction may not result in an insurance penalty pursuant to the Merit Rating Plan promulgated by the Department of Insurance.

(D)(1) If an individual is employed or enrolled in a college or university, or a court-ordered drug program, while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work, his place of education, or the court-ordered drug program, and in the course of his employment, education, or a court-ordered drug program during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the individual that he is employed or enrolled in a college, university, or court-ordered drug program, that he lives further than one mile from his place of employment, education, or court-ordered drug program, and that there is no adequate public transportation between his residence and his place of employment, his place of education, or court-ordered drug program.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the individual may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance in his court-ordered drug program, or residence must be reported immediately to the department by the licensee.

(3) The fee for a special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1990 Act No. 602, Section 5; 1992 Act No. 421, Section 2; 1993 Act No. 181, Section 1332; 1996 Act No. 459, Section 106; 2001 Act No. 79, Section 2.G; 2002 Act No. 348, Section 14; 2002 Act No. 354, Section 7; 2007 Act No. 103, Section 8, eff July 1, 2007; 2016 Act No. 275 (S.1258), Section 24, eff July 1, 2016.

SECTION 56-1-747.

What constitutes conviction for purposes of Section 56-1-746.

For purposes of Section 56-1-746 a conviction is defined as provided in Section 56-1-2030 and includes being adjudicated under juvenile proceedings.

HISTORY: 1990 Act No. 602, Section 5; 1994 Act No. 357, Section 4.

SECTION 56-1-748.

Persons issued restricted driver's license ineligible for issuance of special restricted driver's license; route restricted driver's license.

(A) No person issued a restricted driver's license under the provisions of Section 56-1-170, 56-1-320, 56-1-740, 56-1-745, 56-1-746, 56-5-750, 56-9-430, 56-10-260, 56-10-270, or 56-5-2951 shall subsequently be eligible for issuance of a restricted driver's license under these provisions.

(B) A person who obtains a route restricted driver's license and who is required to attend an Alcohol and Drug Safety Action Program or a court-ordered drug program as a condition of reinstatement of the person's driving privileges may use the route 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 the route restricted driver's license.

HISTORY: 1992 Act No. 421, Section 5; 1999 Act No. 115, Section 5; 2008 Act No. 201, Section 3, eff February 10, 2009; 2014 Act No. 158 (S.137), Section 5, eff October 1, 2014.

Editor's Note

Section 56-1-745 was repealed by 2011 Act No. 13, Section 1. Section 56-10-270 was repealed by 2002 Act No. 324, Section 10.

SECTION 56-1-750.

Computation of points.

In computing the total number of points charged to any person after a particular violation, those accrued as a result of violations which have occurred during the twelve months' period including and immediately preceding the last violation shall be counted at their full value, those accrued from twelve to twenty-four months preceding the last violation shall be counted at one half their

established value and those resulting from violations which occurred more than twenty-four months prior to the last violation shall not be counted.

HISTORY: 1962 Code Section 46-196.3; 1955 (49) 249.

SECTION 56-1-760.

Violations considered in suspension to be disregarded in subsequent suspension.

When the driver's license of a person is suspended under the provisions of this article, all violations considered in such suspension shall be disregarded in so far as any subsequent suspension under this article or under the provisions of Section 56-5-2920 is concerned.

HISTORY: 1962 Code Section 46-196.4; 1955 (49) 249.

SECTION 56-1-770.

Points reduced for completing defensive driving course.

(A) Any driver who has accumulated points under the provisions of this article shall have the number of his points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that he has completed the National Safety Council's "Defensive Driving Course" or its equivalent, if the course is completed after the points have been assessed. The course must be taught by an instructor accredited by the National Safety Council whose procedures for accreditation are set forth in the "Manual of Rules and Procedures" published by the National Safety Council or equivalent accreditation procedures. The department shall establish procedures by which driver training schools may apply to the department for approval of a defensive driving course which will qualify those successfully completing the course for a reduction in points pursuant to this section. The department shall approve the National Safety Council's "Defensive Driving Course" or its equivalent when offered by driver training schools and taught by an instructor accredited by the National Safety Council or equivalent accreditation procedures.

(B) Any driver with a Class M (motorcycle) endorsement who has accumulated points under the provisions of this article shall have the number of his points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that he has successfully completed a South Carolina technical college motorcycle safety course or its equivalent. All courses offered for point reduction must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in "Manual of Rules and Procedures" published by the National Safety Council.

(C) No person's points may be reduced more than one time in any three-year period, pursuant to the provisions contained in this section.

HISTORY: 1962 Code Section 46-196.4:1; 1974 (58) 2067; 1979 Act No. 49; 1988 Act No. 612, Section 1; 1993 Act No. 181, Section 1333; 1996 Act No. 459, Section 107; 2018 Act No. 127 (S.456), Section 2, eff February 5, 2018.

Effect of Amendment

2018 Act No. 127, Section 2, in (A), added the paragraph identifier and deleted the fifth sentence, which had provided that no person's points may be reduced more than one time in any three-year period; and added (B) and (C).

SECTION 56-1-780.

Reports of certain convictions to Department of Motor Vehicles.

The provisions of Section 56-5-2970, shall also apply to convictions in cases involving other traffic violations as listed in Section 56-1-720.

HISTORY: 1962 Code Section 46-196.5; 1955 (49) 249.

SECTION 56-1-790.

Reports of out-of-state, federal or court-martial convictions; recording against drivers.

The Department of Motor Vehicles may enter into a reciprocal agreement with the proper agency of any other state for the purpose of reporting convictions in one state by a person holding a driver's license in the other state. Such convictions in another state of a violation therein which, if committed in this State, would be a violation of the traffic laws of this State, may be recorded against a driver the same as if the conviction had been made in the courts of this State. When a resident of this State has been convicted of a motor vehicle violation in another state for which there is no corresponding offense in this State, excluding the offenses listed in Section 56-1-650(A), the conviction must not be recorded on the person's driving record in this State.

Guilty pleas, failure to respond to charges or convictions by courts-martial or post or base commanders of any of the various branches of the Armed Forces of the United States or by a United States Commissioner of a violation either on or off government property which, if committed in this State, would be a violation of the laws of this State, may, in the discretion of the department, be recorded against a driver the same as if the plea of guilty, forfeiture of bond, or conviction had been made in the courts of this State.

HISTORY: 1962 Code Section 46-196.6; 1955 (49) 249; 1969 (56) 690; 1993 Act No. 181, Section 1334; 1996 Act No. 459, Section 108; 1998 Act No. 258, Section 15.

SECTION 56-1-800.

Certified copies of reports as evidence of convictions.

In all proceedings held under the provisions of this article, photostatic, optical disk, or other copies of the reports filed with the Department of Motor Vehicles, including official reports received from directors of the motor vehicle divisions, court officials, or other agencies of other states charged with the duty of keeping records of offenses against the traffic laws of such states and reports of courts-martial or United States Commissioners, are deemed to be true copies, when such copies are duly certified by the director or his designee as true copies of the original on file therewith, and as such shall be deemed prima facie evidence of the information contained on such reports for the purpose of showing any conviction.

HISTORY: 1962 Code Section 46-196.7; 1955 (49) 249; 1993 Act No. 181, Section 1335; 1996 Act No. 459, Section 109.
SECTION 56-1-810.

Notice of suspension; surrender of license.

Upon the determination by the Department of Motor Vehicles that a person has accumulated sufficient points to warrant the suspension of his license, the department shall notify such licensee in writing, return receipt requested, that his license has been suspended, and such licensee shall return his license to the department within the time required by Section 56-1-350 and subject to the penalties thereof for failing to do so.

HISTORY: 1962 Code Section 46-196.8; 1955 (49) 249; 1959 (51) 421; 1993 Act No. 181, Section 1336; 1996 Act No. 459, Section 110.

SECTION 56-1-820.

Hearing on suspension.

The licensee may, within ten days after notice of suspension, request in writing a contested case hearing before the Office of Motor Vehicle Hearings, and upon receipt of the request the Office of Motor Vehicle Hearings shall afford him a hearing in accordance with the State Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

HISTORY: 1962 Code Section 46-196.9; 1955 (49) 249; 1959 (51) 421; 1988 Act No. 623, Section 2; 1988 Act No. 616, Section 2; 1993 Act No. 181, Section 1337; 1996 Act No. 459, Section 111; 2008 Act No. 279, Section 4, eff October 1, 2008.

SECTION 56-1-850.

Other provisions for mandatory suspension, revocation, or cancellation unaffected.

Nothing contained in this article shall affect the action of the Department of Motor Vehicles in suspending, revoking, or canceling any driver's license when such action is mandatory under the provisions of any law of this State.

HISTORY: 1962 Code Section 46-196.12; 1955 (49) 249; 1993 Act No. 181, Section 1340; 1996 Act No. 459, Section 112.

ARTICLE 5

Habitual Offenders

SECTION 56-1-1010.

Legislative declaration of policy.

It is hereby declared to be the policy of this State:

- (a) To provide maximum safety for all persons who use the public highways of this State; and
- (b) To deny the privilege of operating motor vehicles on such highways to persons who by their conduct and record have demonstrated their indifference to the safety and welfare of others and their disrespect for the laws of this State; and
- (c) To discourage repetition of unlawful acts by individuals against the peace and dignity of this State and her political subdivisions and to impose additional penalties upon habitual offenders who have been convicted repeatedly of violations of the traffic laws of this State.

HISTORY: 1962 Code Section 46-197; 1973 (58) 424; 1974 (58) 2998.

SECTION 56-1-1020.

"Habitual offender" and "conviction" defined.

An habitual offender shall mean any person whose record as maintained by the Department of Motor Vehicles shows that he has accumulated the convictions for separate and distinct offenses described in subsections (a), (b) and (c) committed during a three-year period; provided, that where more than one included offense shall be committed within a one-day period such multiple offenses shall be treated for the purposes of this article as one offense:

(a) Three or more convictions, singularly or in combination of any of the following separate and distinct offenses arising out of separate acts:

- (1) Voluntary manslaughter, involuntary manslaughter or reckless homicide resulting from the operation of a motor vehicle;
- (2) Operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor, narcotics or drugs;
- (3) Driving or operating a motor vehicle in a reckless manner;
- (4) Driving a motor vehicle while his license, permit, or privilege to drive a motor vehicle has been suspended or revoked, except a conviction for driving under suspension for failure to file proof of financial responsibility;
- (5) Any offense punishable as a felony under the motor vehicle laws of this State or any felony in the commission of which a motor vehicle is used;
- (6) Failure of the driver of a motor vehicle involved in any accident resulting in the death or injury of any person to stop close to the scene of such accident and report his identity;
- (b) Ten or more convictions of separate and distinct offenses involving moving violations singularly or in combination, in the operation of a motor vehicle, which are required to be reported to the department for which four or more points are assigned pursuant to Section 56-1-720 or which are enumerated in subsection (a) of this section.
- (c) The offenses included in subsections (a) and (b) shall be deemed to include offenses under any federal law, any law of another state or any municipal or county ordinance of another state substantially conforming to the above provisions.
- (d) For purposes of determining the number of convictions for separate and distinct offenses committed during any three-year period, a person shall be deemed to be convicted of an offense on the date the offense was committed if he is subsequently convicted of committing such offense.

HISTORY: 1962 Code Section 46-197.1; 1973 (58) 424; 1974 (58) 2998; 1984 Act No. 516, Section 1; 1993 Act No. 181, Section 1341; 1996 Act No. 459, Section 113.

SECTION 56-1-1030.

Habitual offender determination; revocation of license; notice of determination and appeal.

(A) When a person is convicted of one or more of the offenses listed in Section 56-1-1020(a), (b), or (c), the Department of Motor Vehicles must review its records for that person. If the department determines after review of its records that the person is an habitual offender as defined in Section 56-1-1020, the department must revoke or suspend the person's driver's license.

(B) If the department determines the person is an habitual offender, the department shall give notice of its determination to the person and direct the person not to operate a motor vehicle on the highways of this State and to surrender his driver's license or permit to the department. The notice must provide that a person aggrieved by the department determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct these hearings.

HISTORY: 1962 Code Section 46-197.2; 1973 (58) 424; 1974 (58) 2998; 1988 Act No. 532, Section 3; 1990 Act No. 602, Section 1; 1993 Act No. 181, Section 1342; 1996 Act No. 459, Section 114; 2006 Act No. 381, Section 5, eff June 13, 2006; 2008 Act No. 279, Section 5, eff October 1, 2008.

SECTION 56-1-1090.

Request for restoration of privilege to operate motor vehicle; conditions; appeal of denial of request.

(A) No license to operate motor vehicles in this State may be issued to an habitual offender nor shall a nonresident habitual offender operate a motor vehicle in this State for a period of five years from the date of a determination by the Department of Motor Vehicles that a person is an habitual offender unless the period is reduced to two years as permitted in item (1) or (2) or, if one or more of the convictions that resulted in the person's habitual offender status were alcohol-related offenses, the person has enrolled in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and has obtained a license with an ignition interlock restriction 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 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 cannot subsequently choose to serve the suspension.

(1)(a) Upon request to the department on a form prescribed by it, the department may restore to the person the privilege to operate a motor vehicle in this State subject to other provisions of law relating to the issuance of drivers' licenses. The request permitted by this item may be filed after two years have expired from the beginning date of the habitual offender suspension and if the following conditions are met:

(i) the person must not have had a previous habitual offender suspension in this or another state;

(ii) the person must not have driven a motor vehicle during the habitual offender suspension period;

(iii) the person must not have been convicted of or have charges pending for any alcohol or drug violations committed during the habitual offender suspension period;

(iv) the person must not have been convicted of or have charges pending for any offense listed in Section 56-1-1020 committed during the habitual offender suspension period; and

(v) the person must not have any other mandatory driver's license suspension that has not yet reached its end date.

(b) The department will issue its decision within thirty days after receipt of the request.

(2) If the department denies the request referenced in item (1), the person may seek relief from the department's determination by filing a request for a de novo 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. For good cause shown, the Office of Motor Vehicle Hearings may restore to the person the privilege to operate a motor vehicle in this State subject to other provisions of law relating to the issuance of driver's licenses. The provisions of item (1) shall not be construed to limit the discretion or authority of the Office of Motor Vehicle Hearings in considering the person's request for a reduction of the five-year suspension period; however, those provisions may be used as guidelines for determinations of good cause for relief from the normal five-year suspension period.

(B) If a reduction is granted, it will begin on the date of the department's decision or on the date of the final decision by the Office of Motor Vehicle Hearings. If a reduction is not granted, no request for reduction may be filed again.

(C) If a person's privilege to operate a motor vehicle is restored pursuant to this section, but the department subsequently determines that the person failed to give the required or correct information in his request or during a hearing, or committed any fraud in making the request or during his hearing, the department must suspend the person's driver's license pursuant to Section 56-1-240 for the remaining balance of the habitual offender suspension period. 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.

(D) If a person's privilege to operate a motor vehicle is restored pursuant to subsection (A)(1) or (A)(2), and if the person is convicted of a violation of any offense listed in Section 56-1-1020(A) that occurred during the original five-year habitual offender suspension period, the department must suspend the person's driver's license for the time period by which the habitual offender suspension had been reduced. 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.

HISTORY: 1962 Code Section 46-197.8; 1973 (58) 424; 1974 (58) 2998; 1984 Act No. 516, Section 2; 1988 Act No. 532, Section

4; 1990 Act No. 602, Section 2; 1993 Act No. 181, Section 1343; 1996 Act No. 459, Section 115; 2006 Act No. 381, Section 6, eff June 13, 2006; 2008 Act No. 201, Section 15, eff February 10, 2009; 2008 Act No. 279, Section 6, eff October 1, 2008; 2023 Act No. 55 (S.36), Section 4, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 4, in (A), in the first sentence, added "or, if one or more of the convictions that resulted in the person's habitual offender status were alcohol-related offenses, the person has enrolled in the Ignition Interlock Device Program pursuant to Section 56-5-2941 and has obtained a license with an ignition interlock restriction pursuant to Section 56-1-400" at the end, and added the second through fourth sentences, redesignated former (1) as (1)(a) and (a) to (e) as (i) to (v), and inserted the (b) designator.

SECTION 56-1-1100.

Penalties.

A person found to be an habitual offender under the provisions of this article, who subsequently is convicted of operating a motor vehicle in this State while the decision of the Department of Motor Vehicles prohibiting the operation is in effect, is guilty of a felony and must be imprisoned not more than five years.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his driver's license or permit is suspended or revoked or is charged with driving without a license, the department, before hearing the charges, shall determine whether the person has been adjudged an habitual offender and is barred from operating a motor vehicle on the highways of this State. If the person is found to be an habitual offender, the department shall notify the solicitor or Attorney General and he shall cause the appropriate criminal charges to be lodged against the offender.

HISTORY: 1962 Code Section 46-197.9; 1973 (58) 424; 1974 (58) 2998; 1988 Act No. 532, Section 5; 1993 Act No. 181, Section 1344; 1993 Act No. 184, Section 81; 1996 Act No. 459, Section 116.

SECTION 56-1-1105.

Penalties for driving while license cancelled, suspended, or revoked.

(A) For purposes of this section:

(1) "Great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) "Habitual offender" has the same meaning as in Section 56-1-1020.

(B) An habitual offender who drives a motor vehicle on any public highway of this State when the offender's license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony, and, upon conviction, guilty plea, or nolo contendere plea must be punished:

(1) by a fine of not more than five thousand dollars and imprisonment for not more than ten years when great bodily injury results; or

(2) by a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisonment for not more than twenty years when death results.

(C) The Department of Motor Vehicles must suspend the driver's license of an habitual offender who is convicted, pleads guilty, or pleads nolo contendere pursuant to this section for a period to include incarceration plus two years when great bodily injury results and three years when death results. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident shall run concurrently.

HISTORY: 2010 Act No. 273, Section 18.B, eff June 2, 2010.

SECTION 56-1-1110.

Article does not affect existing laws.

Nothing in this article shall be construed as affecting any existing law of this State or any existing ordinance of any political subdivision of the State relating to the operation of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof.

HISTORY: 1962 Code Section 46-197.10; 1973 (58) 424; 1974 (58) 2998.

SECTION 56-1-1130.

Notification of potential offenders.

The Department of Motor Vehicles shall send a written notice to any person who it determines is in danger of becoming an habitual offender.

HISTORY: 1962 Code Section 46-197.12; 1973 (58) 424; 1974 (58) 2998; 1993 Act No. 181, Section 1346; 1996 Act No. 459, Section 117.

ARTICLE 7

Provisional Drivers' Licenses

SECTION 56-1-1320.

Provisional drivers' licenses.

(A) A person with a South Carolina driver's license, a person who had a South Carolina driver's license at the time of the offense referenced below, or a person exempted from the licensing requirements by Section 56-1-30, who is or has been convicted of a first offense violation of a law of this State that prohibits a person from operating a vehicle while under the influence of intoxicating

liquor, drugs, or narcotics, including Sections 56-5-2930 and 56-5-2933, whose license is not presently suspended for any other reason, and whose offense date is prior to the effective date of this section, may apply to the Department of Motor Vehicles to obtain a provisional driver's license of a design to be determined by the department to operate a motor vehicle. The person shall enter an Alcohol and Drug Safety Action Program pursuant to Section 56-1-1330, and shall pay to the department a fee of one hundred dollars for the provisional driver's license. The provisional driver's license is not valid for more than six months from the date of issue shown on the license. The determination of whether or not a provisional driver's license may be issued pursuant to the provisions of this article as well as reviews of cancellations or suspensions under Sections 56-1-370 and 56-1-820 must be made by the director of the department or his designee.

(B) Ninety-five dollars of the collected fee must be credited to the state's general fund for use of the Department of Public Safety in the hiring, training, and equipping of members of the South Carolina Highway Patrol and Transportation Police and in the operations of the South Carolina Highway Patrol and Transportation Police. Five dollars of the collected fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1975 (59) 66; 1982 Act No. 355, Section 1; 1988 Act No. 532, Section 31; 1990 Act No. 602, Section 4; 1993 Act No. 181, Section 1347; 1996 Act No. 459, Section 118; 2000 Act No. 390; 2001 Act No. 79, Section 2.A; 2014 Act No. 158 (S.137), Section 7, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 25, eff July 1, 2016; 2023 Act No. 55 (S.36), Section 5, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 5, in (A), in the first sentence, inserted "and whose offense date is prior to the effective date of this section," and made a nonsubstantive change.

SECTION 56-1-1330.

Applicant required to complete alcohol traffic safety program.

The provisional driver's license provision must include a mandatory requirement that the applicant enroll in an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services and successfully complete services pursuant to the requirements specified in Section 56-5-2990. If the applicant fails to complete successfully the services as directed by the Alcohol and Drug Safety Action Program, the Department of Alcohol and Other Drug Abuse Services shall notify the Department of Motor Vehicles, the provisional driver's license issued by the department must be revoked, and the suspension imposed for the full period specified in Section 56-5-2990, which shall begin on date of notification to the individual.

HISTORY: 1975 (59) 66; 1976 Act No. 637; 1981 Act No. 178 Part II Section 7; 1982 Act No. 355, Section 2; 1985 Act No. 201, Part II, Section 39A; 1988 Act No. 658, Part II, Section 38A; 1993 Act No. 181, Section 1348; 1996 Act No. 459, Section 119; 1999 Act No. 100, Part II, Section 11.

SECTION 56-1-1340.

License must be kept in possession; issuance of license and convictions to be recorded.

The applicant shall have a provisional driver's license in his possession at all times while driving a motor vehicle, and the issuance of such license and the violation convictions shall be entered in the records of the Department of Motor Vehicles for a period of ten years as required by Sections 56-5-2930, 56-5-2933, and 56-5-2990.

HISTORY: 1975 (59) 66; 1993 Act No. 181, Section 1349; 1996 Act No. 459, Section 120; 2023 Act No. 55 (S.36), Section 6, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 6, substituted "Sections 56-5-2930, 56-5-2933, and 56-5-2990" for "Sections 56-5-2940 and 56-5-2990 of the 1976 Code".

SECTION 56-1-1360.

Revocation of license for additional violations.

In the event the holder of a provisional driver's license issued pursuant to this article is convicted of violations under Section 56-1-720 of the 1976 Code totaling four or more points or any other law relative to the operation of a motor vehicle for which suspension of a driver's license is made mandatory by law during specified suspension period, the provisional driver's license shall be revoked and the full suspension imposed.

HISTORY: 1975 (59) 66.

SECTION 56-1-1370.

Second violations during specified suspended period.

In the event the holder of a provisional driver's license issued pursuant to this article is convicted of a second violation under Section 56-5-2930, during the specified suspended period, the provisional driver's license shall be revoked and the full suspension imposed.

HISTORY: 1975 (59) 66.

SECTION 56-1-1380.

Effect of convictions outside of State.

Upon conviction of the offense stated in Section 56-1-1320, outside the jurisdiction of the State, the person convicted may apply for the provisional driver's license in the event his South Carolina driver's license is revoked as a result of such conviction.

HISTORY: 1975 (59) 66.

SECTION 56-1-1390.

Appeals; notice of hearing.

Any person applying for the provisional driver's license provided for in this article whose application is denied by the Department of Motor Vehicles may appeal to the circuit court or county court of the county in which he resides. The department shall be given at least ten days' notice of the hearing of the appeal.

HISTORY: 1975 (59) 66.

ARTICLE 9

Operation of Mopeds

SECTION 56-1-1710.

Reserved.

HISTORY: Former Section, titled Definition of "moped", had the following history: 1986 Act No. 528, Section 1; 1991 Act No. 94, Section 1. Reserved by 2017 Act No. 89, Section 6, eff November 19, 2018.

SECTION 56-1-1720.

Licensing requirement; minimum age; violations and penalties.

(A) To operate a moped on public highways, a person must possess a valid driver's license issued under Article 1 of this chapter or a valid moped operator's license issued under this article. The department may issue a moped operator's license to a person who is fifteen years of age or older.

(B) A person younger than sixteen years of age with a moped operator's license may operate a moped:

(1) alone during daylight hours only; and

(2) during nighttime hours when accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. The accompanying driver must be a passenger or within a safe viewing distance of the operator when the operator is operating a moped.

(C) A person sixteen years of age or older with a moped license may drive a moped alone any time.

(D) A person who operates a moped in violation of the provisions of this section is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not more than one hundred dollars and, upon conviction of a second or subsequent offense, must be fined not more than two hundred dollars.

HISTORY: 1986 Act No. 528, Section 1; 2017 Act No. 89 (H.3247), Section 7, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 7, amended the section, revising the form of licensure a person must possess to operate a moped, and deleting the provision that prohibits the Department from issuing a beginner's permit or a special restricted license to certain persons convicted of a moped violation for a certain period of time.

SECTION 56-1-1730.

Eligibility, suspension, revocation, or cancellation of moped operator's license.

(A) A person is eligible for a moped operator's license without regard to his eligibility for or the status of any other driver's license or permit.

(B) The Department of Motor Vehicles may suspend, revoke, or cancel a moped operator's license only for violations committed while operating a moped. A moped operator's license may be suspended, revoked, or canceled in the same manner and upon the same grounds for which any other motor vehicle operator's license or permit may be suspended, revoked, or canceled.

HISTORY: 1986 Act No. 528, Section 1; 1993 Act No. 181, Section 1350; 1996 Act No. 459, Section 121; 2017 Act No. 89 (H.3247), Section 8, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 8, inserted the paragraph identifiers, and designated the first sentence as (A) and the remainder of the section as (B).

SECTION 56-1-1740.

Examination of applicants for moped operator's license; fees; expiration and renewal of license.

The Department of Motor Vehicles shall examine every applicant for a moped operator's license. The examination shall include a test of the applicant's eyesight and, as pertains to the operation of a moped, a test of his ability to read and understand highway signs regulating, warning, and directing traffic and his knowledge of the traffic laws of this State. The Department may require further physical and mental examination as it considers necessary to determine the applicant's fitness to operate a moped upon the highways, the further examination to be at the applicant's expense. The Department shall make provisions for giving an examination in the county where the applicant resides. The Department shall charge a fee of two dollars for each complete examination or reexamination required in this article.

The expiration and renewal of moped operator's licenses must be in accordance with Sections 56-1-210, 56-1-220, and 56-1-225.

HISTORY: 1986 Act No. 528, Section 1.

SECTION 56-1-1760.

Requirement that license be in immediate possession of operator of moped and that it be displayed upon demand of certain state officers.

Every licensee shall have his license in his immediate possession at all times when operating a moped and shall display it upon demand of any officer or agent of the Department of Public Safety or any police officer of the State.

HISTORY: 1986 Act No. 528, Section 1; 1993 Act No. 181, Section 1351; 1996 Act No. 459, Section 122.

SECTION 56-1-1770.

Application for moped operator's license.

Application for a moped operator's license must be in accordance with the procedures and requirements of Article 1, Chapter 1 of Title 56.

HISTORY: 1986 Act No. 528, Section 1.

SECTION 56-1-1780.

Applicability of Sections 56-1-100 and 56-1-230 to holders of moped operator's licenses.

The provisions of Sections 56-1-100 and 56-1-230 apply to persons with moped operator's licenses.

HISTORY: 1986 Act No. 528, Section 1.

ARTICLE 13

South Carolina Commercial Driver License Act

SECTION 56-1-2005.

Administration of South Carolina Commercial Driver's License program.

The South Carolina Department of Motor Vehicles shall administer the South Carolina Commercial Driver's License Program in accordance with the Federal Motor Carrier Safety Regulations. The rules adopted by and regulations promulgated by the United States Department of Transportation (USDOT) relating to safety of operation and to equipment (49 CFR Parts 380, 382-385, and 390-399 and amendments thereto) and the rules adopted by and regulations promulgated by the USDOT relating to hazardous material (49 CFR Parts 171-180 and amendments thereto) must be adopted and enforced in South Carolina.

HISTORY: 2005 Act No. 42, Section 1, eff May 3, 2005.

SECTION 56-1-2010.

Short title.

This article may be cited as the South Carolina Commercial Driver License Act.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2020.

Construction.

This article is a remedial law and must be construed liberally to promote the public health, safety, and welfare. To the extent that this article conflicts with general driver licensing provisions, this article prevails. Where this article is silent, the general driver licensing provisions apply.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2025.

Waiver of licensing and registration requirements of motor carriers providing humanitarian relief during time of emergency.

(A) The Governor may authorize the Department of Motor Vehicles to waive temporarily any requirements under the provisions of this title relating to any permits, authorizations, or licenses required to operate a motor vehicle in this State. However, a temporary waiver must be for the sole purpose of facilitating the response of motor carriers providing humanitarian relief during a time of emergency officially declared by the President of the United States, the Governor of this State, or the chief executive of another state or jurisdiction, and must satisfy the following conditions:

- (1) the driver of the vehicle must be properly licensed in his jurisdiction of residency;
- (2) the motor vehicle must be properly licensed and registered in this or another jurisdiction; and
- (3) the motor vehicle satisfies all motor vehicle insurance requirements or provisions of its jurisdiction of registration. Proof of the insurance must be carried in the cab of the motor vehicle.

(B) A motor vehicle operating pursuant to this section must be issued a statement from the person or entity authorizing the transport of goods or materials which certifies that the motor carrier is providing humanitarian relief without compensation on a volunteer basis and include a description of the materials or goods being transported during the time of declared emergency while it is in this State. The statement must be carried in the cab of the motor vehicle and be made available for inspection upon request of an employee of the Department of Motor Vehicles, or any law enforcement officer.

(C) The Department of Motor Vehicles shall determine, at the time the temporary waiver is issued, the length of time the waiver shall be in effect. However, all temporary waivers issued pursuant to this section become void upon the termination of the time of the emergency as determined by the President of the United States, the Governor of this State, or the chief executive of another state or jurisdiction.

HISTORY: 2008 Act No. 189, Section 1, eff March 31, 2008.

SECTION 56-1-2030.

Definitions.

As used in this article:

- (1) "Commercial driver's license" means a license issued in accordance with the requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570) to an individual which authorizes the individual to drive a class of commercial motor vehicle.
- (2) "Commercial Driver's License Information System" means the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
- (3) "Commercial driver's instruction permit" means a permit issued pursuant to Section 56-1-2080(D) of this article.
- (4) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property if the vehicle:
 - (a) has a gross vehicle weight rating of twenty-six thousand one or more pounds;

(b) is designed to transport sixteen or more persons, including the driver; or

(c) is transporting hazardous materials and is required to be placarded in accordance with 49 CFR Part 172, subpart F.

(5) "CMVSA" means the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570).

(6) "Controlled substance" means a substance classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) listed on Schedules I through V of 21 CFR Part 1308, as revised.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle.

(10) "Driver" means a person who drives a commercial motor vehicle or who is required to hold a commercial driver's license.

(11) "Driver's license" means a license issued to an individual which authorizes the individual to drive a motor vehicle.

(12) "Employer" means a person, including the United States, a state, or a political subdivision of a state who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(13) "Endorsement" means a special authorization to drive certain types of vehicles or to transport certain types of property or a certain number of passengers.

(14) "Felony" means an offense under state or federal law that is punishable by death or imprisonment for more than one year.

(15) "Foreign jurisdiction" means a jurisdiction other than a state of the United States.

(16) "Gross vehicle weight rating" means the weight or the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of a towed unit.

(17) "Hazardous materials" means any material that has been designated as hazardous under 49 C.F.R. Section 383.5 and 49 U.S.C. 5103 and is required to be placarded under 49 C.F.R. Part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(18) "Motor vehicle" means a vehicle which is self-propelled and a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except a vehicle moved solely by human power and motorized wheelchairs.

(19) "Out-of-service order" means declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a person, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 CFR Sections 386.72, 390.5, 392.5, 395.13, 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria. For purposes of this article, regulations requiring disqualifications for violations of out-of-service orders affect all vehicles with a gross combination weight rating or gross vehicle weight rating greater than 10,000 pounds, as contained in 49 CFR Sections 383, 390.5, and 393 of the Federal Motor Carrier Regulations.

(20) "Recreational vehicle" means a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family/personal conveyance.

(21) "Restriction" means a prohibition against driving certain types of vehicles or a requirement that the driver comply with certain conditions when driving a motor vehicle.

(22) "Serious traffic violation" means a conviction when operating a motor vehicle of:

(a) excessive speeding, involving a single charge for a speed fifteen miles an hour or more above the speed limit;

(b) reckless driving, including charges of driving a commercial motor vehicle in a wilful or wanton disregard for the safety of persons or property;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) a violation of a state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death or serious bodily injury to a person;

(f) driving a commercial motor vehicle without obtaining a commercial driver's license;

(g) driving a commercial motor vehicle without a commercial driver's license in the driver's possession. A person who provides proof to the law enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for the violation, that the individual held a valid commercial driver's license on the date the citation was issued, is not guilty of this offense; or

(h) driving a commercial motor vehicle without the proper class of commercial driver's license, or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported, or both.

(23) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(24) "State" means a state or territory of the United States and the District of Columbia and the federal government and a province or territory of Canada.

(25) "Tank vehicle" means a commercial motor vehicle that is designed to transport a liquid or gaseous material within a tank that either is attached permanently or temporarily to the vehicle or its chassis. These vehicles include, but are not limited to, cargo tanks and portable tanks as defined in 49 CFR Part 171. This definition does not include portable tanks having a rated capacity under one thousand gallons.

(26) "United States" means the fifty states and the District of Columbia.

(27) "Farm related vehicle" means a vehicle used:

(a) in custom harvester operations;

(b) in livestock feeding operations; or

(c) by an agri-chemical business or a company which hauls agri-chemical products to a farm.

(28) "Seasonal restricted commercial driver's license" means a commercial driver's license issued under the authority of the waiver promulgated by the Federal Department of Transportation (57 Federal Register 13650) by the department to an individual who has not passed the knowledge or skill test required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a custom harvester, livestock feeder, agri-chemical operation, and company hauling agri-chemical products to a farm within one hundred fifty miles of the place of business.

(29) "Traffic violation" means the offenses contained in 49 CFR 383.51(d) regarding driving disqualifications for violating railroad-highway grade crossing violations.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 134, Section 2; 1993 Act No. 149, Section 1; 1998 Act No. 258, Section 18; 1998 Act No. 333, Section 1; 1998 Act No. 434, Section 3; 2005 Act No. 42, Section 4, eff May 3, 2005; 2010 Act No. 216, Section 3, eff June 7, 2010.

SECTION 56-1-2040.

Commercial drivers to have one driver's license only; exception.

No person who drives a commercial motor vehicle may have more than one driver's license except during the ten-day period beginning on the date the person is issued a driver's license.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2045.

Qualifications to be student at truck driver training school.

A person qualifies to be a student at a South Carolina truck driver training school, which offers instruction toward a South Carolina Class Three truck driver's license, if he has a Class Three learner's permit or an equivalent permit issued by his state of residence.

HISTORY: 1990 Act No. 391, Section 1.

SECTION 56-1-2050.

Notification of convictions; notification of suspension, revocation, or cancellation of license; information to be supplied to employer.

(A) Notification of Convictions.

(1) A driver holding a commercial driver license issued by this State, who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in any other state, other than a parking violation, shall notify the Department of Motor Vehicles in the manner specified by the department within thirty days of conviction.

(2) A driver holding a commercial driver license issued by this State, who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than a parking violation, shall notify his employer in writing of the conviction within thirty days of the conviction.

(B) A driver whose commercial driver license is suspended, revoked, or canceled by a state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out of service order, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.

(C) A person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

(1) a list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(2) the dates between which the applicant drove for each employer;

(3) the reason for leaving that employer;

(4) any additional information required by the employer;

(5) certification that all information furnished is true and complete.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1352; 1996 Act No. 459, Section 123.

SECTION 56-1-2060.

Employer's responsibilities.

(A) Each employer shall require the information specified in Section 56-1-2050(C).

(B) An employer knowingly may not allow, permit, or authorize a person to drive a commercial motor vehicle during a period in which:

(1) the person's commercial driver's license is suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, is disqualified from driving a commercial motor vehicle, or is subject to an out-of-service order in a state;

(2) the person has more than one driver's license, except during the ten-day period beginning on the date the employee is issued a driver's license;

(3) an employer who knowingly allows, permits, or authorizes a person to drive a commercial motor vehicle during a period in

which either the vehicle or the person is subject to an out-of-service order is subject to a civil penalty of not less than two thousand seven hundred fifty dollars nor more than eleven thousand dollars; or

(4) the employer is in violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(C) An employer who is convicted of a violation of 49 CFR 383.37(d) is subject to a civil penalty of not more than ten thousand dollars.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 19; 2005 Act No. 42, Section 5, eff May 3, 2005.

SECTION 56-1-2070.

Driving commercial motor vehicle without valid license prohibited; exceptions; driving while license suspended, revoked, or cancelled; violations.

(A) Except as provided in subsection (C) or when driving under a commercial driver instruction permit and accompanied by the holder of a commercial driver license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this State, unless the person has been issued, and is in immediate possession of, a valid commercial driver license and applicable endorsements valid for the vehicle which the person is driving.

(B) A person operating a commercial motor vehicle as defined in Section 56-1-2030 and 49 CFR 383.5, without the proper class commercial license or permit with all applicable endorsements or restrictions as defined in Section 56-1-2100 must be placed out of service and is guilty of a misdemeanor and upon conviction of a first offense, must be fined not less than one hundred fifty dollars and not more than two hundred dollars or imprisoned for thirty days and upon conviction of a second offense or subsequent offense must be fined not less than two hundred fifty dollars and not more than five hundred dollars or imprisoned forty-five days or both.

(C) The following persons may operate commercial motor vehicles without a commercial driver license:

(1) active duty military personnel; members of the military reserve; members of the South Carolina National Guard who are on active duty, including personnel on full-time South Carolina National Guard duty; personnel on part-time South Carolina National Guard training and South Carolina National Guard Military technicians required to wear uniforms; and active duty military United States Coast Guard personnel while operating vehicles owned or operated by the United States government or this State for military purposes. This exception does not apply to technicians in the United States Reserves.

(2) operators of a farm vehicle which is:

(a) controlled and operated by a farmer;

(b) used to transport agricultural products, farm machinery, farm supplies, or a combination of them to or from a farm including the transportation of hazardous materials which do not pose a substantial danger to the public health and safety including fuels, fertilizers, and other agricultural chemicals used in normal farming operations as exempted pursuant to 49 C.F.R Part 173.5;

(c) not used in the operation of a common or contract motor carrier; and

(d) used within one hundred fifty miles of the person's farm.

(3) persons operating authorized emergency vehicles as defined in Section 56-5-170;

(4) operators of recreational vehicles used solely for personal use.

(D) No person may drive a commercial motor vehicle on the highways of this State while:

(1) his commercial driver license or privilege to drive is suspended, revoked, or canceled;

(2) subject to a disqualification; or

(3) in violation of an out-of-service order.

(E) A person violating the requirements of subsection (D)(3) must be punished as follows, while all other violations of this section must be punished as though convicted of a violation of Section 56-1-460. A person is disqualified for not less than:

(1) ninety days nor more than one year if the person is convicted of a first violation of an out-of-service orders. Additionally, a person who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than two thousand five hundred dollars;

(2) one year nor more than five years if during a ten-year period the person is convicted of two violations of out-of-service orders in separate incidents. Additionally, a person who, within a ten-year period, is convicted of two violations of out-of-service orders in separate incidents is subject to a civil penalty of five thousand dollars;

(3) three years nor more than five years if during a ten-year period the person is convicted of three or more violations of out-of-service orders in separate incidents. Additionally, a person who, within a ten-year period, is convicted of three or more violations of out-of-service orders in separate incidents is subject to a civil penalty of five thousand dollars;

(4) one hundred eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service orders while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if during a ten-year period the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. Additionally, a driver who is convicted of violating an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver, is subject to a civil penalty of two thousand five hundred dollars for a first violation and five thousand dollars for a second or subsequent violation.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 20; 1998 Act No. 357, Section 1; 2000 Act No. 265, Section 2; 2010 Act No. 216, Section 5, eff June 7, 2010.

SECTION 56-1-2080.

Qualifications for license; administration of skills test; persons to whom license may not be issued; commercial driver instruction permit.

(A)(1) A person may not be issued a commercial driver's license unless that person is a resident of this State and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with the minimum federal standards established by 49 C.F.R. Part 383, subparts F, G, and H and has satisfied all other requirements of the CMVSA as well as any other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. The first commercial driver's license skills test administered by the department to an individual is free of charge; thereafter, the Department of Motor Vehicles is authorized to charge a fee of twenty-five dollars for each subsequent commercial driver's license skills test administered to that individual. State agency and school district employees who are required to possess a commercial driver's license in the course of their normal job duties are exempt from this requirement. This fee must be placed into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General.

(2) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institutions, or a department, agency, or instrumentality of local government, to administer the skills test required by this subsection if:

(a) the test is the same which otherwise would be administered by the department; and

(b) the third party has entered into an agreement with the department which contains at least the following provisions:

(i) authorization for the department or the Federal Motor Carrier Safety Administration or its representatives to conduct random examinations, inspections, and audits without prior notice and randomly test commercial driver's license applicants or holders at least annually. An applicant or holder who fails retesting shall lose his commercial driver's license;

(ii) permission for the department or its representative to conduct onsite inspections at least annually;

(iii) requirement that all third-party examiners meet the same qualifications and training standards as the department's examiners to the extent necessary to conduct the driving skill tests;

(iv) authorization for the department to charge a fee, as determined by the department, which is sufficient to defray the actual costs incurred by the department for administering and evaluating the employer testing program and for carrying out any other activities considered necessary by the department to assure sufficient training for the persons participating in the program.

(B) A commercial driver license or commercial driver instructional permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver license be issued to a person who has a commercial driver license issued by any other state unless the person first surrenders all those licenses, each of which must be returned to the issuing state for cancellation.

(C)(1) A commercial driver instruction permit may be issued to an individual who holds a valid Class "D" license and who has passed the appropriate vision and written test for the type of commercial driver license sought.

(2) The holder of a commercial driver instruction permit, unless otherwise disqualified, may drive a commercial motor vehicle but only when accompanied by the holder of a commercial driver license with applicable endorsements which is valid for the type of vehicle driven, and who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

(3) The commercial driver instruction permit may not be issued for longer than one year.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 21; 2005 Act No. 42, Section 6, eff May 3, 2005; 2008 Act No. 353, Section 2, Pt 13D, eff July 1, 2009; 2016 Act No. 275 (S.1258), Section 26, eff July 1, 2016; 2019 Act No. 86 (H.3789), Section 7, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 7, substituted "one year" for "six months" and deleted the second sentence, which provided that only one renewal or reissuance may be granted within a two-year period.

SECTION 56-1-2085.

Seasonal restricted commercial driver's license; proof of seasonal employment and other requirements; privileges granted; duration.

(A) No person may drive a commercial vehicle in this State in violation of any of the restrictions or limitations stated on the person's commercial license or restricted commercial license.

(B) The Department of Motor Vehicles may issue a seasonal restricted commercial driver's license in accordance with this section.

(C) A South Carolina seasonal restricted commercial driver's license may be issued only to a person who:

(1) is a seasonal employee of a custom harvester, livestock feeder, or an agri-chemical business;

(2) holds a valid South Carolina Class E (2) or F (3) driver's license or takes and successfully completes the required written and skill test for a class E (2) license;

(3) has at least one year driving experience as a licensed driver; and

(4) has satisfied every requirement for issuance of a commercial driver's license, except successful completion of the knowledge and skill test.

(D) The department may not issue or renew a seasonal restricted commercial driver's license for the operation of a commercial vehicle unless the applicant has not and certifies that he has not at any time during the two years immediately preceding the date of application:

(1) had more than one driver's license;

(2) had any driver's license or driving privileges suspended, revoked, or canceled;

- (3) been subject to disqualification listed in 383.51 of the Federal Motor Carrier Regulations;
- (4) contributed to an accident;
- (5) received more than four points against his license.
- (E) The applicant shall certify and provide evidence satisfactory to the department that he is employed on a seasonal basis by a custom harvester, livestock feeder, agri-chemical business, or a company hauling agri-chemical products to a farm in a job requiring the operation of a commercial vehicle.
- (F) A seasonal restricted commercial driver's license entitles the licensee to operate type B and C commercial vehicles only, with the proper restriction or endorsement, or both.
- (G) A seasonal restricted commercial driver's license does not entitle the licensee to operate a Class A type commercial vehicle or a vehicle placarded for hazardous materials.
- (H) A seasonal restricted commercial driver's license is valid for one hundred eighty days from the date of issue in one calendar year.
- (I) A seasonal restricted commercial driver's license allows the driver to operate within one hundred fifty miles of the place of business as shown on the vehicle registration.

HISTORY: 1993 Act No. 149, Section 2.

SECTION 56-1-2090.

Application; change of licensee's name or address; penalties for falsifying information.

(A) The application for a commercial driver license or commercial driver instruction permit must include:

- (1) the full name and both the current mailing and residential address of the person;
- (2) a physical description of the person including sex, height, and weight;
- (3) date of birth;
- (4) the applicant's Social Security number;
- (5) the person's signature;
- (6) the person's consent to be photographed;
- (7) certifications including those required by 49 C.F.R. part 383.71(a);
- (8) any other information required by the Department of Motor Vehicles;
- (9) a consent to release driving record information; and
- (10) a nonrefundable application fee of fifteen dollars, except for public school bus drivers.

(B) When the holder of a commercial driver license changes his name, mailing address, or residence, an application for a renewal license must be made as provided in Section 56-1-230.

(C) No person who has been a resident of this State for thirty days or longer may drive a commercial motor vehicle under the authority of a commercial driver license or commercial driver instruction permit issued by another state.

(D) A person who knowingly falsifies information or certifications required under subsection (A) of this section is subject to cancellation of his commercial driver license and may not obtain a commercial driver license or commercial driver instruction permit for at least sixty consecutive days after the time he otherwise would be eligible for a commercial driver license or commercial driver instruction permit.

(E) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund as provided in the following schedule based on the actual date of receipt by the Department of Motor Vehicles:

Fees and Penalties General Fund Department of Collected After of the State Transportation State Non-Federal Aid Highway Fund
June 30, 2005 60 percent 40 percent June 30, 2006 20 percent 80 percent June 30, 2007 0 percent 100 percent.

HISTORY: 1989 Act No. 151, Section 2; 2005 Act No. 176, Section 10, eff June 14, 2005.

SECTION 56-1-2100.

Commercial driver license; contents; classifications of vehicles.

(A) The commercial driver license must be marked "Commercial Driver License" or "CDL", and must be, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

- (1) the name and residential address of the person;
- (2) the person's unobstructed photograph;
- (3) a physical description of the person including sex, height, and weight;
- (4) date of birth;
- (5) a number or identifier considered appropriate by the Department of Motor Vehicles;
- (6) the person's signature;
- (7) the class or type of commercial motor vehicles which the person may drive together with any endorsements or restrictions;
- (8) the name of this State; and
- (9) the dates between which the license is valid.

(B) The holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles which require an endorsement may not be driven unless the proper endorsement appears on the license. Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions:

(1) Classifications:

(a) Class A: A combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds.

(b) Class B: A single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating.

(c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport sixteen or more passengers including the driver, or are required to be placarded for hazardous materials under 49 C.F.R. Part 172, subpart F.

(2) Endorsements are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations.

(3) Restrictions are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations.

(C) Before issuing a commercial driver license, the department must obtain a driving record through the Commercial Driver License Information System, the National Driver Register, and from each state in which the person has been licensed.

(D) Within ten days after issuing a commercial driver license, the department must notify the Commercial Driver License Information System of that fact, providing all information required to insure identification of the person.

(E) Upon payment of a fee of twenty-five dollars and any fee assessed by any associated federal agency, a commercial driver license for which there is no associated HAZMAT endorsement issued by the department expires eight years from the date of issue. Upon payment of a fee of fifteen dollars and any fee assessed by any associated federal agency, a commercial driver license for which there is an associated HAZMAT endorsement issued by the department expires five years from the date the applicant passed the Transportation Security Administration threat assessment.

(F) A person applying for renewal of a commercial driver's license must complete the application form required by Section 56-1-2090(A), and provide updated information and required certifications. Every applicant must take and pass the written test for hazardous material endorsement to obtain or retain the endorsement. The person also shall submit to and pass a vision test.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1353; 1996 Act No. 459, Section 124; 1998 Act No. 258, Section 22; 2000 Act No. 265, Section 1; 2005 Act No. 42, Sections 7, 8, eff May 3, 2005; 2010 Act No. 216, Section 4, eff June 7, 2010; 2014 Act No. 274 (H.5014), Section 1, eff June 9, 2014; 2019 Act No. 86 (H.3789), Section 5, eff November 24, 2019; 2022 Act No. 148 (H.4319), Section 4, eff May 11, 2022.

Effect of Amendment

2019 Act No. 86, Section 5, rewrote (E).

2022 Act No. 148, Section 4, in (A)(2), substituted "unobstructed photograph" for "color photograph".

SECTION 56-1-2110.

Disqualification from driving commercial motor vehicle.

(A) A person is disqualified from driving a commercial motor vehicle for not less than one year if convicted of a first violation of:

- (1) driving a motor vehicle under the influence of alcohol, a controlled substance, or a drug which impairs driving ability as prescribed by state law;
- (2) driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath or other bodily substance is four one-hundredths or more;
- (3) leaving the scene of an accident involving a motor vehicle driven by the person;
- (4) using a motor vehicle in the commission of a felony as defined in this article;
- (5) refusal to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle;
- (6) driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(7) causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide by a motor vehicle, and negligent homicide. If any of the above violations occur while transporting a hazardous material required to be placarded, the person is disqualified for not less than three years.

(B) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection (A) or a combination of those offenses, arising from two or more separate incidents.

(C) Only offenses committed after the effective date of this article may be considered in applying this subsection.

(D) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (B) may be reduced to not less than ten years.

(E) A commercial driver's license holder is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(F) A person is disqualified from driving a commercial motor vehicle for not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations committed in a motor vehicle arising from separate incidents occurring within a three-year period.

(G) A person is disqualified from driving a commercial motor vehicle if a report pursuant to Section 56-1-2220 has been received by the Department of Motor Vehicles that the person has received a verified positive drug test or positive alcohol confirmation test, or refused to take a drug or alcohol test. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the substance abuse professional certified in a manner approved by the Department of Alcohol and Other Drug Abuse Services that the person has successfully completed a drug or alcohol treatment or education program as recommended by the substance abuse professional. A

person who is disqualified under this subsection more than three times in a five-year period is disqualified for life.

(H) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action immediately. After suspending, revoking, or canceling a nonresident commercial driver's privilege, the department shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit within ten days.

(I) For purposes of this section, serious traffic violations are those violations contained in Section 56-1-2030(22) and 49 C.F.R. 383.5 and 383.51.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1354; 1996 Act No. 459, Section 125; 2005 Act No. 42, Section 9, eff May 3, 2005; 2008 Act No. 232, Section 2, eff May 21, 2008.

SECTION 56-1-2111.

Circumstances barring issuance of license.

The department shall not issue a commercial driver's license or a commercial special license or permit which includes a provisional, route restricted hardship, or temporary license that permits a person to drive a commercial motor vehicle during a period in which:

(1) the person is disqualified from operating a commercial motor vehicle as defined by Section 383.5, or under the provisions of Sections 383.73(g) or 384.231(b)(2) of the FMCSR;

(2) the commercial driver's license holder's noncommercial driving privilege has been revoked, suspended, or cancelled; or

(3) any driver's license held by the person is suspended, revoked, or cancelled by the State where the driver is licensed for any state or local law related to motor vehicle traffic control other than a parking violation.

HISTORY: 2005 Act No. 42, Section 2, eff May 3, 2005.

SECTION 56-1-2112.

Offenses resulting in disqualification from operating commercial motor vehicle; time periods.

(A) A driver who is convicted of operating a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing is disqualified from operating a commercial motor vehicle for the period of time specified in subsection (B):

(1) for drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(2) for drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(3) for drivers who are always required to stop, failing to stop before driving onto the crossing;

(4) for all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(5) for all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;

(6) for all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(B) A person is disqualified from driving a commercial motor vehicle for committing an offense contained in subsection (A) for not less than:

(1) sixty days for the first conviction committed in a commercial motor vehicle;

(2) one hundred twenty days for the second conviction committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period; and

(3) one year for the third or subsequent conviction committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

HISTORY: 2005 Act No. 42, Section 3, eff May 3, 2005.

SECTION 56-1-2115.

Commercial driver's license re-examination.

(A) A person who has been disqualified from driving a commercial vehicle pursuant to the provisions contained in Section 56-1-2110 for one year or more, must complete successfully the requirements contained in Section 56-1-2080 and satisfy all other requirements imposed by state or federal law before the person is eligible to be re-examined pursuant to the provisions contained in subsection (B).

(B) The re-examination consists of the commercial driver license standards contained in 49 CFR of the Federal Motor Carrier Regulations which includes successful completion of the applicable knowledge tests and the complete road test which includes pre-trip inspection, basic control skills, and the on-road test.

HISTORY: 1998 Act No. 258, Section 17.

SECTION 56-1-2120.

Driving with measurable amount of alcohol prohibited; possession of alcoholic beverage.

(A) A person may not drive a commercial motor vehicle within this State while having a measurable amount of alcohol in his body.

(B) A person who drives a commercial motor vehicle within this State while having a measurable amount of alcohol in his system or who refuses to submit to an alcohol test under Section 56-1-2130 must be placed out-of-service for twenty-four hours.

(C) A person who drives a commercial motor vehicle in this State with an alcohol concentration of four one-hundredths of one percent or more must be disqualified from driving a commercial motor vehicle under Section 56-1-2110.

(D) A person must not be on duty or operate a commercial motor vehicle while he possesses an alcoholic beverage that is not part of the manifest and transported as part of the shipment.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 23.

SECTION 56-1-2130.

Tests for alcohol or drugs; presumption of consent; administration of tests; warnings; refusal to take test; reports required.

(A) A person who drives a commercial motor vehicle within this State is considered to have given consent, subject to provisions of Section 56-5-2950, to take a test of that person's blood, breath, or urine for the purpose of determining that person's alcohol concentration or the presence of other drugs.

(B) Tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the driver of a commercial motor vehicle, has probable cause to believe that the driver was driving a commercial motor vehicle while having a measurable amount of alcohol in his system.

(C) A person requested to submit to a test as provided in subsection (A) must be warned by the law enforcement officer requesting the test, that a refusal to submit to the test must result in that person being placed out of service immediately for twenty-four hours and being disqualified from operating a commercial motor vehicle for not less than one year under Section 56-1-2110.

(D) If the person refuses testing, or submits to a test which discloses an alcohol concentration of four one-hundredths of one percent or more, the law enforcement officer shall submit a report to the Department of Motor Vehicles certifying that the test was requested pursuant to subsection (A) and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of four one-hundredths of one percent or more.

(E) Upon receipt of the report of a law enforcement officer submitted under subsection (D), the department shall disqualify the driver from driving a commercial motor vehicle under Section 56-1-2110.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1355; 1996 Act No. 459, Section 126.

SECTION 56-1-2140.

Report of conviction of nonresident licensee; required action.

Within ten days after receiving a report of the conviction of a nonresident holder of a commercial driver license for a violation of state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, committed in a commercial motor vehicle, the Department of Motor Vehicles shall notify the driver licensing authority in the licensing state of the conviction.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1356; 1996 Act No. 459, Section 127.

SECTION 56-1-2150.

Authorized drivers of commercial motor vehicles.

A person may drive a commercial motor vehicle if the person has a commercial driver license issued by a state in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person's license is not suspended, revoked, or cancelled and if the person is not disqualified from driving a commercial motor vehicle.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2156.

Failure of commercial motor vehicle drivers to comply with lane restrictions.

Notwithstanding any other provision of law, a commercial motor vehicle driver may not be assessed points against his driving record for failing to comply with lane restrictions posted on the interstate highway system by the Department of Transportation. For purposes of this section, a driver record means a commercial driver's license issued pursuant to Article 13, Chapter 1 of Title 56 and a driver's license issued pursuant to Section 56-1-130 for which points are assessed in Section 56-1-720.

HISTORY: 1999 Act No. 17, Section 6.

SECTION 56-1-2160.

Penalties.

An offense for which no specific penalty is provided by this article must be punished in accordance with Section 56-5-6190.

HISTORY: 1989 Act No. 151, Section 2.

ARTICLE 14

South Carolina Commercial Driver's License Drug Testing Act

SECTION 56-1-2210.

Definitions

(1) Unless otherwise specified, the terms used in this article have the same meaning as those terms defined in 49 C.F.R. 40.3.

(2) For purposes of this article, "employer" includes all motor carriers or employers who employ drivers who operate commercial motor vehicles and who are required to have a drug and alcohol testing program pursuant to the Federal Motor Carrier Safety Regulations, 49 C.F.R. 382, or to a consortium to which the carrier or employer belongs and consortiums or third party administrators who perform drug and alcohol testing services pursuant to 49 C.F.R. 382 for an owner-operator.

(3) For purposes of this article, "employee" includes a person holding a resident or nonresident commercial motor vehicle driver's license employed by an employer described in subsection (2) who performs a safety sensitive function, or an owner-operator subject to testing by a consortium or third party administrator who performs drug and alcohol testing services pursuant to 49 C.F.R. 382.

(4) For purposes of this article, "applicant" means a person holding a resident or nonresident commercial motor vehicle driver's license seeking employment with an employer described in subsection (2) who will perform a safety sensitive function as part of his employment.

HISTORY: 2008 Act No. 232, Section 1, eff May 21, 2008.

SECTION 56-1-2220.

Providing and testing specimens; reports of refusal to provide and results of tests to employer and department; records; admissibility of test results.

(A) All employers shall report to the Department of Motor Vehicles within three business days a refusal by an employee or applicant made to the employer to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under

49 C.F.R. 40.

(B) All medical review officers or breath alcohol technicians hired by or under contract to an employer shall report to the employer within three business days:

(1) a verified positive drug test or positive alcohol confirmation test of an employee or applicant;
(2) a refusal by an employee or applicant to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under 49 C.F.R. 40; or

(3) the submission of an adulterated specimen, a diluted positive specimen, or a substituted specimen by an employee or applicant.

(C) Employers shall make it a written condition of their contract or agreement with a medical review officer or breath alcohol technician, regardless of the state where the medical review officer or breath alcohol technician is located, that the medical review officer or breath alcohol technician is required to report to the employer the information required by subsection (B).

(D) Upon receipt of the notification from a medical review officer or a breath alcohol technician, employers shall report to the department within three business days:

(1) a verified positive drug test or positive alcohol confirmation test of an employee or applicant;
(2) a refusal by an employee or applicant made to a medical review officer or breath alcohol technician to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under 49 C.F.R. 40; or

(3) the submission of an adulterated specimen, a diluted positive specimen, or a substituted specimen by an employee or applicant.

(E) The notification required by this section must be made in a manner approved by the department and must include on the notification submitted to the department a coding method that indicates whether the person who is the subject of the notification is an employee or applicant.

(F) An employer must maintain a record of the notification to the department on each employee or applicant for three years.

(G) The records required by this section are subject to inspection by the Department of Public Safety.

(H) Evidence included in a person's motor vehicle record that indicates the person tested positive on a drug or alcohol confirmation test, refused to submit to a drug or alcohol confirmation test, or submitted a diluted or adulterated specimen is not admissible in any action unless probative to demonstrate that the person was under the influence of drugs or alcohol at the time of an accident that is the subject of the action.

HISTORY: 2008 Act No. 232, Section 1, eff May 21, 2008.

SECTION 56-1-2230.

Failure to report and employing disqualified employee; fines.

(A) An employer, medical review officer, or breath alcohol technician who knowingly fails to make a report to the Department of Motor Vehicles as required by this article is subject to a fine of up to five hundred dollars.

(B) An employer who employs a person in a safety sensitive function when the employer knows the employee is disqualified from driving a commercial motor vehicle pursuant to Section 56-1-2110(G) is subject to a fine of up to two thousand dollars.

(C) The penalties provided by this section do not apply to the State, a state agency, or a political subdivision.

(D) Any person or entity is immune from liability for the good faith performance of any duty imposed by this article.

(E) Fines collected pursuant to this section must be credited to the Department of Public Safety's Transport Police Division.

HISTORY: 2008 Act No. 232, Section 1, eff May 21, 2008.

ARTICLE 15

Identification Card

SECTION 56-1-3350.

Issuance of special identification card; veteran designation; fees and fee waivers.

(A) Upon application by a person five years of age or older, who is a resident of South Carolina, the department shall issue a special identification card provided that the:

(1) application is made on a form approved and furnished by the department;

(2) applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth;

(3) applicant, who wishes to obtain a special identification card that indicates the applicant is autistic, complies with subsections

(A)(1) and (2) and provides documentation that he is autistic from a physician licensed in this State, as defined in Chapter 47, Title 40. The special identification requested must be indicated by a symbol designated by the department on the person's special identification card; and

(4) applicant, who wishes to obtain a special identification card that indicates the applicant has voluntarily disclosed a permanent medical condition, complies with subsection (A)(1) and (2), and provides documentation of the medical condition from a physician licensed in this State, as defined in Chapter 47, Title 40. The record of an identification card holder may not contain more than three permanent medical conditions unless subitem (A)(3) applies. The information contained on a special identification card and in the special identification card holder's department records pertaining to his autism, as provided for in item (3), or his permanent medical condition, as provided for in this item, may not be sold, is exempt from disclosure pursuant to Chapter 4, Title 30, the South Carolina Freedom of Information Act, and may be released upon request only to:

(a) law enforcement, emergency medical services, and hospital personnel;

(b) the medical advisory board pursuant to Section 56-1-221;

(c) permitted entities pursuant to the Driver Privacy Protection Act, 18 U.S.C.A. 2721; and

(d) the person to whom the records of the permanent medical condition applies.

(B) An applicant for a new, renewed, or replacement South Carolina identification card may apply to the Department of Motor Vehicles to obtain a veteran designation on the front of his identification card by providing a:

(1) United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service in the United States armed forces;

(2) National Guard Report of Separation and Record of Service, also known as an NGB Form 22, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service of at least twenty years in the National Guard; or

(3) Veterans Identification Card (VIC) or a letter from a Military Reserve component notifying the recipient of the person's eligibility for retirement pay at age sixty (twenty-year letter). A Veterans Health Identification Card (VHIC) may not be accepted.

(C)(1) The fee for the issuance of the special identification card is fifteen dollars for a person between the ages of five and sixteen years.

(2) One identification card must be issued free to a person aged seventeen years or older per issuance cycle. A ten-dollar fee must be charged to replace a special identification card before its expiration date.

(D) The identification card expires eight years from the date of issuance. A person is not permitted to have more than one valid motor vehicle driver's license or identification card at any time.

(E) Special identification cards issued to persons under the age of twenty-one must be marked, stamped, or printed to readily indicate that the person to whom the card is issued is under the age of twenty-one.

(F) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1993 Act No. 181, Section 1357; 1996 Act No. 459, Section 128; 2000 Act No. 227, Section 1; 2005 Act No. 176, Section 11, eff June 14, 2005; 2010 Act No. 277, Section 4, eff July 1, 2011; 2011 Act No. 27, Section 6, eff May 18, 2011; 2012 Act No. 147, Section 2, eff April 23, 2012; 2016 Act No. 275 (S.1258), Section 27, eff July 1, 2016; 2017 Act No. 19 (S.344), Section 2, eff May 9, 2017; 2019 Act No. 86 (H.3789), Section 6, eff November 24, 2019; 2022 Act No. 217 (H.3037), Section 2, eff May 23, 2023.

Editor's Note

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

2011 Act No. 27, Sections 7 and 8, provide as follows:

"SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

"(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

"(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

"(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

"(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

"(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

"(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

"(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

"(8) Notify each registered elector who does not have a South Carolina issued driver's license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56-1-3350.

"In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

"SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list."

2022 Act No. 217, Section 3, provides as follows:

"SECTION 3. (A) SECTION 1 takes effect July 1, 2022.

"(B) SECTION 2 takes effect one year after the approval by the Governor."

Effect of Amendment

2017 Act No. 19, Section 2, in (A), added (3), relating to autism designations placed on a special identification card, and made other

nonsubstantive changes.

2019 Act No. 86, Section 6, in (B), substituted "identification card" for "driver's license" in two places, made nonsubstantive changes in (1), rewrote (2), and added (3); in (C), in (1), substituted "fifteen dollars" for "five dollars", and in (2), in the first sentence, substituted "One identification card must be issued free" for "An identification card must be free" and inserted "per issuance cycle" at the end", and added the second sentence; and in (D), in the first sentence, substituted "eight years" for "five years", and added the second sentence.

2022 Act No. 217, Section 2, in (A), substituted "provided that" for "as long as", in (3), in the first sentence, substituted "Chapter 47, Title 40" for "Section 40-47-20(35)", and made a nonsubstantive change in the second, and added (4).

SECTION 56-1-3360.

Misuse of card prohibited.

It is unlawful for any person to:

(1) alter a special identification card so as to provide false information on the card or to sell or issue a fictitious special identification card;

(2) use a special identification card not issued to the person, an altered special identification card, or a special identification card containing false information to defraud another or violate the law;

(3) to lend his special identification card to any person or knowingly permit its use by another.

Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1993 Act No. 181, Section 1357.

SECTION 56-1-3370.

Size, shape, design, photograph; card to be distinguishable from driver's license.

The special identification card issued pursuant to this article shall be similar in size, shape, and design to a motor vehicle driver's license, including an unobstructed photograph of the person to whom it is issued. Provided, however, that the card shall be readily distinguishable from a driver's license by a difference in color, and there shall be printed on the face of such card a statement that the card does not enable the person to whom it is issued to operate a motor vehicle.

HISTORY: 1993 Act No. 181, Section 1357; 2022 Act No. 148 (H.4319), Section 5, eff May 11, 2022.

Effect of Amendment

2022 Act No. 148, Section 5, in the first sentence, substituted "an unobstructed photograph" for "a color photograph".

SECTION 56-1-3380.

Information submitted in application for card confidential; exceptions.

Any information obtained from an application for the issuance, renewal, or replacement of a special identification card shall be confidential and shall not be divulged to any person, association, corporation or organization, public or private, except to the legal guardian or attorney of the applicant, or to a person, association, corporation or organization named in writing by the applicant, his legal guardian or his attorney. Provided, however, that this restriction shall not prevent furnishing the application or any information thereon to a law enforcement agency.

HISTORY: 1993 Act No. 181, Section 1357.

SECTION 56-1-3400.

False or fictitious information or fraud a violation.

Any person who shall use a false or fictitious name or give a fictitious address in any application for an identification card or renewal thereof, or knowingly make a false statement or conceal a material fact or otherwise commit a fraud in any such application, shall be fined not more than five hundred dollars or imprisoned for not more than six months.

HISTORY: 1993 Act No. 181, Section 1357.

Title 56 - Motor Vehicles

CHAPTER 2

Specialized Vehicles

ARTICLE 1

Low Speed Vehicles

SECTION 56-2-100.

Conditions for operation on street or highway.

(A) A low speed vehicle may be operated only on a highway for which the posted speed limit is thirty-five miles an hour or less.

(B) A low speed vehicle may cross a highway at an intersection where the highway has a posted speed limit of more than thirty-five miles an hour.

(C) A low speed vehicle must meet the requirements of Federal Motor Vehicle Safety Standard 500 (Part 49 Section 571.500 of the Code of Federal Regulations) at all times when operated on any highway. A low speed vehicle that complies with the equipment requirements in 49 C.F.R. Section 571.500 complies with all equipment requirements of this title.

(D) Nothing in this section prevents local governments from adopting more stringent local ordinances governing low speed vehicle operation.

(E) A county or municipality may prohibit the operation of low speed vehicles on any street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(F) The Department of Transportation may prohibit the operation of low speed vehicles on any street or highway if it determines that the prohibition is necessary in the interest of safety.

(G) A farm vehicle, as defined in Section 56-1-2070(C)(2), is not a low speed vehicle for the purposes of this article.

HISTORY: 2005 Act No. 170, Section 2, eff 6 months after approval by the Governor (approved June 7, 2005); 2012 Act No. 264, Section 10, eff June 18, 2012.

SECTION 56-2-105.

Golf cart permit and the operation of a golf cart.

(A) For the purposes of this section, "gated community" means any homeowners' community with at least one access controlled ingress and egress which includes the presence of a guard house, a mechanical barrier, or another method of controlled conveyance.

(B) An individual or business owner of a vehicle commonly known as a golf cart may obtain a permit decal and registration from the Department of Motor Vehicles upon presenting proof of ownership and liability insurance for the golf cart and upon payment of a five dollar fee.

(C) During daylight hours only:

(1) A permitted golf cart may be operated within four miles of the address on the registration certificate and only on a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less.

(2) A permitted golf cart may be operated within four miles of a point of ingress and egress to a gated community and only on a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less.

(3) Within four miles of the registration holder's address, and while traveling along a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less, a permitted golf cart may cross a highway or street at an intersection where the highway has a posted speed limit of more than thirty-five miles an hour.

(4) A permitted golf cart may be operated along a secondary highway or street for which the posted speed limit is thirty-five miles an hour or less on an island not accessible by a bridge designed for use by automobiles.

(D) A person operating a permitted golf cart must be at least sixteen years of age and hold a valid driver's license. The operator of a permitted golf cart being operated on a highway or street must have in his possession:

(1) the registration certificate issued by the department;

(2) proof of liability insurance for the golf cart; and

(3) his driver's license.

(E) A golf cart permit must be replaced with a new permit every five years, or at the time the permit holder changes his address.

(F)(1) A political subdivision may, on designated streets or roads within the political subdivision's jurisdiction, reduce the area in which a permitted golf cart may operate from four miles to no less than two miles.

(2) A political subdivision may, on primary highways, secondary highways, streets, or roads within the political subdivision's jurisdiction, create separate golf cart paths on the shoulder of its primary highways, secondary highways, streets and roads for the purpose of golf cart transportation, if:

(a) the political subdivision obtains the necessary approvals, if any, to create the golf cart paths; and

(b) the golf cart path is:

(i) separated from the traffic lanes by a hard concrete curb;

(ii) separated from the traffic lanes by parking spaces; or

(iii) separated from the traffic lanes by a distance of four feet or more.

(3) In a county with a population of no less than one hundred fifty thousand and no more than two hundred fifty thousand persons:

(a) if a municipality has jurisdiction over a barrier island, the municipality may enact an ordinance allowing for the operation of a golf cart at night on designated portions of the barrier island within the municipality, provided the golf cart is equipped with working headlights and rear lights; or

(b) if a barrier island is not within the jurisdiction of a municipality, the county in which the barrier island is located may enact an

ordinance allowing for the operation of a golf cart at night on designated portions of the county, provided the golf cart is equipped with working headlights and rear lights.

If a municipality or county enacts an ordinance allowing golf carts to operate at night on a barrier island, the requirements of subsection (C), other than operation in daylight hours only, shall still apply to all permitted golf carts.

(4) A political subdivision may not reduce or otherwise amend the other restrictions placed on the operation of a permitted golf cart contained in this section.

(G) The provisions of this section that restrict the use of a golf cart to certain streets, certain hours, and certain distances shall not apply to a golf cart used by a public safety agency in connection with the performance of its duties.

HISTORY: 2012 Act No. 177, Section 1, eff October 1, 2012; 2015 Act No. 86 (S.211), Section 1, eff June 8, 2015; 2016 Act No. 246 (H.5118), Section 1, eff June 6, 2016.

Editor's Note

2016 Act No. 246, Section 2, provides as follows:

"SECTION 2. Any municipal or county ordinance enacted pursuant to Section 56-2-105(F)(3) shall expire on January 1, 2021."

SECTION 56-2-110.

Driver's license and registration card.

A person operating a low speed vehicle must be at least sixteen years of age and shall hold a valid driver's license. The operator of a low speed vehicle being operated on a highway must have in his possession:

(1) the registration card issued by the department or the registration card issued by the state in which the low speed vehicle is registered; and

(2) his driver's license.

HISTORY: 2005 Act No. 170, Section 2, eff 6 months after approval by the Governor (approved June 7, 2005).

SECTION 56-2-120.

Title requirement; title applications by nonresidents; license plates.

(A) A low speed vehicle must be titled as specified in this title. The manufacturer's or importer's certificate of origin must identify clearly the vehicle as a low speed vehicle and must certify that the vehicle was manufactured in compliance with the equipment requirements for low speed vehicles in 49 C.F.R. Section 571.500. The State shall not issue vehicle identification numbers to homemade low speed vehicles, retrofitted golf carts, or any other similar vehicles, and these vehicles shall not qualify as low speed vehicles in this State.

(B) If the vehicle is owned by a nonresident, but is subject to issuance of a certificate of title in this State, the application must also contain his:

(1) full legal name, social security number, or, if the primary user does not have a social security number but has a passport, his passport number;

(2) driver's license number, whether the license was issued by this State or another jurisdiction;

(3) date of birth;

(4) bona fide principal residence address;

(5) address in this State where the low speed vehicle will be housed and used; and

(6) mailing address of the primary user of the vehicle. If the primary user is a firm, association, or corporation, the application must contain the business address and federal employer identification number of the primary user.

(C) A low speed vehicle must be registered and licensed in the same fashion as passenger vehicles pursuant to this title and is subject to the same insurance requirements applicable to other motor vehicles under this title.

(D) The Department of Motor Vehicles shall establish a special size and class of license plate for low speed vehicles that clearly identifies the vehicle as a low speed vehicle.

HISTORY: 2005 Act No. 170, Section 2, eff 6 months after approval by the Governor (approved June 7, 2005).

SECTION 56-2-130.

Dealer licensing.

A person engaged in the wholesale or retail sale of low speed vehicles must comply with the motor vehicle dealer licensing laws of this State as specified in this title.

HISTORY: 2005 Act No. 170, Section 2, eff 6 months after approval by the Governor (approved June 7, 2005).

ARTICLE 2

Motor Vehicle Registration and Property Tax

SECTION 56-2-2740.

Refusal to renew license and registration for non-payment of property tax; biennial plates; validation and revalidation decals; fees.

(A) The Department of Motor Vehicles must refuse to renew the driver's license and motor vehicle registration of a person who has not paid personal property taxes within the time limits prescribed in this chapter. A county treasurer or municipal clerk treasurer must forward notification to the department of persons violating the provisions of this chapter. Notification of individuals violating this chapter must be forwarded to the department in the time and manner determined by the department for the proper administration of this section.

(B) The department shall issue biennial license plates and revalidation decals. The department may enter into contracts with persons, corporations, or governmental subdivisions to issue license plates and revalidation decals. The department, person, corporation, or governmental subdivision shall give a motor vehicle owner a license plate or revalidation decal for the tax year for which personal

property taxes and biennial fees have been paid pursuant to Section 56-3-253.

(C) All validation decals must be issued for a period not to exceed twelve months, except for vehicles which do not require the payment of property taxes.

(D) A person or corporation that issues license plates or revalidation decals pursuant to this section may charge a fee in excess of the fee charged by the department.

(E) A governmental subdivision that issues license plates or revalidation decals pursuant to this section may charge a one-dollar fee to defray the expenses associated with the issuance of license plates and revalidation decals.

(F) The department shall supervise the provision of services contained in this section.

HISTORY: 1996 Act No. 459, Section 129; 1997 Act No. 40, Section 1; 2003 Act No. 51, Section 15; 2017 Act No. 89 (H.3247), Section 9, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 9, in (C), added ", except for vehicles which do not require the payment of property taxes".

ARTICLE 3

Mopeds

SECTION 56-2-3000.

Valid moped operator's license required.

A person operating a moped on a public highway at all times must have in his possession a valid moped operator's license or valid driver's license and moped registration.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3010.

Moped registration required; special moped license plates; insurance; taxes.

(A) A moped operated on a public highway must be registered and licensed with the department in the same fashion as passenger vehicles pursuant to this title.

(B) The department shall establish for mopeds a special size and class of license plates with distinctive numbering and/or lettering so as to be identifiable to law enforcement.

(C) Mopeds are not required to be titled or insured in this State.

(D) Mopeds are exempt from ad valorem property taxes in this State.

(E) If a manufacturer's certificate of origin states the vehicle is a "motor scooter", "motor-driven cycle", or any similar term, the definitions of "motorcycle" and "moped", as shown in Section 56-1-10, must be used to determine whether the vehicle must be registered as a moped or must be titled and registered as a motorcycle.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3020.

Mopeds of nonresidents.

(A) A privately owned and operated moped of a nonresident, otherwise subject to registration and license as provided by this chapter, may be operated within this State without being registered and licensed provided that the moped:

(1) is duly registered or licensed in the state, territory, district, or country of residence of the owner; and

(2) has displayed or issued a valid registration, registration card, license plate or decal, or other indicia satisfactorily evidencing compliance with the requirements of the owner's home jurisdiction.

(B) The moped of a nonresident must be registered and licensed pursuant to this chapter upon the earlier of a nonresident's:

(1) establishment of domicile in this State; or

(2) operation of the moped in this State for an accumulated period exceeding one hundred and eighty days.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3030.

Application for registration and licensing of mopeds.

An owner of a moped required to be registered in this State must make application to the department for the registration and licensing of the moped. The application must be made upon the appropriate form furnished by the department. Every application must bear the signature of the owner.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3040.

Application requirements.

(A) An application for registration and licensing of a moped must contain:

(1) the name, bona fide residence and mailing address of the owner or business address of the owner if a firm, association or corporation;

(2) a description of the moped including, insofar as this exists with respect to a given moped, the make, model, type of body, serial number or other identifying number, whether the vehicle is new or used, and the date of sale by the manufacturer or seller to the person intending to operate the moped; and

(3) other information that reasonably may be required by the department to enable the department to determine whether the moped is lawfully entitled to registration and licensing.

(B) The application shall be accompanied by a bill of sale and a vehicle registration certificate, manufacturer's certificate of origin, or an affidavit from the applicant certifying that he is the legal and rightful owner of the moped. The documentation provided must

list the vehicle specifications, including the total cubic centimeters of the engine or wattage of the engine, as applicable.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3050.

Title issued with moped registration.

The department, at the request of the owner, may issue a title for the moped in conjunction with the moped registration, provided that the owner makes application for title on the appropriate form and provides the department with a manufacturer's certificate of origin or a prior title. If an owner cannot provide a manufacturer's statement of origin or prior title, the moped may be registered, but not titled.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3060.

Penalties.

(A) A person is guilty of a misdemeanor who:

(1) fraudulently uses or gives a false or fictitious name or address in an application required to be made under this article;

(2) knowingly makes a false statement in an application; or

(3) knowingly conceals a material fact in an application.

(B) A person who operates or an owner who permits the operation of a vehicle registered and licensed under a violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3070.

Moped operation.

(A) A person may not ride upon a moped other than upon or astride a permanent and regular seat attached to the moped. A moped may not be used to carry more persons at one time than the number for which it is designed and equipped by the manufacturer to carry.

(B) A moped, while traveling along a multilane highway, must be operated in the farthest right lane except when making a left turn or when travel in the farthest right lane is unsafe.

(C) A person under the age of twenty-one may not operate or ride upon a moped unless he wears a protective helmet identical to underage motorcycle helmet requirements provided in Section 56-5-3660.

(D) A person may not operate a moped at a speed in excess of thirty-five miles per hour.

(E) A person may not operate a moped on a public highway that has a speed limit of greater than fifty-five miles per hour. A person operating a moped may cross an intersection at a public highway that has a speed limit of greater than fifty-five miles per hour.

(F) The operator of a moped must have turned on and in operation the operational lights and the headlight at all times while the moped is in operation.

(G) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3080.

Requirements for selling, leasing, or renting mopeds; penalties.

(A) It is unlawful for a person in the business of selling, leasing or renting mopeds to sell, lease or rent a moped for use on the public highways of this State without:

(1) operable pedals, if the moped is equipped with pedals;

(2) at least one rearview mirror;

(3) operable headlights and running lights; and

(4) brake lights which are operable when either brake is deployed.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3090.

Law governing operation of mopeds posted in seller's place of business.

A person selling mopeds shall post, in a conspicuous place in his business, a sign that contains a brief explanation of the provisions of law governing the operation of mopeds, including, but not limited to, age restrictions, maximum speeds, and the definition of a moped.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

SECTION 56-2-3100.

Moped seller not required to obtain motor vehicle dealer's license.

A person or entity selling mopeds is not required to obtain a motor vehicle dealer's license.

HISTORY: 2017 Act No. 89 (H.3247), Section 10, eff November 19, 2018.

ARTICLE 4

Penalties

SECTION 56-2-4000.

Violations of chapter; penalties.

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this State declared to be a felony. A person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

HISTORY: 2017 Act No. 89 (H.3247), Section 11, eff November 19, 2018.

Title 56 - Motor Vehicles

CHAPTER 3

Motor Vehicle Registration and Licensing

DISPOSITION TABLE

Showing where the sections in Articles 7, 8, 14, 15, 16, 33, 38, 43, 53, 55, 56, 63, 68, 74, 84, 88, 99, 101, 102, 103, 104, 106, 107, 110, 111, 112, 115, 116, 117, 129, 131, 132, 143, and 144 of Chapter 3, Title 56 were recodified, effective May 6, 2022.

Former

Section New

Section 56-3-1110 56-3-14940 56-3-1120 56-3-14940, 56-3-14980(A)(2) 56-3-1130 repealed 56-3-1150 56-3-14930(3) 56-3-1750 56-3-14970(12)-(16) 56-3-1760 repealed 56-3-1770 repealed 56-3-1780 repealed 56-3-1810 56-3-14970(A)(9)-(10) 56-3-1815 56-3-14970(A)(18) 56-3-1820 repealed 56-3-1830 repealed 56-3-1840 repealed 56-3-1850 56-3-14910(A)(1)-(3) 56-3-1855 56-3-14910(D) 56-3-1860 repealed 56-3-1870 repealed 56-3-1880 repealed 56-3-3310 56-3-14930(A)(4)-(5) 56-3-3320 repealed 56-3-3330 repealed 56-3-3340 repealed 56-3-3800 56-3-14980(A)(3) 56-3-4310 56-3-14970(A)(17) 56-3-4320 repealed 56-3-4330 repealed 56-3-4340 repealed 56-3-5350 56-3-14950(A)(3) 56-3-5910 56-3-14950(A)(2) 56-3-5920 repealed 56-3-5930 repealed 56-3-5940 repealed 56-3-5950 repealed 56-3-6000 56-3-14970(A)(4)-(8) 56-3-7310 repealed 56-3-7360 56-3-14950(A)(4) 56-3-7780 56-3-14950(A)(5) 56-3-8300 56-3-14980(A)(6) 56-3-8800 56-3-14950(A)(1) 56-3-9910 56-3-14930(A)(1)-(2) 56-3-10110 56-3-14950(A)(6) 56-3-10210 56-3-14950(A)(8) 56-3-10310 56-3-14950(A)(7) 56-3-10410 56-3-14970(A)(1)-(3) 56-3-10610 56-3-14910(A)(8) 56-3-10710 56-3-14910(A)(9), 56-3-14960(A)(2) 56-3-11010 56-3-14980(A)(7) 56-3-11110 repealed 56-3-11210 56-3-14920(A)(1)-(5) 56-3-11510 56-3-14910(A)(4)-(6) 56-3-11610 repealed 56-3-11710 repealed 56-3-12910 repealed 56-3-13110 56-3-14940(A) 56-3-13210 56-3-14920(A)(6) 56-3-14310 56-3-14920(A)(8) 56-3-14320 repealed 56-3-14330 repealed 56-3-14340 repealed 56-3-14410 56-3-14920(A)(8)

ARTICLE 1

Short Title; Definitions

SECTION 56-3-10.

Short title.

This chapter shall be known and cited as the "South Carolina Motor Vehicle Registration and Licensing Act."

HISTORY: 1962 Code Section 46-1; 1952 Code Section 46-1; 1949 (46) 342.

SECTION 56-3-20.

Definitions.

For purposes of this chapter, the following words and phrases are defined as follows:

- (1) Reserved.
- (2) Reserved.
- (3) Reserved.
- (4) Reserved.
- (5) "Authorized emergency vehicle" means vehicles of the fire department (fire patrol), police vehicles, and the ambulances and emergency vehicles of municipal departments or public service corporations designated or authorized by the department or the chief of police of an incorporated municipality.
- (6) "School bus" means every bus owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for the transportation of children to or from school.
- (7) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not constructed so as to carry a load other than a part of the weight of the vehicle and load drawn.
- (8) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.
- (9) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not constructed so as to carry a load on it either independently or any part of the weight of a vehicle or load drawn.
- (10) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.
- (11) "Special mobile equipment" includes every vehicle, with or without motive power, not designed or used primarily for the transportation of persons or pay-load property and incidentally operated or moved over the highways, including farm tractors, road construction and maintenance machinery, ditch-digging apparatus, well-boring apparatus, truck cranes or mobile shovel cranes, and similar vehicles; this enumeration is deemed partial and does not operate to exclude other vehicles which are within the general terms of this definition.
- (12) "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (13) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.
- (14) "Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.
- (15) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for

transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

(16) "Foreign vehicle" means every vehicle of a type required to be registered brought into this State from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer and not registered in this State.

(17) "Implement of husbandry" means every vehicle which is designed for agricultural purposes and exclusively used by its owner in the conduct of his agricultural operations.

(18) "Solid tire" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(19) "Gross weight" or "gross weight vehicle" means the weight of a vehicle without load plus the weight of any load on it.

(20) "Load capacity" means the maximum weight of the pay load of the property intended to be transported by a vehicle or combination of vehicles, exclusive of the weight of the vehicle or vehicles.

(21) "Owner" means a person who holds the legal title of a vehicle or, in the event (a) a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or (b) a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor is deemed the owner for the purpose of this chapter.

(22) Reserved.

(23) "Dealer" or "motor vehicle dealer" means both "dealer" and "wholesaler" as defined in Chapter 15 of this title.

(24) Reserved.

(25) "Street" or "highway" means the entire width between boundary lines of every way publicly maintained when any part of it is open to the use of the public for vehicular travel.

(26) "Odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; it does not include an auxiliary instrument designed to be reset by the operator of the motor vehicle for the purpose of recording the distance traveled on trips.

(27) "Odometer reading" means actual cumulative distance traveled disclosed on the odometer.

(28) "Odometer disclosure statement" means a statement, as prescribed by item (4) of Section 56-3-240, certified by the owner of the motor vehicle to the transferee or to the Department of Motor Vehicles as to the odometer reading.

(29) Reserved.

(30) Reserved.

(31) Reserved.

HISTORY: 1962 Code Section 46-2; 1952 Code Section 46-2; 1949 (46) 342; 1980 Act No. 385, Section 1; 1983 Act No. 118 Sections 1, 2; 1986 Act No. 528, Sections 3, 4; 1992 Act No. 486, Sections 6, 7; 1993 Act No. 181, Section 1358; 1996 Act No. 459, Section 246A; 2000 Act No. 375, Section 3; 2017 Act No. 34 (S.444), Sections 4, 5, eff November 10, 2017; 2017 Act No. 89 (H.3247), Section 12, eff November 19, 2018.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments made by 2017 Act No. 34 and 2017 Act No. 89 were read together.

Effect of Amendment

2017 Act No. 34, Section 4, reserved (30), which related to the definition of "automotive three-wheel vehicle".

2017 Act No. 34, Section 5, reserved (31), which related to the definition of "motorcycle three-wheel vehicle".

2017 Act No. 89, Section 12, reserved (1) to (4), which had related to the definitions of "vehicle", "motor vehicle", "motorcycle", and "motor-driven cycle"; reserved (22), which had related to the definition of "nonresident"; reserved (24), which had been deleted; reserved (29), which had related to the definition of "moped"; and made a nonsubstantive change.

ARTICLE 3

Registration and Licensing Generally

SECTION 56-3-110.

Vehicles required to be registered and licensed.

Every motor vehicle, trailer, semitrailer, pole trailer and special mobile equipment vehicle driven, operated or moved upon a highway in this State shall be registered and licensed in accordance with the provisions of this chapter. It shall be a misdemeanor for any person to drive, operate or move upon a highway or for the owner knowingly to permit to be driven, operated or moved upon a highway any such vehicle which is not registered and licensed and the required fee paid as provided for in this chapter.

HISTORY: 1962 Code Section 46-11; 1952 Code Section 46-11; 1949 (46) 342.

SECTION 56-3-115.

Deaf or hard of hearing notation added to a motor vehicle registration.

The Department of Motor Vehicles may add a notation to a private passenger-carrying motor vehicle registration to indicate that the driver may be deaf or hard of hearing. The application for this special motor vehicle registration notation must include an original certificate from a licensed physician, as defined in Section 40-47-20, or licensed audiologist, as defined in Section 40-67-220, that certifies that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. The "deaf or hard of hearing" notation would only appear when a law enforcement check is run on the vehicle's license plate through the department's online interface with law enforcement to alert the officer that the driver may be deaf or hard of hearing.

HISTORY: 2020 Act No. 125 (H.3357), Section 1, eff March 24, 2021.

Code Commissioner's Note

At the direction of the Code Commissioner, the reference in the second sentence to Section 40-47-5 was corrected to reference Section 40-47-20.

SECTION 56-3-120.

Exemptions from registration and licensing requirement.

The following vehicles are exempt from registration and licensing under this chapter:

- (1) a vehicle driven, operated, or moved upon a highway pursuant to the provisions of this chapter relating to nonresidents or under temporary permits issued by the department as authorized;
- (2) any implement of husbandry, including a knuckleboom loader mounted on a trailer or straight truck, whether of a type otherwise subject to registration and license which only incidentally is operated or moved upon a highway;
- (3) a special mobile equipment vehicle which only occasionally is moved over a highway and special mobile equipment vehicle of the State or its departments, agencies, or political subdivisions;
- (4) a vehicle owned and operated by the government of the United States; and
- (5) a trailer or semitrailer commonly used in combination with a large commercial motor vehicle, as defined in Section 12-37-2810, for which trailer or semitrailer the fee imposed pursuant to Section 12-37-2860 is paid and applicable registration requirements provided pursuant to Article 23, Chapter 37, Title 12, are met, and a distinctive permanent plate has been issued pursuant to Section 12-37-2860.
- (6) firefighting vehicles that are publicly owned by the state or a county, municipality, or special purpose district as follows:
 - (a) motorized firefighting vehicles that carry a pump or water tank in excess of three hundred gallons;
 - (b) motorized firefighting vehicles containing a hydraulically operated ladder; and
 - (c) specialized support vehicles that specifically transport equipment utilized for rescue operations, hazardous materials response, wildfire emergencies, breathing air refill support, and incident command.

HISTORY: 1962 Code Section 46-12; 1952 Code Section 46-12; 1949 (46) 342; 1996 Act No. 425, Section 2; 1997 Act No. 125, Section 1I; 2000 Act No. 375, Section 4; 2002 Act No. 348, Section 6; 2017 Act No. 40 (H.3516), Section 8.C, eff January 1, 2019.

Editor's Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

"L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12-37-2820 and 12-37-2850 at the time the vehicle's registration fees are paid.

"(2) Notwithstanding the provisions in Section 12-37-2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12-37-2865 must be retained by the Department of Motor Vehicles to defray programming costs.

"(3) The initial millage required by Section 12-37-2850 must be calculated on or before June 1, 2018.

"M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12-37-2850 by July 1, 2018."

Effect of Amendment

2017 Act No. 40, Section 8.C, rewrote (5), relating to large commercial motor vehicles.

SECTION 56-3-130.

Exemption of certain boat, farm, and other utility trailers.

Boat trailers under twenty-five hundred pounds, farm trailers and other utility trailers which are privately owned and not for hire need not be licensed or registered.

HISTORY: 1962 Code Section 46-35.4; 1952 Code Section 46-35; 1949 (46) 342; 1959 (51) 391; 1973 (58) 379.

SECTION 56-3-140.

Exemption of certain professional racing cars.

Professional racing cars not operated under their own power but towed by another vehicle going to or from a race track need not be registered or licensed.

HISTORY: 1962 Code Section 46-35.5; 1962 (52) 1738.

SECTION 56-3-150.

Exemption of certain foreign vehicles of nonresident owners; verification process; penalties.

(A) A foreign privately owned and operated passenger vehicle of a nonresident, otherwise subject to registration and license as provided by this chapter, may be operated within this State without being registered and licensed pursuant to this chapter, subject to the conditions that at all times when operated in this State the vehicle:

- (1) is duly registered or licensed in the state, territory, district, or country of residence of the owner; and
- (2) has displayed on it a valid registration card and registration or license plate or plates.

(B) The vehicle of a nonresident must be registered and licensed pursuant to this chapter upon the earlier of a nonresident's:

- (1) subsequent establishment of domicile in this State; or
- (2) operation of the vehicle in this State for an accumulated period exceeding one hundred fifty days.

(C) After receipt of a written inquiry from the auditor of any county in which public records show that a person owns or leases real or personal property in that county, the person who is the owner or operator of a nonregistered vehicle must respond within thirty

days with a sworn written statement that:

- (1) describes each vehicle owned or operated by him;
- (2) details the registration location for each vehicle owned or operated by him;
- (3) gives the date each vehicle was first owned or operated by him; and
- (4) affirms that he has not established domicile in the county.

(D) The written inquiry by the auditor must be delivered in person or sent by certified letter, return receipt requested, to the nonresident's last known address. Before the auditor may send the written inquiry, the auditor must have received a credible report that a person may own or operate a nonregistered vehicle and that the person also may own or lease real or personal property in the county. The determination regarding whether the report is credible is within the discretion of the auditor.

(E)(1) The penalty for violation of this section is as provided for in Section 12-37-2615, in addition to any other penalties prescribed by law for failure timely to register a vehicle pursuant to this section.

(2) A person who wilfully fails to respond to an inquiry from the county auditor and is subsequently shown to have a nonregistered vehicle, who files a false sworn statement, or who otherwise wilfully violates this section, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, and must pay twice the amount all personal property taxes properly due and payable on the vehicle, and other vehicles owned now or earlier, if the vehicle had been registered lawfully pursuant to this section, plus penalties and interest.

(F) For purposes of this section, "nonregistered vehicle" means a vehicle that is not registered in South Carolina.

HISTORY: 1962 Code Section 46-101; 1952 Code Section 46-101; 1949 (46) 342; 1995 Act No. 5, Section 1; 2002 Act No. 275, Section 1.

SECTION 56-3-160.

Foreign vehicles of resident owners.

Every foreign vehicle moved into this State the owner of which is a resident of this State immediately becomes liable for registration and license under the provisions of this chapter, and for the purpose of this section, the term "resident of this State" shall include every person who moves temporarily or permanently into this State for the purpose of engaging in any business, profession or employment.

HISTORY: 1962 Code Section 46-102; 1952 Code Section 46-102; 1949 (46) 342.

SECTION 56-3-170.

Reciprocity with respect to the operation of vehicles licensed out of state.

Notwithstanding any provisions of this chapter, the Department of Motor Vehicles may grant to any other state, country, territory or district reciprocity with respect to the operation of any vehicles in this State without being registered and licensed under the provisions of this chapter if such other state, country, territory or district extends under its laws, rules and regulations like privileges to vehicles registered and licensed in this State, subject to the conditions that every such vehicle is at all times, when operated in this State, duly registered or licensed in such state, territory, district or country in accordance with the lawful requirements of such state, country, territory or district and that there is displayed thereon a valid registration card and registration or license plate or plates.

HISTORY: 1962 Code Section 46-103; 1952 Code Section 46-103; 1949 (46) 342; 1959 (51) 391.

SECTION 56-3-180.

Repealed.

HISTORY: Former Section, titled Special permits to operate vehicles otherwise required to be registered and licensed; restrictions, had the following history: 1962 Code Section 46-13; 1952 Code Section 46-13; 1949 (46) 342; 2012 Act No. 107, Section 1, eff February 1, 2012. Repealed by 2023 Act No. 51, Section 30, eff January 18, 2024.

SECTION 56-3-190.

Department may register and license vehicles.

(A) The Department of Motor Vehicles may register and license vehicles as required by this chapter upon application being made therefor by the owner and the required fees paid as provided in this chapter.

(B) If a commercial motor vehicle is registered through the International Registration Plan and is operated under a United States Department of Transportation (USDOT) number assigned to a person other than the vehicle's owner, then the person to whom the USDOT number is assigned may register the commercial motor vehicle by submitting the appropriate application and fees to the Department of Motor Vehicles.

HISTORY: 1962 Code Section 46-14; 1952 Code Section 46-14; 1949 (46) 342; 2021 Act No. 37 (H.3689), Section 3, eff May 6, 2021.

Effect of Amendment

2021 Act No. 37, Section 3, inserted the (A) designator, and added (B).

SECTION 56-3-195.

Counties to process vehicle registration and licensing renewals; access to records; department to fund startup costs.

(A) Each county shall mail motor vehicle registration and licensing renewal notices to the owners of vehicles in the county as determined by the Department of Motor Vehicles no later than forty-five days before expiration of the registration. The renewal notices, including the fees upon completion, may be returned to that county which shall transmit the renewal notices to the department for processing and which shall transmit the fees to the appropriate state fund as provided by law within seven days of receipt. The owner of a large commercial motor vehicle, as defined in Section 12-37-2810(C), must establish an account with the Department of Motor Vehicles and must remit payment for all fees associated with registration and licensing renewal directly to the

Department of Motor Vehicles.

(B) Each county shall have access to the motor vehicle registration and licensing records of the department as applicable to the county in the manner the county and department agree for the purpose of the county performing the functions required in subsection (A).

(C) Counties must not be charged online access network fees for driver and vehicle information.

(D) The department will fund the start-up costs for counties not to exceed a total of one million dollars inclusive to all counties. The start-up cost includes hardware, software, training, and other associated costs all of which must be approved by the department.

HISTORY: 1993 Act No. 164, Part II, Section 22A; 2021 Act No. 37 (H.3689), Section 4.A, eff July 1, 2024.

Editor's Note

2021 Act No. 37, Section 4.B, provides as follows:

"[SECTION 4.]B. This SECTION takes effect on the first day of the fiscal year that begins twenty-four months after the program is fully funded."

The program was fully funded as of July 1, 2022.

Effect of Amendment

2021 Act No. 37, Section 4.A, in (A), in the first sentence, substituted "Each county" for "Beginning on July 1, 1994, each county", and added the third sentence.

SECTION 56-3-200.

Certificate of title or application as prerequisite to registration.

Except in the case of a moped or as otherwise provided for in Chapter 19 of this title, the department shall not register or renew the registration of a vehicle unless a certificate of title has been issued by the department to the owner or an application has been delivered by the owner to the department.

HISTORY: 1962 Code Section 46-14.1; 1957 (50) 595; 2017 Act No. 89 (H.3247), Section 13, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 13, substituted "Except in the case of a moped" for "Except" and "department" for "Department of Motor Vehicles", and made nonsubstantive changes.

SECTION 56-3-210.

Time period for procuring registration and license; temporary license plates; transfer of license plates.

(A)(1) The department is authorized to administer a program for and regulate the issuance of temporary license plates for items required to be registered in this State and items that are purchased in this State that may be registered in a foreign jurisdiction.

(2) The department, pursuant to this section and with input from temporary license plate distributors, shall establish the design and layout of all temporary license plates to be issued within the State. Temporary license plates shall be of a material specified by the department so as to resist deterioration or fading from exposure to the elements during the period for which display is required.

(3) Temporary license plates must be six inches wide and at least eleven inches in length. Temporary motorcycle and moped license plates must be four inches wide and seven inches in length.

(4) Each temporary license plate must contain a vehicle's identifying information as determined by the department including, but not limited to, the date of expiration, the name of the issuing entity or standard identifier as determined by the department and a unique identifying license plate text assigned by the department. The temporary license plate text must be linked to the vehicle record and the vehicle's owner in the department's vehicle database. In order to operate on the highways of this State, an item must display either a valid temporary license plate issued pursuant to this title or a valid metal license plate, and, when applicable, a decal that the owner intends to transfer pursuant to Section 56-3-1290.

(5) Licensed motor vehicle dealers, leasing companies, the department, and other entities shall not obtain or procure a temporary license plate from any entity other than a registered temporary license plate distributor.

(B)(1) Only statewide motor vehicle dealer associations in which at least thirty percent and no fewer than two hundred members are licensed South Carolina motor vehicle dealers may be temporary license plate distributors. Except as otherwise provided in this section, only temporary license plate distributors may sell or distribute temporary license plates.

(2) If a temporary license plate distributor is unable to provide temporary license plates for the department in a timely manner, the department may solicit for and select a different temporary license plate distributor. The department's solicitation and selection of a different temporary license plate distributor is subject to the provisions of the State Consolidated Procurement Code.

(3) If the only temporary license plate distributors in this State do not respond to a solicitation as provided for in item (2) then this subsection is of no force or effect.

(C)(1) The department is authorized to administer an electronic system for county auditors' offices, licensed motor vehicle dealers, leasing companies, and other entities authorized by the department to use in issuing temporary license plates. The department may contract with third parties to provide service connection between the issuing entities and the department, or may provide the service directly to participating entities. Licensed dealers, leasing companies, and other entities participating in the electronic registration and titling program that fail to comply with the program's requirements may be removed from the program by the department.

(2) Third parties contracted pursuant to this section are authorized to produce temporary license plates and temporary vehicle registration transactions on behalf of the department. The department shall develop program terms, conditions, standards, and specifications required for certification. Third parties requesting certification must agree to the terms, conditions, standards, and specifications in order to participate.

(D) The department, with input from temporary license plate distributors, shall develop program specifications that define the

requirements of the temporary license plate program governing the issuance of temporary license plates by all authorized entities. The design, specifications, and method of distribution of all temporary plates shall be the same.

(E) Issuing entities may utilize no more than the upper fifty percent free space on their temporary license plates for dealer or company identification. Traceable temporary license plates from issuing entities that do not utilize the plate for dealer or company identification must include an identifier selected by the department. Third-party providers that produce temporary license plates must not charge an additional fee to issuing entities that chose to issue traceable temporary license plates that include the identifier selected by the department. The lower fifty percent of all temporary license plates is reserved to display the temporary license plate number and other information required by the department pursuant to Section 56-3-210(A)(4).

(F) Except as provided for in this chapter, a dealer or leasing company may not use a temporary license plate for any other purpose, which includes, but is not limited to, vehicle demonstration, employee use, or transporting vehicles from one location to another location. A dealer or leasing company may not place a temporary license plate on a vehicle until the vehicle is sold to a purchaser and until the temporary license plate number and other identifying information has been recorded in the electronic database and printed on the lower fifty percent of the temporary license plate. A dealer that issues or allows a temporary license plate to be issued in violation of this section also may have the dealer violation points, as determined by the department, assessed. A nondealer issuing entity that violates this section may have its issuing privileges suspended by the department. The department shall develop a process for tracking fraudulently issued or sold temporary plates.

(G) Any person or entity authorized by this chapter to issue a temporary license plate shall maintain records as required by the department. Records maintained pursuant to this subsection shall be open to inspection by the department or its agents during reasonable business hours. Records must include the inventory control number of each temporary license plate, the vehicle identification number, issuance date, and expiration date.

(H) Licensed motor vehicle dealers, leasing companies, and other entities may provide temporary license plates only for items that are purchased from that dealer company or entity.

(I) The total fee for the temporary license plates the department or counties issue pursuant to this chapter shall be calculated based on:

(1) the five-dollar cost of the plate, which must be placed in a special restricted account to be used solely by the department for the costs associated with the production and issuance of new license plates; and

(2) an additional five dollars which must be disbursed to the South Carolina Transportation Infrastructure Bank's state highway account pursuant to Section 56-3-910.

(J)(1) The total fee for the temporary license plates issued pursuant to this chapter by licensed dealers, leasing companies, and other entities must be calculated based on:

(a) the actual cost of the license plate plus issuing and printing, as well as standard shipping and handling costs; and

(b) an additional five dollars which must be remitted to the department. The department shall disburse two dollars and fifty cents of each additional five dollars remitted to the State Highway Fund, as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remaining two dollars and fifty cents of each additional five dollars remitted shall be disbursed to the South Carolina Transportation Infrastructure Bank's state highway account pursuant to Section 56-3-910.

(2) Dealers, leasing companies, and other entities shall not charge any fees for traceable temporary license plates in excess of the fees provided for in this subsection.

(K) The bill of sale, title, lease contract, temporary registration card issued in conjunction with a temporary license plate or copy of one of these documents must be maintained in the vehicle at all times to verify the vehicle's date of purchase or lease. The bill of sale, title, lease contract, or copy of one these documents must contain a description of the vehicle, the name and address of both the seller and the purchaser of the vehicle, and its date of sale or lease.

(L) All temporary license plates must be valid for no more than forty-five days and must be affixed at all times to the rear of the item in an unobscured and secure manner.

(M) Only one temporary license plate may be issued to a purchaser of an item. The temporary license plate must be used only on the item for which it was issued and must not be transferred, loaned, or assigned to any other person or item.

HISTORY: 1962 Code Section 46-15; 1952 Code Section 46-15; 1949 (46) 342; 1951 (47) 527; 1984 Act No. 371, Section 1; 1985 Act No. 40, Section 3; 1994 Act No. 497, Part II, Section 121H; 2002 Act No. 251, Section 1, subsections (A), (B), (C); 2004 Act No. 288, Section 1; 2016 Act No. 275 (S.1258), Section 28, eff July 1, 2016; 2018 Act No. 208 (S.1083), Section 1, eff May 15, 2019; 2023 Act No. 51 (S.549), Section 8, eff January 18, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, in (J)(1)(b), the reference to "Section 57-11-167" was changed to "Section 57-11-20" to correct a scrivener's error.

Editor's Note

2018 Act No. 208, Section 2, provides as follows:

"SECTION 2. All entities authorized to issue temporary license plates pursuant to Section 56-3-210 must comply with all program specifications within one hundred eighty days of the effective date of this act [May 15, 2019]."

2023 Act No. 51, Section 40(C)(1), provides as follows:

"[SECTION 40.](C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code."

Effect of Amendment

2018 Act No. 208, Section 1, rewrote the section.

2023 Act No. 51, Section 8, rewrote the section.

SECTION 56-3-211.

Temporary license plates for items registered in a foreign jurisdiction and farm trucks harvesting and transporting seasonal crops. The department, licensed dealers, leasing companies, and other entities may issue temporary license plates to operate any item that is purchased in this State that may be registered in a foreign jurisdiction and farm trucks registered in another jurisdiction that are harvesting and transporting seasonal crops. Temporary license plates issued pursuant to this section must meet all standards specified in Section 56-3-210.

HISTORY: 2023 Act No. 51 (S.549), Section 9, eff January 18, 2024.

Editor's Note

2023 Act No. 51, Section 40(C)(1), provides as follows:

"[SECTION 40.](C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code." SECTION 56-3-212.

Temporary license plates for items or vehicles used solely for corporate research and development.

(A) The department, licensed dealers, leasing companies, and other entities may issue temporary license plates to operate any item that will be registered in this State or vehicles used solely for corporate research and development. In the case of the need to move trailers and semi-trailers before they have been purchased, temporary license plates may be issued to those items for the sole purpose of being moved from the manufacturer to the dealer's or purchaser's place of business. Temporary license plates issued pursuant to this section must meet all standards specified in Section 56-3-210.

(B) A person who newly acquires a vehicle or an owner of a vehicle registered in a foreign jurisdiction that is being moved into this State, that is required to be registered under this title, and that is not properly registered and licensed, before operating the vehicle on the state's highways during the forty-five-day period contained in this section, must:

- (1) transfer a license plate from another vehicle pursuant to Section 56-3-1290;
- (2) purchase a new license plate and registration;
- (3) purchase a temporary license plate from the department; or
- (4) purchase a temporary license plate from the county auditor's office in the county in which the person resides.

(C) The department, upon proper application, must issue a temporary license plate to a casual buyer of any item that will be registered in this State.

(D) If a person intends to transfer a license plate from one item to another item that is the same type and classification, then he may place the license plate to be transferred on the newly acquired item on the date of its purchase. The bill of sale and a copy of the registration which corresponds to the license plate must be maintained with the newly acquired item at all times to verify its date of purchase to a law enforcement officer. The purchaser must register the item with the department within forty-five days from its purchase date. A person who transfers a license plate or allows a license plate to be transferred in violation of this subsection is subject to the vehicle registration and licensing provisions of law.

(E) A person must replace a temporary license plate issued pursuant to this section with a permanent license plate and registration card as soon as he receives them, or by the end of the expiration period of the temporary license plate, whichever occurs first, unless the provisions of Section 56-3-213 apply. A person who operates an item in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars. This subsection does not apply to vehicles used solely for corporate research and development or trailers and semi-trailers that have temporary license plates for the sole purpose of being moved from the manufacturer to the dealer's or purchaser's place of business.

(F) The owner of a foreign vehicle being moved into this State from a state in which the vehicle is properly licensed and registered has forty-five days to properly license and register the vehicle in South Carolina, unless his foreign registration is expired, in which case he must license and register the vehicle immediately.

(G) Nothing in this section may be construed to displace or effect the responsibility of a person to obtain insurance before operating a vehicle.

HISTORY: 2023 Act No. 51 (S.549), Section 10, eff January 18, 2024.

Editor's Note

2023 Act No. 51, Section 40(C)(1), provides as follows:

"[SECTION 40.](C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code." SECTION 56-3-213.

Issuance of special permits.

(A) The department may issue solely to South Carolina residents, as proven by showing their driver's license or identification card issued by the department, special permits to operate any item otherwise required to be registered under this title when the item does not display the required license plate or registration card. In the case of a newly acquired vehicle, the department may issue a special permit pursuant to this section only when it has reason to believe that a person has made all attempts to appropriately register the item within the forty-five days of acquiring the vehicle. The department retains the authority to issue special permits at other times when extenuating circumstances exist. Special permits issued pursuant to this section must be valid for no more than forty-five days and must be affixed to the rear of the item in an unobscured and secure manner to operate. The department is the only entity

authorized to provide a special permit pursuant to this section. There is no fee for special permits issued pursuant to this section.
(B) The provisions of this section do not apply to items registered in a foreign jurisdiction or used for corporate research and development.

HISTORY: 2023 Act No. 51 (S.549), Section 11, eff January 18, 2024.

Editor's Note

2023 Act No. 51, Section 40(C)(1), provides as follows:

"[SECTION 40.](C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code." SECTION 56-3-214.

Quality assurance program.

(A) The department shall implement a quality assurance program to ensure the integrity of the electronic registration and titling program. Pursuant to this section, the quality assurance entity shall perform quality assurance reviews of data and submitted forms through the electronic vehicle registration system. The department shall develop program standards and specifications for quality assurance. Quality assurance entities must agree to the program terms, conditions, standards, specifications, and bond requirement in order to participate.

(B)(1) A quality assurance entity must be a statewide motor vehicle dealer association in which at least thirty percent and no fewer than two hundred members are licensed South Carolina motor vehicle dealers.

(2) If the quality assurance entity does not meet reasonable accuracy standards, the department may solicit for and select a different quality assurance provider without regard to this subsection and in accordance with the State Consolidated Procurement Code.

(3) If a statewide motor vehicle dealer association in which at least thirty percent and no fewer than two hundred members are licensed South Carolina motor vehicle dealers does not respond to a solicitation to be a quality assurance entity, then this subsection does not apply.

Text of (C) effective November 18, 2024.

(C) The quality assurance entity shall review all required documents for all transactions for all applications of title and registration submitted by dealers in accordance with department standards.

Text of (D) effective November 18, 2024.

(D) The quality assurance entity shall charge a fee of ten dollars per vehicle sold by the dealer. The ten-dollar fee is an official fee and may be charged to the consumer by the dealership. The fee shall be a stand-alone line item on a dealer invoice or bill of sale and is not calculated as part of the purchase price of the vehicle.

Text of (E) effective November 18, 2024.

(E) The department may allow or refuse a dealership the right to issue temporary motor vehicle registrations or temporary license plates through the electronic registration and titling program should the accuracy rate of its documentation fall below ninety-five percent as determined through the quality assurance entity and reported to the Department of Motor Vehicles on a monthly basis or upon request by the department.

Text of (F) effective November 18, 2024.

(F) If a dealership previously is denied the privilege to issue registrations and temporary license plates, upon meeting the established criteria, the dealership may be allowed to issue registrations or license plates again.

(G) The quality assurance entity shall carry a bond to ensure departmental standards and the protection of personally identifiable information remains intact. The bond amount shall be determined by the department.

Text of (H) effective November 18, 2024.

(H) The department is authorized to collect a transaction fee from the quality assurance entity that transmits or retrieves data from the department pursuant to this section. The fee must not exceed five dollars for each transaction. Two dollars fifty cents of each fee collected pursuant to this subsection must be credited to the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The other two dollars fifty cents of each fee collected pursuant to this subsection shall be retained by the Department of Motor Vehicles and earmarked in an account for the sole purpose of technology modernization.

Fees in the account may be carried forward from fiscal year to fiscal year.

HISTORY: 2023 Act No. 51 (S.549), Section 13, eff May 18, 2023 and November 18, 2024.

Editor's Note

2023 Act No. 51, Section 40(C) and (F), provide as follows:

"[SECTION 40.](C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code.

"(2) Section 56-3-214(C), 56-3-214(D), 56-3-214(E), 56-3-214(F), and 56-3-214(H) take effect ten months after the effective date of SECTIONS 8, 9, 10, 11, and 12."

"(F) The remaining SECTIONS of this act, and Sections 56-3-214(A), 56-3-214(B)(1), 56-3-214(B)(2), 56-3-214(B)(3), 56-3-214(G), 56-1-20, 56-23-40, 56-23-60, and 56-23-105 take effect upon approval by the Governor."

SECTION 56-3-215.

Repealed.

HISTORY: Former Section, titled Temporary permits authorized for out-of-state registered farm trucks harvesting and transporting seasonal crops in State, had the following history: 1981 Act No. 177, Section 14. Repealed by 2023 Act No. 51, Section 31, eff January 18, 2024.

SECTION 56-3-230.

Application for registration and license.

Every owner of a vehicle subject to registration and for which a license is required shall make application to the Department of Motor Vehicles for the registration and licensing of the vehicle upon the appropriate forms furnished by the department. Every application must bear the signature of the owner.

HISTORY: 1962 Code Section 46-16; 1952 Code Section 46-16; 1949 (46) 342; 1994 Act No. 497, Part II, Section 121I.

SECTION 56-3-240.

Contents of application.

Every such application shall contain:

- (1) The name, bona fide residence and mail address of the owner or business address of the owner if a firm, association or corporation and the county, municipality, if applicable, and school district in which the applicant resides;
- (2) A description of the vehicle including insofar as such data may exist with respect to a given vehicle, the make, model, type of body, number of cylinders, serial number and engine or other number of the vehicle, whether the vehicle is new or used and the date of sale by the manufacturer or dealer to the person intending to operate such a vehicle and, in the event a vehicle is designed, constructed, converted or rebuilt for the transportation of property, a statement of the load capacity for which it is to be registered;
- (3) Such further information as may reasonably be required by the Department of Motor Vehicles to enable it to determine whether the vehicle is lawfully entitled to registration and licensing;
- (4) In addition to the information required by item (2), whenever the application is for a motor vehicle which has been transferred from a previous registrant to the applicant, the applicant will complete the odometer disclosure statement on the application which shall be in compliance with federal guidelines and as prescribed by the department.
- (5) In addition to other registration requirements the department shall collect a federal employer identification number or social security number when a vehicle is registered with a gross vehicle weight of more than twenty-six thousand pounds or as a bus common carrier.

Additionally, for a commercial motor vehicle with a gross weight of more than twenty-six thousand pounds that operates with an apportioned license plate, the department may determine the manner, including the standard for measuring distance, such as miles or kilometers, application process, and filing deadlines for applications under the International Registration Plan, and must be provided:

- (a) the United States Department of Transportation Number of the motor carrier responsible for safety, as defined by the Federal Motor Carrier Safety Administration; and
- (b) a current MCS 150 form for the motor carrier responsible for safety, as defined by the Federal Motor Carrier Safety Administration. This form also must be on file with the Federal Motor Carrier Safety Administration. Except where the International Registration Plan permits an applicant to use average per-vehicle distance, an application may contain the actual distance that the fleet being registered was operated during the report period. In accordance with the International Registration Plan, if the fleet did not accrue any actual distance during the reporting period, an applicant may use average per-vehicle distance. The expiration date of apportioned registration for all apportioned vehicles in a fleet must be the same date.

HISTORY: 1962 Code Section 46-17; 1952 Code Section 46-17; 1949 (46) 342; 1979 Act No. 153 Section 1; 1980 Act No. 385, Section 2; 1996 Act No. 459, Section 130; 2000 Act No. 399, Section 3(V); 2002 Act No. 301, Section 1; 2021 Act No. 37 (H.3689), Section 10, eff May 6, 2021.

Effect of Amendment

2021 Act No. 37, Section 10, rewrote (5).

SECTION 56-3-250.

Statement certifying payment of county and municipal taxes and address to accompany application; exceptions.

No vehicle shall be registered and licensed by the department unless a signed statement accompanies the application certifying that all county and municipal taxes legally due by the applicant on the vehicle concerned have been paid and if such vehicle is legally subject to being returned by the applicant for county and municipal taxes such return has been made; that the applicant is not delinquent in the payment of any motor vehicle taxes in this State, and that the address and county shown on the application for license is the true legal residence of the applicant. A transfer between members of the same family shall not, for the purpose of this section, be considered a bona fide purchase. Any person falsely certifying as required in this section shall have his driver's license suspended for a period of six months.

The provisions of this section shall not apply to mopeds or to any citizen of this State on active duty with the Armed Forces of the United States when the vehicle to be registered and licensed is operated for more than six months each year outside the boundaries of this State, nor to any motor vehicle subject to assessment for ad valorem tax purposes by the Department of Revenue.

HISTORY: 1962 Code Section 46-17.1; 1956 (49) 1697; 1961 (52) 160; 1962 (52) 1966; 1993 Act No. 181, Section 1360; 2017 Act No. 89 (H.3247), Section 14, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 14, in the first paragraph, substituted "department" for "Department of Motor Vehicles"; and in the second paragraph, inserted "mopeds or to", and substituted "Department of Revenue" for "State Tax Commission".

SECTION 56-3-253.

Establishment of biennial registration periods.

- (A) Vehicles required by Chapter 3 of Title 56 to be registered biennially must be assigned registration periods as provided in this

section.

(1) Upon the first reregistration of the vehicles by the Department of Motor Vehicles after the effective date of the implementation of biennial licensure, a biennial registration period must be implemented as follows:

(a) Vehicles whose license plates end in:

- (i) an even number and expire between July 1, 1993, and December 31, 1993, shall obtain a biennial registration;
- (ii) an even number and expire between January 1, 1994, and June 30, 1994, shall reregister their vehicles for one year. At the end of this time they shall reregister their vehicles for two years and biennially after that time;
- (iii) an odd number and expire between July 1, 1993, and December 31, 1993, shall register their vehicles for one year. At the end of that time they shall reregister their vehicles for two years and biennially after that time;
- (iv) an odd number and expire between January 1, 1994, and June 30, 1994, shall obtain a biennial registration;
- (v) all special license plates must obtain a biennial registration upon renewal, except that official plates such as Legislative, Judicial, Commission, and Congressional must be renewed annually for one-half the biennial fee.

(2) Registrations are valid until the last day of the month in which the registration expires.

(B) After June 30, 1994, vehicles must be registered and licensed for twenty-four consecutive months, and registrations expire the last day of the month. The registration and license must be renewed biennially upon application by the owner and payment of fees required by law to take effect on the first day of the month following the expiration of the registration and license to be renewed. This section does not prevent the department from refusing to license a vehicle.

(C) The department shall not issue a refund of the biennial registration fee to a person who has paid the fee and moves out of the State during the biennial registration period.

HISTORY: 1993 Act No. 164, Part II, Section 22A; 1998 Act No. 419, Part II, Section 21.

SECTION 56-3-255.

Requirement of evidence of payment of federal use tax.

The Department of Motor Vehicles shall require evidence of the payment of the use tax imposed by Section 4481 of the Internal Revenue Code of 1954 prior to issuing vehicle registration and plates for those vehicles for which the taxes are required.

HISTORY: 1984 Act No. 512, Part II, Section 75; 1993 Act No. 181, Section 1361.

SECTION 56-3-350.

Grounds for refusing to register and license or transfer registration of vehicle.

The Department of Motor Vehicles shall refuse to register and license or transfer registration upon one or more of the following grounds:

- (1) The application contains a false or fraudulent statement or the applicant has not furnished required information or reasonable additional information requested by the department.
 - (2) The vehicle is mechanically unfit or unsafe to be operated or moved upon the highways.
 - (3) The department has reasonable ground to believe the vehicle is stolen or the registration and licensing or transfer is a fraud against the rightful owner of the vehicle.
 - (4) The registration and license of the vehicle is canceled, suspended, or revoked as provided in this chapter or other motor vehicle laws of this State.
 - (5) The required fee has not been paid.
 - (6) For a vehicle purchased outside this State, satisfactory evidence of payment of the South Carolina use tax has not been presented.
- HISTORY: 1962 Code Section 46-18; 1952 Code Section 46-18; 1949 (46) 342; 1969 (56) 444; 1993 Act No. 164, Part II, Section 22B.

SECTION 56-3-355.

Suspension or revocation of commercial vehicle registration card and license plate; reinstatement; fees.

(A) The Department of Motor Vehicles must suspend, revoke, or not issue a registration card and license plate to a person for a commercial motor vehicle greater than twenty-six thousand pounds which operates with an apportioned license plate if the commercial motor carrier who is responsible for the safety of the vehicle has been prohibited from operating by a federal agency or if it is determined that the registrant has:

- (1) made a material misrepresentation or false statement on the application or fails to disclose material information required pursuant to Section 56-3-240 or the International Registration Plan, if applicable;
- (2) used or permitted the use of plates contrary to law;
- (3) been found guilty of fraud, fraudulent practices, or subterfuge for the real party in interest who has been issued a federal out-of-service order;
- (4) operated or owned a business managed, or otherwise controlled or affiliated, with a person who is ineligible for registration, including the registrant entity, a relative, family member, corporate officer, or shareholder; or
- (5) failed to comply with any of the regulations of the department for the enforcement of this article.

(B) The registrant promptly must surrender to the department any item suspended or revoked under this section. If the registrant unlawfully refuses to surrender the suspended or revoked items as required under this section, the department, through its designated agents or by request to a county or municipal law enforcement agency, shall take possession of the suspended or revoked license plate and registration card. A registration card or license plate may not be reissued for that vehicle until the motor carrier has been allowed to operate by a federal agency or the vehicle is properly transferred to a motor carrier that is not prohibited from operating by a federal agency. Before a suspended vehicle registration card can be reinstated, the department shall receive a signed copy of

any inspection report for each suspended registration card and a fee of fifty dollars for each registration card suspension which must be paid to the department. The fifty dollar fee must be placed in the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General.

HISTORY: 2002 Act No. 301, Section 2; 2016 Act No. 275 (S.1258), Section 29, eff July 1, 2016; 2021 Act No. 37 (H.3689), Section 11.A, eff July 1, 2021.

Editor's Note

2021 Act No. 37, Section 11.B, provides as follows:

"[SECTION 11.]B. This SECTION takes effect at the start of the fiscal year immediately following approval by the Governor."

Effect of Amendment

2021 Act No. 37, Section 11.A, rewrote the section.

SECTION 56-3-360.

Suspension of registration of vehicle reported stolen or converted.

The Department of Motor Vehicles may suspend the registration of a vehicle whose theft or conversion is reported to it pursuant to Section 56-19-810 or Section 56-19-820.

HISTORY: 1962 Code Section 46-18.1; 1957 (50) 595; 1993 Act No. 181, Section 1362; 1996 Act No. 459, Section 131.

SECTION 56-3-376.

Establishment of system of registration of motor vehicles on monthly basis; assignment of annual registration periods.

(A) All vehicles except those vehicles designated in Section 56-3-780 are designated as distinct classifications and must be assigned an annual registration period as follows:

(1) Classification (1). Vehicles for which the biennial registration fee is one hundred sixty dollars or more. The Department of Motor Vehicles may register and license a vehicle for which the biennial registration fee is one hundred sixty dollars or more or for a semiannual or one-half year upon application to the department by the owner and the payment of one-fourth of the specified biennial fee. Biennial registrations and licenses expire at midnight on the last day of the twenty-fourth month for the period for which they were issued. Semiannual or half-year registrations and licenses expire at midnight of the sixth month for the period for which they were issued and no person shall drive, move, or operate a vehicle upon a highway after the expiration of the registration and license until the vehicle is registered and licensed for the then current period. Trucks, truck tractors, or road tractors with an empty or unloaded weight of five thousand pounds or less, or gross vehicle weight of eight thousand pounds or less also must be placed in this classification but may not be registered for less than a full biennial period.

(2) Classification (2). Other vehicles. All other vehicles except those vehicles described in classification (1) and (3) of this section are assigned a staggered biennial registration which expires on the last day of the month for the period for which they were issued.

(3) Classification (3). Large commercial motor vehicles and buses registered by motor carriers, as defined in Section 12-37-2810, are assigned a staggered annual registration which expires on the last day of the month for the period for which they were issued.

(B) Notwithstanding the registration periods provided in this section, upon appropriate notice, the department may revise the established renewal dates to allow renewals to be assigned an expiration date pursuant to a staggered monthly basis.

HISTORY: 1978 Act No. 470 Section 2; 1980 Act No. 401; 1991 Act No. 148, Section 2; 1993 Act No. 164, Part II, Section 22C; 1994 Act No. 497, Part II, Section 55E; 1996 Act No. 459, Section 132; 2017 Act No. 40 (H.3516), Section 8.B, eff January 1, 2019; 2021 Act No. 37 (H.3689), Section 1, eff May 6, 2021.

Editor's Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

"L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12-37-2820 and 12-37-2850 at the time the vehicle's registration fees are paid.

"(2) Notwithstanding the provisions in Section 12-37-2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12-37-2865 must be retained by the Department of Motor Vehicles to defray programming costs.

"(3) The initial millage required by Section 12-37-2850 must be calculated on or before June 1, 2018.

"M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12-37-2850 by July 1, 2018."

Effect of Amendment

2017 Act No. 40, Section 8.B, inserted the paragraph identifiers; in (A)(2), inserted "and (3)"; and added (A)(3), relating to the classification of large commercial motor vehicles and buses.

2021 Act No. 37, Section 1, in the second and third sentences, substituted "one hundred" for "one-hundred", and in the sixth sentence, substituted "of five thousand pounds or less" for "of over five thousand pounds or less".

SECTION 56-3-377.

Vehicles to be assigned biennial registration period; expiration twenty-four months from issuance.

All vehicles described in Section 56-3-210 must be assigned a biennial registration period which expires twenty-four months from the month in which the registration first was issued.

HISTORY: 1978 Act No. 470 Section 2; 1993 Act No. 164, Part II, Section 22D.

SECTION 56-3-378.

Establishment of system of registration of motor vehicles on monthly basis; issuance of registration and license plate for period of five years.

The Department of Motor Vehicles may issue at the request of the owner of a vehicle as defined in Section 56-3-700 of the 1976 Code a registration and license plate for a registration period of five years if the required five-year registration and license fee is paid to the department. The transfer of registration and license plates for vehicles in this classification shall be as provided in Sections 56-3-1260, 56-3-1270, 56-3-1280, 56-3-1290 and 56-3-1300. The department shall require the vehicle owner to remit any additional registration fee if an increase in the registration fee is subsequently enacted. The failure of an owner to pay such fee shall result in the cancellation of the registration and license plate.

HISTORY: 1978 Act No. 470 Section 2.

SECTION 56-3-385.

Extension of deadline where last day for obtaining license plate or renewal sticker falls on Saturday, Sunday, or holiday.

When the last day of a month on which a person may obtain his biennial motor vehicle license plate or renewal sticker without penalty falls on a Saturday, Sunday, or state holiday, the person has until the end of the next working day immediately following that Saturday, Sunday, or state holiday to obtain his license plate or renewal sticker without penalty.

HISTORY: 1985 Act No. 201, Part II, Section 24; 1993 Act No. 164, Part II, Section 22E.

SECTION 56-3-390.

Penalties for fraudulent applications and misrepresentation of facts.

Any person who (a) fraudulently uses or gives a false or fictitious name or address in any application required to be made under this chapter except for registration, (b) knowingly makes a false statement in any such application or (c) knowingly conceals a material fact in any such application shall be guilty of a misdemeanor and shall upon conviction be punished as herein provided. Any person who shall operate or any owner who shall permit the operation or movement of any vehicle registered and licensed under a violation of this section shall be guilty of a misdemeanor and, upon conviction, shall be punished as herein provided.

HISTORY: 1962 Code Section 46-21; 1952 Code Section 46-21; 1949 (46) 342; 1957 (50) 595.

SECTION 56-3-400.

Reciprocity in registration and licensing of automobile utility trailers; "automobile utility trailer" defined.

The term "automobile utility trailer" when used in Sections 56-3-400 to 56-3-420 shall mean and include any trailers suitable for towing by a private passenger automobile, the use of which is confined to the private hauling of personal property for intrastate or interstate use, or combined intrastate and interstate use. The term "automobile utility trailer" shall not include trailers or semitrailers rented or leased to any person for use by such lessee in the furtherance of or as an incident to any commercial or industrial enterprise in interstate commerce or for the use in connection with any business or occupation carried on in interstate commerce by the lessee.

HISTORY: 1962 Code Section 46-97; 1957 (50) 551.

SECTION 56-3-410.

Reciprocity in registration and licensing of automobile utility trailers; procedures; extension of registration.

For the purpose of interstate and combined interstate and intrastate reciprocity provisions of Sections 56-3-400 to 56-3-420, automobile utility trailers shall be extended full reciprocity, provided that every person who owns automobile utility trailers within this State and who is engaged in the business of leasing such trailers for use in interstate, intrastate or combined interstate and intrastate commerce (a) registers and licenses all automobile utility trailers owned by him in the state wherein the owner actually resides and such state affords equal recognition, either in fact or in law, to such trailers licensed in this State or (b) registers and licenses in this State the average number of automobile utility trailers operated in and through this State during the licensing year. In such instances, the person shall register with the Department of Motor Vehicles the fact that he is engaged in such business and shall file data in such form and verified in such manner as shall be required by the Department, estimating the average number of automobile utility trailers he leases for operation in and through the State during the licensing year. The Department shall then determine the average number of such trailers operated in and through this State during the licensing year and such determination shall be final. Upon payment of the fee required by Section 56-3-130, the Department shall, subject to the provisions of Section 56-3-420, issue registration certificates and license plates for the average number of such automobile utility trailers as above determined and that number of trailers shall display the license plates. Thereafter, all trailers properly identified and licensed in any state, territory, province, country or the District of Columbia and belonging to such person shall be permitted to operate in this State on an interstate, intrastate or combined interstate and intrastate basis; provided, that such trailers are towed by private passenger cars duly registered and licensed in this State or in another state and legally operated in this State under the reciprocity laws of this State.

HISTORY: 1962 Code Section 46-98; 1957 (50) 551.

SECTION 56-3-430.

Cities between 55,000 and 70,000 shall not require local licenses or charge inspection or registration fees.

It shall be unlawful for any city of this State having a population of fifty-five thousand or more but less than seventy thousand directly or indirectly to require any license, registration plate or other identification tag of or for motor-driven vehicles other than required by the laws of the State relating to motor vehicles or to charge or accept any fee or compensation for the inspection or registration of any motor-driven vehicle.

HISTORY: 1962 Code Section 46-131; 1952 Code Section 46-131; 1942 Code Section 5895; 1932 Code Section 5895; 1931 (37) 121.

SECTION 56-3-440.

Cities of 70,000 or more may require local license.

Cities having a population of seventy thousand or more may require the annual registration with the city treasurer of all motor vehicles owned by residents of such cities and may issue annually a sticker, seal, card or a plate of metal or other material without fee or charge, as evidence of such registration, and require its attachment to, and its display upon, such vehicles. Such cities may also require as a condition precedent to such registration the payment of any city taxes then due and payable thereon and may provide by ordinance that the operation on the streets of such cities of any such motor vehicle without the attachment and display thereon of such sticker, seal, card or plate shall be unlawful and impose a penalty for the violation of such ordinance not exceeding a fine of one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 46-132; 1952 Code Section 46-132; 1942 Code Section 5895; 1932 Code Section 5895; 1931 (37) 121; 1945 (44) 547; 1955 (49) 150.

ARTICLE 4

Release of Licensing and Registration Information

SECTION 56-3-510.

Forms.

Department of Motor Vehicles records relating to the registration and licensing of motor vehicles must be released only as provided in this article. A person who requests registration and licensing information must submit the request on a form provided by the department. A completed form must:

- (1) contain the name and address of the person making the request, the date of the request, the reason for the request, and a statement certifying that the information requested will not be used for a purpose related to telephone marketing or telephone solicitation; and
- (2) be signed by the person making the request.

HISTORY: 1996 Act No. 458, Part II, Section 31A.

SECTION 56-3-520.

Retention of forms.

(A) The Department of Motor Vehicles must retain a request made pursuant to Section 56-3-510 for five years from the date of its submission.

(B) Upon a person's written request, the department must release a copy of all request forms relating to the person's records.

HISTORY: 1996 Act No. 458, Part II, Section 31A.

SECTION 56-3-530.

Fees.

The Department of Motor Vehicles may charge a fee for releasing information pursuant to this article. The department must promulgate regulations:

- (1) providing a procedure whereby persons making repetitive requests may maintain an account with the department for the payment of fees incurred in the production of requested records;
- (2) providing a procedure for electronic processing of requests; and
- (3) providing for appropriate security measures to ensure that records are released only to the person identified as making the request.

HISTORY: 1996 Act No. 458, Part II, Section 31A.

SECTION 56-3-540.

Use of records; opt-out from surveys, marketing, and solicitations.

The Department of Motor Vehicles shall implement methods and procedures to ensure that:

- (1) individuals are provided an opportunity, in a clear and conspicuous manner, to opt-out and prohibit the use of motor vehicle record information about them for distribution for surveys, marketing, and solicitations; and
- (2) surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

HISTORY: 1996 Act No. 458, Part II, Section 31A.

SECTION 56-3-545.

Sale of Social Security number or driver's license photograph or signature prohibited.

The Department of Motor Vehicles may not sell, provide, or otherwise furnish to a private party Social Security numbers, copies of photographs, or signatures, whether digitized or not, taken for the purpose of a driver's license or personal identification card. A Social Security number, photograph, signature, or digitized image from a driver's license or personal identification card is not a public record.

HISTORY: 1999 Act No. 100, Part II, Section 54.

ARTICLE 5

Registration and License Fees

SECTION 56-3-610.

Biennial payment of registration and license fees required.

(A) Except as provided in subsection (B), the owner of every motor vehicle, trailer, semitrailer, pole trailer, and special mobile equipment vehicle required to be registered and licensed under this chapter shall pay to the Department of Motor Vehicles at the time of registering and licensing the vehicle and biennially after that time registration and license fees as set forth in this article.

(B) A large commercial motor vehicle or bus on which is imposed the road use fee provided pursuant to Article 23, Chapter 37, Title

12 is required to be registered and licensed annually pursuant to this chapter and the scheduled fees adjusted as provided pursuant to Section 56-3-660(E).

HISTORY: 1962 Code Section 46-31; 1952 Code Section 46-31; 1949 (46) 342; 1993 Act No. 164, Part II, Section 22G; 2017 Act No. 40 (H.3516), Section 8.D, eff January 1, 2019.

Editor's Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

"L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12-37-2820 and 12-37-2850 at the time the vehicle's registration fees are paid.

"(2) Notwithstanding the provisions in Section 12-37-2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12-37-2865 must be retained by the Department of Motor Vehicles to defray programming costs.

"(3) The initial millage required by Section 12-37-2850 must be calculated on or before June 1, 2018.

"M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12-37-2850 by July 1, 2018."

Effect of Amendment

2017 Act No. 40, Section 8.D, inserted the paragraph identifiers; in (A), substituted "Except as provided in subsection (B), the" for "The"; and added (B), relating to large commercial motor vehicles required to be registered.

SECTION 56-3-620.

Fees for handicapped persons or persons of certain ages for private passenger motor vehicle and property-carrying vehicles weighing six thousand pounds or less.

(A) For persons sixty-five years of age or older or persons who are handicapped, as defined in Section 56-3-1950, the biennial registration fee for every private passenger motor vehicle, excluding trucks, is thirty-six dollars.

(B) For persons under the age of sixty-five years the biennial registration fee for every private passenger motor vehicle, excluding trucks, is forty dollars.

(C) For persons sixty-five years of age or older, the biennial registration fee for a property-carrying vehicle with a gross weight of six thousand pounds or less is forty-six dollars.

(D) For persons who are sixty-four years of age, the biennial registration fee for a private passenger motor vehicle, excluding trucks, is thirty-eight dollars.

(E) Applicable truck fees, established by Section 56-3-660, are not negated by this section.

(F) Annual license plate validation stickers which are issued for nonpermanent license plates on certified South Carolina public law enforcement vehicles must be issued without charge.

(G) From each biennial registration and license fee collected, sixteen dollars must be credited to the Infrastructure Maintenance Trust Fund.

HISTORY: 1962 Code Section 46-32; 1952 Code Section 46-32; 1949 (46) 342; 1980 Act No. 506, Section 12; 1986 Act No. 540, Part II, Section 42A; 1987 Act No. 197 Section 3; 1987 Act No. 203 Section 2; 1993 Act No. 164, Part II, Section 22H; 1994 Act No. 417, Section 4; 1996 Act No. 459, Section 133; 1999 Act No. 63, Section 5; 2008 Act No. 353, Section 2, Pt 13C, eff July 1, 2009; 2017 Act No. 40 (H.3516), Section 4.A, eff January 1, 2018.

Effect of Amendment

2017 Act No. 40, Section 4.A, in (A), substituted "thirty-six dollars" for "twenty dollars"; in (B), substituted "For" for "Beginning July 1, 1987, for" and "forty dollars" for "twenty-four dollars"; in (C), substituted "forty-six dollars" for "thirty dollars"; in (D), substituted "thirty-eight dollars" for "twenty-two dollars"; and added (G), relating to credits to the Infrastructure Maintenance Trust Fund.

SECTION 56-3-625.

Expenditure of revenue derived from fee increases.

The amount of revenue derived from the fee increases established in Section 42, Part II, 1986 Act 540 which exceeds the revenue generated pursuant to Sections 56-3-620, 56-3-760, and 56-19-420 of the 1976 Code prior to July 1, 1986 shall be expended by the Department of Transportation to improve access routes to distressed and impacted areas of the State.

HISTORY: 1986 Act No. 540, Part II, Section 42D.

SECTION 56-3-627.

Infrastructure maintenance fee.

(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, 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;

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

(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.

(E)(1)(a) The Department of Motor Vehicles shall transfer eighty percent of every fee collected on motor vehicles pursuant to subsections (B) and (C), but not to exceed two hundred forty dollars, to the Department of Transportation to be allocated to the state-funded resurfacing program. The Department of Transportation shall develop and implement a needs-based methodology to distribute revenue within the state-funded resurfacing program, which shall include consideration of pavement condition on a county-by-county basis, to ensure that each county in the State is guaranteed funding for resurfacing.

(b) The Department of Motor Vehicles shall transfer twenty percent of every fee collected on motor vehicles pursuant to subsections (B) and (C), but not to exceed sixty dollars, to the South Carolina Education Improvement Act of 1984 Fund.

(2) The Department of Transportation shall reduce the allocation to the state-funded resurfacing program required in item (1) in proportion to the amounts transferred to the South Carolina Transportation Infrastructure Bank pursuant to subsection (F) and in proportion to the amounts required by the Department of Transportation to fund repairs, maintenance, and improvements to the existing transportation system.

(F)(1) The Department of Transportation shall identify bridge and road projects to be financed utilizing nontax revenue transferred to the bank by the Department of Transportation in an amount equal to the financing requirements related to projects selected pursuant to this section, provided that:

(a) Fifty million dollars in revenue utilized by the bank shall be used to finance bridge replacement, rehabilitation projects, and expansion and improvements on existing roads in the State Highway System.

(b) Funds in excess of fifty million dollars utilized by the bank shall be used to finance expansion and improvements to existing mainline interstates.

(2) Funds transferred to the bank pursuant to this section may not be used to finance projects approved by the bank before July 1, 2013. The bank shall submit all projects proposed to be financed pursuant to subsection (B) to the Joint Bond Review Committee as provided in Section 11-43-180, before approving a project for financing.

(3) Following consideration by the Joint Bond Review Committee, the bank shall approve the projects to be financed. Upon approval, the bank shall provide the Department of Transportation with written notice that identifies each project selected, the amount of nontax revenue that must be transferred to the bank for financing each project, a schedule for the transfers, and any other information necessary to carrying out the financing of each project.

(4) Upon receipt of the notice provided in item (3), the Department of Transportation shall transfer nontax revenue to the bank in the amounts and upon the schedule provided in the notice. The department shall take any other action identified in the notice that is necessary for financing each project.

(5) Projects financed utilizing funds transferred pursuant to this subsection shall not require a local match.

(G) The Secretary of Transportation shall apply funds supplanted by the operation of this section to prioritized bridge and resurfacing needs.

(H) Notwithstanding any other provision of this section, any transaction exempt pursuant to Section 12-36-2120(25), is also exempt from the infrastructure maintenance fee.

HISTORY: 2017 Act No. 40 (H.3516), Section 5.A, eff July 1, 2017; 2021 Act No. 70 (H.3505), Section 1, eff May 17, 2021.

Effect of Amendment

2021 Act No. 70, Section 1, in (A), in the first and second sentences, inserted "or lessee" following "the owner" and "titling or" following "upon first", and in the third sentence, inserted "title or" following "issue a"; in (B), in the first sentence, inserted "or lessee" following "the owner", in the second sentence, substituted ", title, or register" for "and register", and added the third sentence; in (C), in (1), inserted "or lessee" following "the owner", and added the second sentence, in (2)(a), added (vii); and in (D), in (1), substituted "or lessee first titles or registers" for "first registers", and in (2), in the first sentence, inserted "or lessee" following "the owner", and made nonsubstantive changes.

SECTION 56-3-630.

Vehicles classified as passenger motor vehicles.

The Department of Motor Vehicles shall classify as a private passenger motor vehicle every motor vehicle which is designed, used, and maintained for the transportation of ten or fewer persons and trucks having an empty weight of nine thousand pounds or less and a gross weight of eleven thousand pounds or less, except a motorcycle, motorcycle three-wheel vehicle, or moped. The department shall classify a three-wheel vehicle by the manufacturer's certificate of origin for the vehicles initial registration. For subsequent registration, the department shall classify the three-wheel vehicle by its title document. This section does not relieve or negate any applicable fees required under Section 56-3-660.

HISTORY: 1962 Code Section 46-33; 1952 Code Section 46-33; 1949 (46) 342; 1959 (51) 391; 1996 Act No. 459, Section 134; 1999 Act No. 63, Section 6; 2000 Act No. 375, Section 5; 2001 Act No. 52, Section 1; 2006 Act No. 398, Section 1, eff September 7, 2006; 2017 Act No. 89 (H.3247), Section 15, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 15, in the first sentence, substituted "moped" for "motor-driven cycle", and in the second sentence, substituted "manufacturer's certificate" for "manufacturers statement".

SECTION 56-3-640.

Fees for common carrier passenger vehicles; vehicles so classified; determining vehicle weight.

(A) For every common carrier passenger vehicle the biennial registration and license fee is according to weight:

(1) not over 2000 pounds: \$18.00;

(2) 2001 to 2500 pounds: \$24.00;

(3) 2501 to 3000 pounds: \$30.00;

(4) 3001 to 3500 pounds: \$36.00;

(5) 3501 to 4000 pounds: \$42.00;

(6) 4001 to 4500 pounds: \$48.00;

(7) 4501 to 5000 pounds: \$54.00;

(8) over 5000 pounds: \$54.00 plus \$6.00 for each 500 pounds' weight or fraction over 5000 pounds.

(B) The Department of Motor Vehicles must include in this classification every motor vehicle, trailer, or semitrailer designed, used, or maintained for the transportation of persons for compensation as a regular business. This classification does not include a trackless trolley bus.

(C) The manufacturer's rating on the weight of a vehicle must be accepted as the weight of the vehicle for the purpose of fixing the license fee under this section.

HISTORY: 1962 Code Section 46-34; 1952 Code Section 46-34; 1949 (46) 342; 1993 Act No. 164, Part II, Section 22I.

SECTION 56-3-645.

Road use fees for vehicles powered by electricity, hydrogen, and fuels other than motor fuel.

(A) In addition to the registration fees imposed by this chapter, the owner of motor vehicles that are powered:

(1) exclusively by electricity, hydrogen, or any fuel other than motor fuel, as defined in Section 12-28-110(39), that are not subject to motor fuel user fees imposed by Chapter 28, Title 12 shall pay a biennial road use fee of one hundred twenty dollars; and

(2) by a combination of motor fuel subject to motor fuel user fees imposed by Chapter 28, Title 12 and electricity, hydrogen, or any fuel other than motor fuel that is not subject to motor fuel user fees imposed by Chapter 28, Title 12 shall pay a biennial road use fee of sixty dollars.

(B) All of the fees collected pursuant to this section must be credited to the Infrastructure Maintenance Trust Fund.

(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.
HISTORY: 2017 Act No. 40 (H.3516), Section 6.A, eff January 1, 2018; 2021 Act No. 70 (H.3505), Section 2, eff May 17, 2021.
Effect of Amendment

2021 Act No. 70, Section 2, in (C), inserted "titled or" following "subject to the fee is".

SECTION 56-3-650.

Optional fees for bus companies operating in interstate and intrastate commerce; computation; retention of records; display of license plates.

In order for inter-city bus companies operating fleets both in inter and intra state commerce in South Carolina to more efficiently dispatch individual buses in such fleets from one state to another, any such inter-city bus company operating a fleet of ten or more buses of thirty or more passenger capacity each may comply with the license requirements of this chapter by paying an in lieu license fee to the Department of Motor Vehicles. Such fee shall be an amount equivalent to an annual fee of two hundred dollars per bus, with the number of buses or fractions thereof determined by dividing the company's total bus travel mileage in this State in any one license year by forty thousand miles. Such an inter-city bus company shall declare at the beginning of each license year prior to May first respectively of each year the mileage its fleet operated in this State during the preceding calendar year, and shall pay to the department a total annual license fee for all such buses computed in accordance with this section. Any bus company licensed pursuant to this section must retain and hold, subject to audit by the department, for a period of at least four years all records used in computing the total mileage operated in the State during each calendar year. Bus companies electing to license under this provision shall not be required to display license plates as otherwise required by this chapter on the buses operated in South Carolina, but they shall have the option of displaying license plates on buses where such license plates are specifically identified with specific buses.

HISTORY: 1962 Code Section 46-34.1; 1966 (54) 2339; 1993 Act No. 181, Section 1363.

SECTION 56-3-660.

Fees for self-propelled property carrying vehicles; determination of vehicle gross weight; registration of vehicle for payment of one-half of State's portion of license fee.

(A) The determination of gross vehicle weight to register and license self-propelled property carrying vehicles is the empty weight of the vehicle or combination of vehicles and the heaviest load to be transported by the vehicle or combination of vehicles as declared by the registered owner. All determinations of weight must be made in units of one thousand pounds or major fraction of one thousand pounds. The declared gross vehicle weight applies to all self-propelled property carrying vehicles operating in tandem with trailers or semitrailers except that the gross weight of a trailer or semitrailer is not required to be included when the operation is to be in tandem with a self-propelled property carrying vehicle licensed for six thousand pounds or less gross weight, and the gross vehicle weight of the combination does not exceed nine thousand pounds. The Department of Motor Vehicles may register and license a small commercial motor vehicle, as defined in Section 12-37-2810, for which the biennial registration and license fee is one-hundred and sixty dollars or more for an annual or one-year period beginning on April first and ending on March thirty-first of the next year upon application to the department by the owner and the payment of one-half the specified biennial fee or for a semiannual or one-half year beginning on April first and ending on September thirtieth of the same year upon application to the department by the owner and the payment of the appropriate fees. The registration and license fee for small commercial motor vehicles which are registered for the remaining twenty-four months or less of the twenty-four month biennial period or for the eleven months or less of the twelve-month year ending on March thirty-first or the remaining five months or less for the one-half period ending on September thirtieth is the proportionate part of the specified biennial fee for the remainder of the twenty-four month period or year or one-half year based on one twenty-fourth of the specified twenty-four-month fee for each month or part of a month remaining in the biennial registration period or license year or one-half year. A proportionate fee may not be reduced lower than ten dollars. A person making application for a registration and license for a motor vehicle of this classification shall declare the true unloaded or empty weight of the vehicle.

(B) The biennial fees for the gross vehicle weight are:

(1) not over 4,000 pounds: \$ 30.00; (2) 4,001 to 5,000 pounds: \$ 40.00; (3) 5,001 to 6,000 pounds: \$ 60.00; (4) 6,001 to 7,000 pounds: \$ 70.00; (5) 7,001 to 8,000 pounds: \$ 80.00; (6) 8,001 to 9,000 pounds: \$ 90.00; (7) 9,001 to 10,000 pounds: \$ 100.00; (8) 10,001 to 11,000 pounds: \$ 110.00; (9) 11,001 to 12,000 pounds: \$ 120.00; (10) 12,001 to 13,000 pounds: \$ 130.00; (11) 13,001 to 14,000 pounds: \$ 140.00; (12) 14,001 to 15,000 pounds: \$ 150.00; (13) 15,001 to 16,000 pounds: \$ 184.00; (14) 16,001 to 17,000 pounds: \$ 195.50; (15) 17,001 to 18,000 pounds: \$ 207.00; (16) 18,001 to 19,000 pounds: \$ 218.50; (17) 19,001 to 20,000 pounds: \$ 260.00; (18) 20,001 to 21,000 pounds: \$ 273.00; (19) 21,001 to 22,000 pounds: \$ 308.00; (20) 22,001 to 23,000 pounds: \$ 322.00; (21) 23,001 to 24,000 pounds: \$ 360.00; (22) 24,001 to 25,000 pounds: \$ 375.00; (23) 25,001 to 26,000 pounds: \$ 392.00; (24) 26,001 to 27,000 pounds: \$ 408.00; (25) 27,001 to 28,000 pounds: \$ 424.00; (26) 28,001 to 29,000 pounds: \$ 438.00; (27) 29,001 to 30,000 pounds: \$ 452.00; (28) 30,001 to 31,000 pounds: \$ 468.00; (29) 31,001 to 32,000 pounds: \$ 482.00; (30) 32,001 to 33,000 pounds: \$ 498.00; (31) 33,001 to 34,000 pounds: \$ 514.00; (32) 34,001 to 35,000 pounds: \$ 528.00; (33) 35,001 to 36,000 pounds: \$ 544.00; (34) 36,001 to 37,000 pounds: \$ 558.00; (35) 37,001 to 38,000 pounds: \$ 572.00; (36) 38,001 to 39,000 pounds: \$ 588.00; (37) 39,001 to 40,000 pounds: \$ 604.00; (38) 40,001 to 41,000 pounds: \$ 616.00; (39) 41,001 to 42,000 pounds: \$ 634.00; (40) 42,001 to 43,000 pounds: \$ 650.00; (41) 43,001 to 44,000 pounds: \$ 664.00; (42) 44,001 to 45,000 pounds: \$ 680.00; (43) 45,001 to 46,000 pounds: \$ 694.00; (44) 46,001 to 47,000 pounds: \$ 708.00; (45) 47,001 to 48,000 pounds: \$ 724.00; (46) 48,001 to 49,000 pounds: \$ 740.00; (47) 49,001 to 50,000 pounds: \$ 754.00; (48) 50,001 to 51,000 pounds: \$ 770.00; (49) 51,001 to 52,000 pounds: \$ 784.00; (50) 52,001 to 53,000 pounds: \$ 800.00; (51) 53,001 to 54,000 pounds: \$ 814.00; (52) 54,001 to 55,000 pounds: \$ 830.00; (53) 55,001 to 56,000 pounds: \$ 844.00; (54) 56,001 to 57,000 pounds: \$ 860.00; (55) 57,001 to 58,000 pounds: \$ 876.00; (56)

58,001 to 59,000 pounds: \$ 890.00; (57) 59,001 to 60,000 pounds: \$ 906.00; (58) 60,001 to 61,000 pounds: \$ 920.00; (59) 61,001 to 62,000 pounds: \$ 934.00; (60) 62,001 to 63,000 pounds: \$ 950.00; (61) 63,001 to 64,000 pounds: \$ 964.00; (62) 64,001 to 65,000 pounds: \$ 1,132.00; (63) 65,001 to 66,000 pounds: \$ 1,148.00; (64) 66,001 to 67,000 pounds: \$ 1,166.00; (65) 67,001 to 68,000 pounds: \$ 1,182.00; (66) 68,001 to 69,000 pounds: \$ 1,200.00; (67) 69,001 to 70,000 pounds: \$ 1,218.00; (68) 70,001 to 71,000 pounds: \$ 1,236.00; (69) 71,001 to 72,000 pounds: \$ 1,336.00; (70) 72,001 to 72,000 pounds: \$ 1,354.00; (71) 73,001 to 74,000 pounds: \$ 1,374.00; (72) 74,001 to 75,000 pounds: \$ 1,392.00; (73) 75,001 to 76,000 pounds: \$ 1,410.00; (74) 76,001 to 77,000 pounds: \$ 1,516.00; (75) 77,001 to 78,000 pounds: \$ 1,538.00; (76) 78,001 to 79,000 pounds: \$ 1,558.00; (77) 79,001 to 80,000 pounds: \$ 1,600.00;

No vehicle in excess of 80,000 pounds will be registered.

(C) Notwithstanding other provisions of this chapter, the department may enter into agreement with other states in a registration and license reciprocal agreement known as the International Registration Plan and the registration and license required in this section may be apportioned for vehicles which qualify and are licensed in accordance with the provisions of the plan. For the purpose of registering a vehicle under the International Registration Plan, a motor carrier selecting South Carolina as its base jurisdiction must own or lease real property used directly in the transportation of freight or persons within the State.

(D) A vehicle registered in this State and found to be operating in excess of the gross vehicle weight for which it is currently registered may be impounded by the department until all registration fees, permit fees, or penalties are paid or satisfactory arrangements for payment of the fees and/or penalties to the department have been made.

(E) The department may register a large commercial motor vehicle, as defined in Section 12-37-2810 pursuant to the payment provisions outlined in Section 12-37-2840. The department may require any information necessary to complete the transaction. A large commercial motor vehicle shall register annually rather than biennially.

(F) Upon evidence of reliability in the payment of its obligations, the department may accept the check of a motor carrier company in payment of applicable fees and assessments.

(G) Fees for licensing and registration, and fees imposed pursuant to Article 23, Chapter 37, Title 12, may be credited or prorated as prescribed by the Department of Motor Vehicles.

HISTORY: 1962 Code Section 46-35; 1952 Code Section 46-35; 1949 (46) 342; 1959 (51) 391; 1960 (51) 1540; 1972 (57) 2266; 1976 Act No. 738 Section 5; 1981 Act No. 177 Section 12; 1985 Act No. 201, Part II, Section 22A; 1986 Act No. 540, Part II, Section 20; 1989 Act No. 44, Section 1; 1991 Act No. 148, Section 1; 1992 Act No. 384, Section 1; 1993 Act No. 164, Part II, Section 22J; 1996 Act No. 459, Section 135; 2017 Act No. 40 (H.3516), Sections 8.E to 8.G, eff January 1, 2019; 2021 Act No. 37 (H.3689), Section 2, eff May 6, 2021.

Editor's Note

2017 Act No. 40, Sections 8.L, 8.M, provide as follows:

"L. (1) Notwithstanding any provision to the contrary within this SECTION, a person who registers a vehicle for use in this State pursuant to Article 23, Chapter 37, Title 12, as amended by this act, must register his vehicle during calendar year 2019 and is required to pay the road fees calculated based on the fair market value of the vehicle as specified in Sections 12-37-2820 and 12-37-2850 at the time the vehicle's registration fees are paid.

"(2) Notwithstanding the provisions in Section 12-37-2865(B) and (C), as contained in this SECTION, to the contrary, during calendar year 2019, the first four hundred thousand dollars of fee revenue collected pursuant to Section 12-37-2865 must be retained by the Department of Motor Vehicles to defray programming costs.

"(3) The initial millage required by Section 12-37-2850 must be calculated on or before June 1, 2018.

"M. This SECTION takes effect January 1, 2019, except that the Department of Revenue, in consultation with the Revenue and Fiscal Affairs Office, shall calculate the millage to be used to calculate the road use fee provided in Section 12-37-2850 by July 1, 2018."

Effect of Amendment

2017 Act No. 40, Section 8.E, in (A), in the fourth sentence, substituted "small commercial motor vehicle, as defined in Section 12-37-2810," for "vehicle of this classification", and, in the fifth sentence, substituted "A proportionate fee may not" for "No proportionate fee may".

2017 Act No. 40, Section 8.F, added (G), providing the fees for licensing and registration may be credited or prorated.

2017 Act No. 40, Section 8.G, rewrote (E), providing that the department may register a large commercial motor vehicle for the payment of one-half of the state's portion of the license and road fee.

2021 Act No. 37, Section 2, in (C), added the second sentence; and rewrote (E).

SECTION 56-3-661.

Certification requirements; insurance requirements.

No for-hire motor vehicle carrier of property, except carriers of household goods or hazardous waste for disposal, may operate in this State without having applied for and received a Class E Certificate of Compliance from the Department of Motor Vehicles. A one-time fee of twenty-five dollars may be charged each company for each certificate issued.

The applicant must provide evidence of meeting the financial responsibilities or insurance requirements, satisfy compliance requirements of the United States Department of Transportation motor carrier safety and hazardous materials regulations before issuance, and continually satisfy these requirements or certification may be suspended, revoked, or placed in a probationary status. The Department of Motor Vehicles is authorized to promulgate regulations to implement these responsibilities.

The holder of a Class E Certificate may be eligible for exceptions provided by Sections 58-23-620 and 44-96-160(W)(1).

HISTORY: 2002 Act No. 301, Section 3.

SECTION 56-3-662.

Identifier fees; administration and enforcement funding.

The Department of Motor Vehicles shall charge a fee of five dollars for each identifier. The five-dollar identifier fee must be remitted to the general fund. The Department of Motor Vehicles may promulgate regulations pursuant to this section. The five-dollar fee collected pursuant to this section must be placed in a special restricted account by the Comptroller General to be used by the Department of Public Safety for the administration and enforcement of the provisions contained in Articles 3 and 5 of Chapter 23, Title 58, and for the building or renovation of weigh stations. All unexpended funds from prior years collected under this section may be retained and carried forward by the Department of Public Safety and used for these purposes.

HISTORY: 2002 Act No. 301, Section 3.

SECTION 56-3-663.

Reciprocal agreements.

The Department of Motor Vehicles is authorized to enter into reciprocal agreements with the regulatory agencies of other states having jurisdiction and authority over motor carriers to provide for base state agreements in which the registration of interstate carriers operating in participating states may be accomplished by registration in one base state. Carriers registering in this State under these agreements are subject to the jurisdiction and authority of the Department of Public Safety and the Department of Motor Vehicles for enforcement purposes. When the carrier's base state is South Carolina, the Department of Motor Vehicles may require further filings of certificates of insurance, surety bonds, and other documents to show the carrier's qualifications to operate. Participating carriers shall register their authority directly with the Department of Motor Vehicles and not with other state or local agencies.

HISTORY: 2002 Act No. 301, Section 3.

SECTION 56-3-665.

Proof of payment of federal use tax.

The Department of Motor Vehicles shall require evidence of the payment of the use tax imposed by Section 4481 of the Internal Revenue Code of 1986 for those vehicles to which the taxes are required.

HISTORY: 1986 Act No. 373, Section 6; 1996 Act No. 459, Section 136.

SECTION 56-3-670.

Fees for farm truck licenses; violations; penalties.

(A) For the purpose of this section, "farm truck" is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck's owner or another person, including first market. However, farm trucks with an empty weight of less than seven thousand five hundred pounds may be used for ordinary domestic purposes and general transportation but must not be used to transport persons or property for hire. No part of this definition may be interpreted to exempt any commercial motor vehicle less than 26,001 pounds GVW/GVWR/GCW/GCWR from all or part of state laws or regulations applicable to intrastate commerce if the vehicle:

(1) transports hazardous materials requiring a placard; or

(2) is designed or used to transport sixteen or more people, including the driver.

(B) The Department of Motor Vehicles shall issue to bona fide farmers special farm vehicle licenses on an annual basis for farm trucks for a fee as follows according to the gross vehicle weight of the truck:

Gross Vehicle Weight Fee (1) Up to 26,499 pounds \$ 12.00 (2) 26,500 to 32,499 pounds \$ 15.00 (3) 32,500 to 42,500 pounds \$ 30.00 (4) 42,501 to 52,500 pounds \$ 60.00 (5) 52,501 to 62,500 pounds \$ 80.00 (6) 62,501 to 72,500 pounds \$ 100.00 (7) 72,501 to 80,000 pounds \$ 120.00 .

Nothing in this section exempts farm vehicles from gross weight-axle requirements contained in Section 56-5-4140.

(C) A person who is issued a farm license plate for the purpose defined in this section and uses the license plate for purposes other than those defined is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 46-35.1; 1952 Code Section 46-35; 1949 (46) 342; 1959 (51) 391; 1960 (51) 1728; 1979 Act No. 83 Section 1; 1993 Act No. 164, Part II, Section 39A; 1993 Act No. 164, Part II, Section 22K; 1994 Act No. 417, Section 5; 1996 Act No. 392, Section 1; 1996 Act No. 459, Section 137; 2002 Act No. 340, Section 7; 2005 Act No. 62, Section 1, eff May 16, 2005; 2006 Act No. 398, Section 17, eff September 7, 2006; 2012 Act No. 180, Section 3, eff May 25, 2012.

SECTION 56-3-700.

Fee for trailers, semitrailers, and pole trailers; exemptions.

For every trailer, semitrailer, or pole trailer, not exempted by Section 56-3-120(5), the biennial registration fee is twenty dollars. The Department of Motor Vehicles must include in this classification every trailer, semitrailer, or pole trailer designed for carrying property, except house trailers, utility trailers, those trailers and semitrailers exempted by Section 56-3-120(5), and boat trailers as otherwise provided in this article. Semitrailers or pole trailers weighing less than five hundred pounds with load capacity of less than one thousand pounds and trailers and semitrailers with an actual unloaded weight of fifteen hundred pounds or less and carrying a load capacity not exceeding twenty-five hundred pounds and which are designed, adapted, and used exclusively for agriculture, horticulture, or livestock-raising operations or for lifting or carrying an implement of husbandry need not be registered or licensed.

HISTORY: 1962 Code Section 46-35.2; 1952 Code Section 46-35; 1949 (46) 342; 1959 (51) 391; 1960 (51) 1962; 1993 Act No.

164, Part II, Section 22L; 1997 Act No. 125, Section 1J.

SECTION 56-3-710.

Fees for house trailers.

For every house trailer the biennial fee is twelve dollars. The Department of Motor Vehicles shall classify as a "house trailer" every trailer or semitrailer which is designed, constructed, and equipped as a dwelling, living abode, or sleeping place, permanently or temporarily, and is equipped for use as a conveyance on streets or highways or a trailer or semitrailer of similar nature whose chassis and exterior shell is designed and constructed for use permanently or temporarily for advertising, sales, display, or promotion of merchandise or services or for another commercial purpose, except the transportation of property for hire or the transportation of property for distribution by a private carrier. The department may not license and register a house trailer which exceeds the permissible size limitations prescribed in Sections 56-5-4030, 56-5-4060, and 56-5-4070, but the house trailers permitted to be moved over the highways by the department under special permits issued pursuant to Sections 57-3-130 to 57-3-190 shall pay to the Department of Transportation a fee of five dollars a trip.

HISTORY: 1962 Code Section 46-35.3; 1952 Code Section 46-35; 1949 (46) 3 2; 1959 (51) 391; 1993 Act No. 164, Part II, Section 22M; 1996 Act No. 459, Section 138.

SECTION 56-3-720.

Fees for camper or travel trailers; distinctive tag.

For every camper or travel trailer the biennial registration fee is ten dollars. The Department of Motor Vehicles must include in this classification every trailer not more than thirty-five feet long and eight feet wide primarily equipped, designed, converted, or used for private living quarters and towed by a motor vehicle. The department shall design a distinctive tag which must be displayed on the exterior of the rear of the trailer in a conspicuous place.

HISTORY: 1962 Code Section 46-35.6; 1968 (55) 2453; 1977 Act No. 63; 1993 Act No. 164, Part II, Section 22N; 1996 Act No. 459, Section 139.

SECTION 56-3-730.

Owner shall select load capacity classification; changes.

The owner of a vehicle classified under Sections 56-3-130 and 56-3-660 to 56-3-710, may register and license such vehicle for the desired load capacity classification, and a previous registration and license for a particular load capacity classification for a particular vehicle shall not be deemed as fixing the load capacity classification on such vehicle for future registrations and licenses or renewals. Also the owner may have the privilege at any time during a then current registration and license period to raise the load classification for a vehicle by making application therefor to the Department of Motor Vehicles and paying the required increased differential in fee, but the owner may not have the privilege of reducing the load classification for a particular vehicle until the expiration of the then current registration and license period.

HISTORY: 1962 Code Section 46-36; 1952 Code Section 46-36; 1949 (46) 342.

SECTION 56-3-740.

Fees for trackless trolley buses.

For every trackless trolley bus the biennial registration fee is four hundred dollars for each bus weighing not over fifteen thousand pounds, exclusive of passengers, and for each bus weighing more than fifteen thousand pounds, exclusive of passengers, an additional forty dollars for each additional one thousand pounds of weight or fraction. The Department of Motor Vehicles must include under this classification every bus propelled by electric power obtained from overhead trolley wires but not operated upon rails.

HISTORY: 1962 Code Section 46-37; 1952 Code Section 46-37; 1949 (46) 342; 1993 Act No. 164, Part II, Section 22O.

SECTION 56-3-750.

Fees for special mobile equipment vehicles.

For every special mobile equipment vehicle not exempt from the payment of a biennial registration and license fee under Section 56-3-120 the biennial registration fee is ten dollars for each vehicle having a gross weight of not more than four thousand pounds, and for every vehicle having a gross weight of more than four thousand pounds, an additional eight dollars for each additional one thousand pounds of weight or fraction over four thousand pounds.

HISTORY: 1962 Code Section 46-38; 1952 Code Section 46-38; 1949 (46) 342; 1993 Act No. 164, Part II, Section 22P.

SECTION 56-3-760.

Fees for motorcycles, motorcycle three-wheel vehicles, and motor-driven cycles.

For every motorcycle, motorcycle three-wheel vehicle, or moped the biennial registration fee is ten dollars.

HISTORY: 1962 Code Section 46-39; 1952 Code Section 46-39; 1949 (46) 342; 1986 Act No. 540, Part II, Section 42B; 1993 Act No. 164, Part II, Section 22Q; 2000 Act No. 375, Section 6; 2017 Act No. 89 (H.3247), Section 16, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 16, substituted "moped " for "motor-driven cycle".

SECTION 56-3-770.

Fees for vehicles equipped with solid tires.

The biennial registration and license fee for every motor vehicle, trailer, semitrailer, pole trailer, or special mobile equipment vehicle equipped with solid tires is double the biennial fee otherwise specified in this article.

HISTORY: 1962 Code Section 46-40; 1952 Code Section 46-40; 1949 (46) 342; 1993 Act No. 164, Part II, Section 22R.

SECTION 56-3-780.

Permanent license plates and fees for vehicles of State, political subdivisions, or Civil Air Patrol; transferability.

(A) Permanent license plates must be issued by the Department of Motor Vehicles for all motor vehicles operated by the State or its political subdivisions. The license fee, including registration, is two dollars. Permanent plates must bear the words "South Carolina", the number, and a prefix "SG", "RG", "CG", or "MG" to designate respectively state government, regional government, county government, or municipal government. The department may issue a permanent license plate to vehicles used by state or local law enforcement agencies. The fee for the permanent plate is two dollars. A decal may be issued to designate the law enforcement agency. The department may charge a reasonable fee to cover the cost of the decal.

(B) All other vehicles operated by the State or its subdivisions and the Civil Air Patrol must be registered and licensed for a biennial fee of two dollars and must be issued plates in accordance with Section 56-3-1710.

(C) Registration and licenses issued under this section are not transferable except to another agency or department of government.

HISTORY: 1962 Code Section 46-41; 1952 Code Section 46-41; 1949 (46) 342; 1957 (50) 253; 1967 (55) 588; 1978 Act No. 538; 1993 Act No. 164, Part II, Section 22S; 1996 Act No. 459, Section 140; 2000 Act No. 286, Section 2.

SECTION 56-3-785.

Issuance of permanent license plates to certain owners of trailers and semi-trailers; fees; design.

(A) Upon proper application, the Department of Motor Vehicles may issue a registration and license plate on a permanent basis for semitrailers, regular trailers, and utility trailers.

(B) The fee for the license is seventy-five dollars for each semitrailer, regular trailer, and utility trailer, and is not transferable. The fee must be paid in one sum. After the initial issuance of the license the owner shall remit annually to the department on a form furnished by the department a report of the units still in use and units which must be deleted and return the licenses issued to the units no longer in use. Failure to furnish required forms by the due date established by the department results in a fine not to exceed fifty dollars. A permanent license may be purchased for chassis, specially constructed to transport international shipping containers, without being required to furnish a South Carolina address if the chassis is not for domicile.

(C) The license plate must be the same size of regular license plates and design as specified by the department.

HISTORY: 1985 Act No. 201, Part II, Section 71; 1989 Act No. 113, Section 1.

SECTION 56-3-790.

Fees for certain motor vehicles used in rescue work.

The Department of Motor Vehicles shall issue a license upon the payment of a five dollar fee to any chartered volunteer rescue league in this State for any motor vehicle owned and operated by it solely for rescue work without charge.

HISTORY: 1962 Code Section 46-41.1; 1965 (54) 558; 1993 Act No. 181, Section 1364.

SECTION 56-3-830.

Postage charge.

The Department of Motor Vehicles may charge an additional fee of fifteen cents postage for every license mailed to the owner.

HISTORY: 1962 Code Section 46-44; 1952 Code Section 46-44; 1949 (46) 342.

SECTION 56-3-840.

Delinquent registration and license penalties.

The owner of every vehicle required to be registered and licensed under the provisions of this chapter who fails to register and license the vehicle and pay the specified fees or renewal, when and as required, upon registering the vehicle shall pay to the Department of Motor Vehicles a delinquency penalty fee of ten dollars, if the owner is delinquent less than fifteen days. If the owner is delinquent by fifteen days but less than thirty days, he shall pay a delinquency penalty of twenty-five dollars. If the owner is delinquent by more than thirty days but less than ninety days, he shall pay a delinquency penalty fee of fifty dollars to the department. If the owner is delinquent by more than ninety days, he shall pay a delinquency penalty fee of seventy-five dollars to the department. However, there is no delinquency penalty fee for campers and travel trailers subject to the registration fee under Section 56-3-720.

A person who drives, moves, or operates on a highway a vehicle for which a registration and license are required but have not been obtained within thirty days of the date when required is guilty of a misdemeanor.

All monies collected pursuant to this section, not to exceed the actual revenues collected in fiscal year 1999-2000, must be annually deposited to a separate account and held in reserve for the Department of Public Safety. Notwithstanding any other provision of law, these monies must be deposited to the credit of the department into a special fund in the office of the State Treasurer designated as the "Department of Public Safety Building Fund". The Department of Public Safety must use these monies and other unobligated monies for the purpose of issuing revenue bonds or for entering into a lease purchase agreement for a headquarters facility, including the renovation of existing facilities. The Department of Public Safety is authorized to initiate and direct a capital project to purchase or construct a new headquarters facility. Projects funded under this section other than for the construction or purchase of a new headquarters facility, including but not limited to, the expansion or renovation of an existing facility, must be approved by a joint resolution provided that if the Department of Public Safety employs a lease purchase agreement to build or purchase a new headquarters facility, the lease purchase agreement must be approved by the State Department of Administration or State Fiscal Accountability Authority, as appropriate. The cost of a headquarters facility must not exceed thirty million dollars unless a parking facility or garage is required.

HISTORY: 1962 Code Section 46-45; 1952 Code Section 46-45; 1949 (46) 342; 1984 Act No. 371, Section 2; 1990 Act No. 612, Part II, Section 61; 1999 Act No. 100, Part II, Section 88; 2000 Act No. 387, Part II, Section 89A; 2008 Act No. 353, Section 2, Pt 12E, eff July 1, 2009.

SECTION 56-3-860.

Accepting uncertified checks for license fees.

The Department of Motor Vehicles may, in the discretion of the director of the department, accept uncertified checks of an applicant-owner in payment for license fees charged for the issuance of license plates for motor vehicles, trailers, semitrailers, pole trailers and motor vehicle dealers.

HISTORY: 1962 Code Section 46-47; 1952 Code Section 46-47; 1950 (46) 2203; 1951 (47) 533; 1993 Act No. 181, Section 1365.
SECTION 56-3-870.

Procedure if uncertified check is returned unpaid.

If an uncertified check is accepted by the Department of Motor Vehicles as payment for the fees due on account of the issuance of license plates and such check is returned to the Department unpaid for any cause whatsoever, the Department may suspend or cancel the registration and license purchased by check and repossess the registration card, license plates or other documents issued by the Department, and the applicant-owner shall pay to the Department the amount of ten dollars to cover the cost of repossession and collection if the license and registration are suspended or cancelled.

HISTORY: 1962 Code Section 46-48; 1952 Code Section 46-48; 1950 (46) 2203; 1951 (47) 533.

SECTION 56-3-890.

Refunds when application is refused or rejected; refund of fees collected in error.

Whenever any application made to the Department of Motor Vehicles is accompanied by any fee as required by law and such application is refused or rejected, the fee shall be returned to the applicant. Whenever the Department, through error, collects any fee not required to be paid under this chapter or any amount over and above the required correct fee, such fee or amount shall be refunded to the person paying it upon the initiative of the Department or upon application therefor made within six months after the date of such payment or overpayment.

HISTORY: 1962 Code Section 46-50; 1952 Code Section 46-50; 1950 (46) 2203.

SECTION 56-3-900.

Procedures for refund when vehicle is not used or is destroyed.

(A) When a vehicle is registered and licensed under this chapter and the required fee is paid but it has not been operated in this State or elsewhere as a vehicle registered and licensed under the laws of this State since the beginning of the registration and license period for which the registration and license fee was paid and a claim is filed with the Department of Motor Vehicles for a refund within ninety days after the date of the registration and license and the claim is supported by evidence of nonoperation satisfactory to the department and is accompanied by the return of the registration card and license plates, or satisfactory proof that the card or plates have been lost, the department may make refund to the original payer of the full amount of the biennial registration and license fee.

(B) When a vehicle is registered and licensed under this chapter and the required fee is paid and the vehicle is junked or totally destroyed during the registration and license period for which the fee was paid and a claim is filed with the department for refund within ninety days after the date the vehicle was junked or destroyed and the claim is supported by evidence satisfactory to the department and is accompanied by the return of the registration card and license plates or sufficient proof that the card or plates have been lost, the department may refund the proportionate part of the license and registration fee paid, based on one twelfth of the fee paid for every full calendar month remaining if the vehicle received an annual registration, one twenty-fourth of the fee paid for every full calendar month remaining if the vehicle received a biennial registration, and one-sixth of the fee paid for every full calendar month remaining if the vehicle received a six-month registration in the registration and license period. However, no refund of less than ten dollars may be made under this section.

(C) When a vehicle is sold and is licensed and registered with a South Carolina apportioned license plate and the required fee has been paid, the registrant may apply for a refund of the South Carolina apportioned fee based on the full months remaining in the license period within ninety days of the date of sale. Notification of the sale must be provided to the department along with the license plate and registration card. No refund may be made for less than ten dollars.

HISTORY: 1962 Code Section 46-51; 1952 Code Section 46-51; 1949 (46) 342; 1951 (47) 527; 1955 (49) 142; 1990 Act No. 543, Section 1; 1993 Act No. 164, Part II, Section 22T.

SECTION 56-3-905.

Motor vehicle registration refund.

Notwithstanding the provisions of Section 56-3-900, when the owner or lessee of a motor vehicle or vehicle including, but not limited to, trailers and semitrailers, licensed and registered for a biennium pursuant to Section 56-3-253 surrenders the license plate and registration to the Department of Motor Vehicles in the first twelve months of the licensing period, the department shall refund to the owner or lessee an amount equal to one-half the registration fee paid on the vehicle. If the owner or lessee is simultaneously registering another vehicle, the refund amount, at the owner's or lessee's option, may be applied against the registration fee due.

HISTORY: 1994 Act No. 417, Section 2.

SECTION 56-3-910.

Placement of fees and penalties in state highway account of South Carolina Transportation Infrastructure Bank; exceptions; reports. All fees and penalties collected by the department under the provisions of this chapter must be placed in the state highway account of the South Carolina Transportation Infrastructure Bank except for those fees and penalties which must be credited to a different account as otherwise provided for by law.

Not later than September first of each year, the department must provide the South Carolina Transportation Infrastructure Bank a

report for the previous fiscal year that lists the total amount of fees and penalties it collected pursuant to Sections 56-3-660 and 56-3-670 by vehicle classification and weight.

HISTORY: 1962 Code Section 46-52; 1952 Code Section 46-52; 1949 (46) 342; 1993 Act No. 181, Section 1366; 1997 Act No. 148, Section 4; 2000 Act No. 387, Part II, Section 98A; 2005 Act No. 57, Section 1, eff May 17, 2005; 2005 Act No. 176, Section 12, eff June 14, 2005; 2009 Act No. 18, Section 1, eff May 19, 2009.

SECTION 56-3-920.

Fees additional to public service fees.

The registration and license fees imposed by this article shall be in addition to any fees required by law to be paid to the Public Service Commission, and nothing in this chapter shall affect or impair the provisions of Chapter 23 of Title 58.

HISTORY: 1962 Code Section 46-53; 1952 Code Section 46-53; 1949 (46) 342.

ARTICLE 6

Corporate-Owned Fleet Motor Vehicles

SECTION 56-3-1010.

Definitions.

As used in this article:

(1) "Fleet" means fifty or more marked private passenger motor vehicles or property carrying vehicles with empty weight of not more than twenty-two thousand pounds and a gross vehicle weight of not more than twenty-six thousand pounds, owned or long-term leased by a corporation or other legal entity, and registered in this State pursuant to this article.

(2) "Marked vehicle" means a vehicle with a name, trademark, or logo located either on the sides or the rear of the vehicle in sharp contrast to the background and of a size, shape, and color that is legible during daylight hours from a distance of fifty feet.

HISTORY: 1993 Act No. 164, Part II, Section 90; 1994 Act No. 322, Section 1; 1996 Act No. 459, Sections 141, 246A; 2004 Act No. 196, Section 1.

SECTION 56-3-1020.

Corporation or other entity may register vehicles as fleet on annual basis; special license plates and registration cards; application and fee.

A corporation or other legal entity may register its fleet on an annual basis so that the registration of all vehicles in the fleet expires in the same month instead of staggered vehicle registration. The month of expiration must be approved by the Department of Motor Vehicles. The department may issue special license plates and registration cards for fleet motor vehicles upon application in a manner determined by the department. The application must be approved if it contains the information necessary for qualification as a fleet motor vehicle, provides a list of all vehicles to be included in the fleet, and includes payment of a filing fee of one hundred dollars. The filing fee is in addition to the registration fees required by this chapter. The department may authorize select fleet operators to issue special license plates and registration cards for their own fleet vehicles.

HISTORY: 1993 Act No. 164, Part II, Section 90; 1996 Act No. 459, Section 142.

SECTION 56-3-1030.

Fleet registration card to be carried and made available to law enforcement officers; license plate to be displayed.

Upon approval of the application for fleet registration, the director shall issue a fleet registration card and license plate for each of the qualified vehicles in the fleet. The fleet registration card must be carried in the vehicle at all times and made available to a law enforcement officer on demand. The license plate must be displayed in the manner prescribed by the Department of Motor Vehicles.

HISTORY: 1993 Act No. 164, Part II, Section 90.

SECTION 56-3-1040.

Fees for private passenger motor vehicles and property-carrying vehicles; vehicle added to fleet during registration year.

The fee for private passenger motor vehicles registered as part of a fleet under the provisions of this article is the same fee imposed by Section 56-3-620. The fee for property-carrying vehicles registered as part of a fleet under the provisions of this article is the same fee imposed by Section 56-3-660. A vehicle added to the fleet during the registration year must be registered in accordance with the provisions of this article. The fee for licensing and registration may be prorated as prescribed by the Department of Motor Vehicles.

HISTORY: 1993 Act No. 164, Part II, Section 90; 1996 Act No. 459, Section 143.

SECTION 56-3-1050.

Renewal of fleet registration; deletion of vehicle from fleet.

Upon renewal of the fleet registration, the Department of Motor Vehicles shall require payment of full licensing fees for every vehicle registered in this preceding year unless the vehicle has been properly deleted from the fleet.

To delete a vehicle from the fleet, the fleet registration card and the fleet license plate must be surrendered to the department. If the card or license plate is lost or stolen, the person registering the fleet shall submit a sworn statement giving the circumstances for the inability to surrender the card or license plate.

HISTORY: 1993 Act No. 164, Part II, Section 90.

ARTICLE 7

Free Vehicular Registration for Disabled Veterans [Repealed]

SECTIONS 56-3-1110 to 56-3-1130.

Repealed.

HISTORY: Former Section 56-3-1110, titled Special license plate for wartime disabled veteran, had the following history: 1962

Code Section 46-61; 1952 Code Section 46-61; 1950 (46) 2359; 1951 (47) 224; 1958 (50) 1664; 1959 (51) 50; 1968 (55) 2855; 1976 Act No. 562; 1979 Act No. 72; 1992 Act No. 485, Section 4; 1996 Act No. 459, Section 144; 2006 Act No. 398, Section 18, eff September 7, 2006. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1120, titled Disabled veteran special license plates authorized, had the following history: 1962 Code Section 46-62; 1952 Code Section 46-62; 1950 (46) 2359; 2001 Act No. 104, Section 5. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1130, titled Penalties, had the following history: 1962 Code Section 46-64; 1952 Code Section 46-64; 1950 (46) 2359. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 8

Free Vehicular Registration for Former Prisoners of War [Repealed]

SECTION 56-3-1150.

Repealed.

HISTORY: Former Section, titled Free vehicular registration for former prisoners of war, had the following history: 1978 Act No. 446 Section 1; 1979 Act No. 163 Section 1; 1981 Act No. 176; 1987 Act No. 129 Section 1; 1992 Act No. 485, Section 1; 1993 Act No. 181, Section 1367; 1996 Act No. 459, Section 145. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 9

License Plates and Registration Cards Generally

SECTION 56-3-1210.

License plates furnished by Department.

Beginning with the licensing year 1975-1976, the Department of Motor Vehicles, upon registering and licensing a vehicle, shall issue to the owner one license plate. Every license plate shall remain the property of the State but shall be displayed on the vehicle as required by this chapter.

HISTORY: 1962 Code Section 46-71; 1952 Code Section 46-71; 1949 (46) 342; 1974 (58) 2262.

SECTION 56-3-1220.

Municipalities and counties shall not issue license plates.

No county or municipality shall issue a municipal or county license plate.

HISTORY: 1962 Code Section 46-71.1; 1974 (58) 2262.

SECTION 56-3-1230.

Specifications of license plates; periodic issuance of new plates; treatment with reflective material; issuance of revalidation stickers.

(A) License plates must be at least six inches wide and not less than twelve inches in length and must show in bold characters the year of registration, the serial number, the full name or the abbreviation of the name of the state, and other distinctive markings the department may consider advisable to indicate the class of the weight of the vehicle for which the license plate was issued. The plate must be of a strength and quality to provide a minimum service of five years. A new license plate including personalized and special plates, but excluding license plates provided in Sections 56-3-660 and 56-3-670, must be provided by the department at intervals the department considers appropriate, but at least every ten years. A new license plate for vehicles contained in Sections 56-3-660 and 56-3-670, must be provided by the department at intervals the department considers appropriate. Beginning with the vehicle registration and license fees required by this title which are collected after July 1, 2002, except for the fees collected pursuant to Sections 56-3-660 and 56-3-670, two dollars of each biennial fee and one dollar of each annual fee collected from the vehicle owner must be placed by the Comptroller General in a special restricted account to be used solely by the Department of Motor Vehicles for the costs associated with the production and issuance of new license plates. The department is not authorized to use this set aside money for any other purpose. License plates issued for vehicles in excess of twenty-six thousand pounds must be issued biennially, and no revalidation sticker may be issued for the plates. License plates issued as permanent may be revalidated and replaced at intervals determined by the department.

(B) The face of the license plate must be treated completely with a retroreflective material which increases the nighttime visibility and legibility of the plate. The department shall prepare the specifications for the retroreflective material. In those years in which a metal plate is not issued, a revalidation sticker with a distinctive serial number or other suitable means prescribed by the department must be issued and affixed in the space provided on the license plate assigned to the vehicle upon payment of the fee prescribed for registration and licensing, including fees for personalized or special license plates.

HISTORY: 1962 Code Section 46-72; 1952 Code Section 46-72; 1949 (46) 342; 1966 (54) 2257; 1974 (58) 2262; 1978 Act No. 421 Section 2; 1978 Act No. 567 Section 1; 1990 Act No. 591, Section 1; 1990 Act No. 597, Section 1; 1993 Act No. 164, Part II, Section 22U; 1994 Act No. 497, Section 60; 2001 Act No. 55, Section 2; 2005 Act No. 57, Section 2, eff May 17, 2005; 2016 Act No. 158 (H.3911), Section 1, eff April 21, 2016.

SECTION 56-3-1240.

Display of license plates; motorcycles equipped with vertically mounted brackets; missing plates.

Section effective until November 20, 2024. See, also, Section 56-3-1240 effective November 20, 2024.

License plates issued for motor vehicles must be attached to the outside rear of the vehicle, open to view. However, on truck tractors and road tractors the plates must be attached to the outside front of the vehicle provided that single unit commercial motor vehicles with a gross vehicle weight rating in excess of twenty-six thousand pounds may have the license plate on either the outside front or rear of the vehicle. Every license plate, at all times, must be fastened securely in a horizontal and upright position to the vehicle for which it was issued so as to prevent the plate from swinging. However, if a motorcycle is equipped with vertically mounted license

plate brackets, its license plate must be mounted vertically with its top fastened along the right vertical edge. The bottom of the plate must be at a height of not less than twelve inches from the ground in a place and position clearly visible as provided in Section 56-5-4530, and it must be maintained free from foreign materials and in a clearly legible condition. No other license plate, lighting equipment, except as permitted in Section 56-5-4530, tag, sign, monogram, tinted cover, or inscription of metal or other material may be displayed above, or upon the plate other than that which is authorized and issued by the Department of Motor Vehicles for the purpose of validating the plate. It is not unlawful to place a decal or a frame on the license plate if it does not obscure any letters or numbers. A motor vehicle owner may attach a trailer hitch to a motor vehicle provided the hitch does not obscure more than two inches of the license plate issued to the motor vehicle. It is unlawful to operate or drive a motor vehicle with the license plate missing and a person who is convicted for violating this section must be punished as provided by Section 56-3-2520.

HISTORY: 1962 Code Section 46-73; 1952 Code Section 46-73; 1949 (46) 342; 1957 (50) 146; 1974 (58) 2262; 1991 Act No. 46, Section 1; 2007 Act No. 90, Section 2, eff June 14, 2007; 2008 Act No. 347, Section 1, eff June 16, 2008; 2012 Act No. 272, Section 16, eff December 26, 2012.

SECTION 56-3-1240.

Display of license plates; motorcycles equipped with vertically mounted brackets; missing plates.

Section effective November 20, 2024. See, also, Section 56-3-1240 effective until November 20, 2024.

(A) Unless the provisions of this section apply, license plates issued for motor vehicles must be attached to the outside rear of the vehicle, open to view. License plates must always be fastened securely in a horizontal and upright position to the vehicle for which it was issued so as to prevent the plate from swinging.

(B) License plates for truck tractors and road tractors must be attached to the outside front of the vehicle provided that single-unit commercial motor vehicles with a gross vehicle weight rating in excess of twenty-six thousand pounds may have the license plate on either the outside front or rear of the vehicle. During the forty-five days, an intrastate-only large commercial motor vehicle may operate on a temporary license plate issued pursuant to Section 56-3-212, the vehicle owner may display a motorcycle-sized temporary license plate securely in the front, passenger-side windshield of the vehicle provided the unique identifying license plate text faces the exterior of the vehicle. The owner must position the temporary license plate to not obstruct the driver's view.

(C) When a motorcycle is equipped with vertically mounted license plate brackets, its license plate must be mounted vertically with its top fastened along the right vertical edge. The bottom of the plate must be at a height of not less than twelve inches from the ground in a place and position clearly visible as provided in Section 56-5-4530, and it must be maintained free from foreign materials and in a clearly legible condition.

(D) No other license plate, lighting equipment, except as permitted in Section 56-5-4530, tag, sign, monogram, tinted cover, or inscription of metal or other material may be displayed above, or upon the plate other than that which is authorized and issued by the Department of Motor Vehicles for the purpose of validating the plate. It is not unlawful to place a decal or a frame on the license plate if it does not obscure any letters or numbers. A motor vehicle owner may attach a trailer hitch to a motor vehicle provided the hitch does not obscure more than two inches of the license plate issued to the motor vehicle. It is unlawful to operate or drive a motor vehicle with the license plate missing and a person who is convicted for violating this section must be punished as provided by Section 56-3-2520.

HISTORY: 1962 Code Section 46-73; 1952 Code Section 46-73; 1949 (46) 342; 1957 (50) 146; 1974 (58) 2262; 1991 Act No. 46, Section 1; 2007 Act No. 90, Section 2, eff June 14, 2007; 2008 Act No. 347, Section 1, eff June 16, 2008; 2012 Act No. 272, Section 16, eff December 26, 2012; 2024 Act No. 178 (H.4674), Section 1, eff November 20, 2024.

Effect of Amendment

2024 Act No. 178, Section 1, rewrote the section.

SECTION 56-3-1250.

Registration cards; contents, possession, and display.

The department, upon registering and licensing a vehicle, shall issue to the owner of the vehicle a registration card containing upon the face of the card the date issued, the name and address of the owner, including the county in which the owner resides, the registration and license number assigned to the vehicle, and that other description of the vehicle as may be determined by the department. The registration card must be delivered to the owner. Every registration card must at all times be carried by the person driving or in control of the vehicle, who shall display it upon demand of a police officer or any other person authorized by law to examine registration cards.

HISTORY: 1962 Code Section 46-74; 1952 Code Section 46-74; 1949 (46) 342; 1968 (55) 2631; 1992 Act No. 278, Section 1; 2005 Act No. 29, Section 1, eff March 22, 2005.

SECTION 56-3-1260.

Procedures upon transfer of ownership of vehicle; notice to department and disposition of plates.

Whenever the owner of a registered and licensed vehicle transfers his ownership therein, he shall immediately notify the Department of Motor Vehicles in writing, giving the name and address of the new owner and the date of transfer. The license plate issued for the vehicle shall remain with the prior owner who, within thirty days of the transfer, either shall apply for the transfer of the plate pursuant to Section 56-3-1290 or shall return the plate to the Department; in either event the registration card shall be concurrently returned to the Department. If the vehicle is registered and licensed in the name of the State, any department, agency, or political subdivision of the State, or any department or agency of such a subdivision and a reduced registration and license fee has been paid, the owner shall return the registration card and the plate issued for the vehicle to the Department for cancellation, unless the transfer is made to another like agency qualified to obtain a registration and license of the vehicle at the reduced rate.

HISTORY: 1962 Code Section 46-75; 1952 Code Section 46-75; 1949 (46) 342; 1959 (51) 391; 1984 Act No. 371, Section 3; 1985 Act No. 40, Section 5.

SECTION 56-3-1265.

Display of special license plates for particular groups.

The Department of Motor Vehicles must display in all Department of Motor Vehicle offices where motor vehicle license plates or stickers may be obtained or renewed examples of all types of special license plates which individuals of a particular group may obtain. The provisions of this section do not apply to special personalized motor vehicle license plates which individuals may obtain from the department under Section 56-3-2010.

HISTORY: 2001 Act No. 55, Section 1.

SECTION 56-3-1270.

Procedures upon transfer of ownership of vehicle; application for transfer and issuance of new card; fee.

Whenever any person other than a duly licensed motor vehicle dealer receives by purchase, gift, trade, or otherwise a vehicle which was registered and licensed in this State for the then current registration and license year, the person so receiving such vehicle shall within thirty days after the transfer of ownership make application to the Department of Motor Vehicles for registration and a license plate for such vehicle. The Department, upon being satisfied as to the genuineness and regularity of the application and with proof of the ad valorem tax being paid as required in Section 12-37-2610, shall issue a new registration card and license plate to the new owner.

HISTORY: 1962 Code Section 46-76; 1952 Code Section 46-76; 1949 (46) 342; 1976 Act No. 738 Section 7; 1984 Act No. 371, Section 4; 1985 Act No. 40, Section 6.

SECTION 56-3-1280.

Transfer of registered and licensed vehicle to licensed dealer.

Whenever a duly licensed motor vehicle dealer receives by purchase, gift, trade, or otherwise a vehicle which was registered and licensed in this State for the then current registration and license year, the dealer shall not be required to obtain a new registration and license plate, but it shall be optional.

HISTORY: 1962 Code Section 46-77; 1952 Code Section 46-77; 1949 (46) 342; 1984 Act No. 371, Section 5.

SECTION 56-3-1290.

Transfer of plates to another vehicle of same owner.

The Department of Motor Vehicles, upon application and the payment of a fee of ten dollars, shall transfer the license plate assigned for one vehicle to another vehicle of the same general type owned or leased by the same person without a paid tax receipt for the vehicle. However, subsequent transfers of a license plate to the same vehicle may not be processed without a paid tax receipt based upon the value of the vehicle to which the plate is being transferred. Three dollars of the fees paid pursuant to this section must be deposited in the state general fund, and the remaining seven dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1962 Code Section 46-77.1; 1959 (51) 391; 1976 Act No. 738 Section 8; 1984 Act No. 371; 1994 Act No. 497, Part II, Section 106A; 2008 Act No. 353, Section 2, Pt 13B, eff July 1, 2009; 2016 Act No. 275 (S.1258), Section 30, eff July 1, 2016.

SECTION 56-3-1300.

Change in name or address of owner; notice to department.

Whenever any person after making application for or obtaining the registration and licensing of a vehicle shall move from the address named in the application or shown upon the registration card, such person shall within thirty days thereafter notify the Department of Motor Vehicles in writing of his old address and new address and obtain from the Department a corrected registration card. Whenever the name of any person who has made application for or obtained the registration and licensing of a vehicle is thereafter changed by marriage or otherwise, such person shall within thirty days thereafter notify the Department of such former and new names and obtain from the Department a corrected registration card.

HISTORY: 1962 Code Section 46-78; 1952 Code Section 46-78; 1949 (46) 342; 1955 (49) 242.

SECTION 56-3-1310.

Procedures for replacement of lost or damaged registration cards or license plates.

In the event any registration card or license plate is lost, mutilated or becomes illegible, the owner or legal representative or successor in the interest of the owner of the vehicle for which it was issued, as shown by the records of the Department of Motor Vehicles, shall immediately make application for and obtain a duplicate or substitute or a new registration and license under a new number, as determined to be most advisable by the Department, upon the applicant furnishing information satisfactory to the Department and the payment of any fee required under the provisions of Section 56-3-1320.

If a license plate is lost an application shall be made within ten days to the Department for replacement along with the required fee on forms prescribed by the Department. If a license plate is disfigured, mutilated or defaced to an extent to make it difficult to read, it shall be returned to the Department within ten days with an application for replacement and the required fee. The Department shall issue the replacement plate along with the current revalidation sticker.

HISTORY: 1962 Code Section 46-79; 1952 Code Section 46-79; 1949 (46) 342; 1978 Act No. 421 Section 3.

SECTION 56-3-1320.

Fees for replacement plates and cards.

The Department of Motor Vehicles shall charge a fee of six dollars for every license plate or revalidation sticker issued as a replacement. If a special personalized plate is replaced by a new special personalized plate, the department shall charge a fee in the

same amount as the original fee. The department may not charge a fee for a registration card issued as a replacement for a registered and licensed vehicle, but a fee of one dollar must be charged for every duplicate registration card issued by the department.

HISTORY: 1962 Code Section 46-80; 1952 Code Section 46-80; 1949 (46) 342; 1978 Act No. 421 Section 4; 1986 Act No. 445; 1996 Act No. 459, Section 146.

SECTION 56-3-1330.

Suspension, cancellation, or revocation of cards, and plates.

The Department of Motor Vehicles may suspend, cancel, or revoke the registration and license of a vehicle, or the registration card, license plate, revalidation sticker, or other document issued by the department as authorized under this chapter in any of the following events when the:

- (1) department determines to its satisfaction that such registration and license, registration card, license plate, revalidation sticker, or other document was fraudulently or erroneously issued;
- (2) department determines to its satisfaction that a registered and licensed vehicle is mechanically unsafe or unfit to be operated or moved upon a highway;
- (3) vehicle registered and licensed has been dismantled or wrecked;
- (4) department determines that the required fee has not been paid and is not paid upon reasonable notice and demand;
- (5) registration card, license plate, revalidation sticker, or other document is knowingly displayed upon a vehicle other than the one for which it was issued;
- (6) department determines to its satisfaction that the owner has committed any offense under this chapter involving such registration card, license plate, revalidation sticker, or other document;
- (7) department is so authorized under any other provisions of law.

HISTORY: 1962 Code Section 46-81; 1952 Code Section 46-81; 1949 (46) 342; 1978 Act No. 421 Section 5; 1993 Act No. 181, Section 1369; 1996 Act No. 459, Section 147.

SECTION 56-3-1335.

Suspension of vehicle's registration for failure to pay toll; reinstatement fee.

The Department of Motor Vehicles shall suspend a motor vehicle's current registration and shall not register or reregister a motor vehicle that was operated when its driver failed to pay a toll and whose owner has an outstanding judgment for failure to pay a toll pursuant to Section 57-5-1495(E) entered against him. The suspension or denial of registration or reregistration shall remain in effect until the judgment is satisfied, evidence of the satisfaction has been provided to the Department of Motor Vehicles, and a reinstatement fee of fifty dollars has been paid. The reinstatement fee collected must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 2006 Act No. 267, Section 1, eff nine months after approval (approved May 2, 2006); 2016 Act No. 275 (S.1258), Section 31, eff July 1, 2016.

SECTION 56-3-1340.

Suspension of driver's license does not automatically suspend registration or license plates.

The suspension of a license issued by the Department of Motor Vehicles to any person to operate a motor vehicle on the highways of the State shall not serve to automatically suspend the registration or license plates.

HISTORY: 1962 Code Section 46-81.1; 1963 (53) 501; 1993 Act No. 181, Section 1370.

SECTION 56-3-1350.

Return of suspended, cancelled, or revoked cards, and plates.

Whenever the Department of Motor Vehicles, as authorized under this chapter, cancels, suspends, or revokes the registration and license of a vehicle or the registration card, license plate, revalidation sticker, or other document issued by it pursuant to this chapter, the owner or person in possession of the document shall immediately return it to the department. The department in all cases shall furnish the person returning the document with a receipt indicating the date of surrender.

HISTORY: 1962 Code Section 46-82; 1952 Code Section 46-82; 1949 (46) 342; 1978 Act No. 421 Section 6; 1989 Act No. 148, Section 37.

SECTION 56-3-1360.

Use of license plate on vehicle other than vehicle for which plate was issued.

No person shall drive or operate any motor vehicle, trailer, semitrailer or pole trailer on a highway displaying thereon a vehicle license plate which was issued for any other vehicle, and no person shall give, sell, lend, steal or borrow any vehicle license plate issued for a particular vehicle for the purpose of using such license plate on any other vehicle.

HISTORY: 1962 Code Section 46-83; 1952 Code Section 46-83; 1949 (46) 342.

SECTION 56-3-1370.

Defacement of license plates; seizure of misused, altered, or defaced plates.

No person shall, with intent to defraud, deface or cause to be defaced in any manner any vehicle license plate issued by the Department of Motor Vehicles. Any duly authorized agent of the Department may take up, reposess or recover any license plate if it is being improperly used or if it has been altered or defaced, and the Department may revoke the registration and license of the vehicle involved.

HISTORY: 1962 Code Section 46-84; 1952 Code Section 46-84; 1949 (46) 342; 1957 (50) 595.

SECTION 56-3-1380.

Return of registration card and license plates for wrecked or dismantled vehicle.

An owner who dismantles or wrecks a vehicle registered and licensed pursuant to this chapter shall forward to the Department of Motor Vehicles the registration card, license plate, and revalidation sticker last issued for the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall provide the vehicle's title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945.

HISTORY: 1962 Code Section 46-85; 1952 Code Section 46-85; 1949 (46) 342; 1978 Act No. 421 Section 7; 2012 Act No. 242, Section 5, eff December 15, 2012.

SECTION 56-3-1410.

Fraudulent alteration or forgery of documents; use of altered or forged documents.

It is a misdemeanor, punishable as prescribed in this chapter, for any person (a) to alter, with fraudulent intent, any document issued by the Department of Motor Vehicles as authorized under this chapter except a registration card or license plate, (b) to forge or counterfeit any such document issued or purported to have been issued by the Department or (c) to hold or use any such document, knowing it to have been altered, falsified or forged.

HISTORY: 1962 Code Section 46-86; 1952 Code Section 46-86; 1949 (46) 342; 1957 (50) 595.

ARTICLE 10

Year of Manufacture Motor Vehicle License Plates

SECTION 56-3-1450.

Year of manufacture license plates.

(A) An owner of a motor vehicle that is thirty years old or older, may apply to the department to use a license plate issued by this State in the year corresponding to the model year of the vehicle, if the license plate is legible and serviceable, as determined by the department. If the department determines that the plate is legible and serviceable, the applicant must submit the regular vehicle registration fee contained in Article 5, Chapter 3 of this title, and the special license plate fee required by Section 56-3-2020. The biennial renewal fee for these plates shall be the regular vehicle registration fee contained in Article 5, Chapter 3 of this title, and the special license plate fee required by Section 56-3-2020.

(B) Once the department approves use of the plate and the applicant submits the required fees, the department shall register the plate to the applicant. The department may not register a license plate that has a sequence of numbers, letters, or other characters identical to any other license plate already issued by the department. The applicant may only use the special license plate on the vehicle with which the license plate registration corresponds.

(C) License plates registered pursuant to this section may only be transferred to vehicles of the same model year as the year the license plate was originally issued.

HISTORY: 2006 Act No. 399, Section 1, eff six months after approval (approved September 29, 2006).

ARTICLE 11

Special License Plates; Amateur Radio Operators

SECTION 56-3-1510.

Special license plates authorized for amateur radio operators; fee.

The Department of Motor Vehicles may issue special motor vehicle license plates to persons who hold unrevoked and unexpired amateur radio licenses of a renewable nature issued by the Federal Communications Commission for private passenger motor vehicles registered in the same name. The biennial fee for the special license plates is two dollars in addition to the regular motor vehicle registration fee prescribed by Article 5 of this chapter. Only one set of the special plates may be issued to a person.

HISTORY: 1962 Code Section 46-95; 1954 (48) 1543; 1955 (49) 593; 1963 (53) 81; 1964 (53) 1901; 1993 Act No. 164, Part II, Section 22V; 1996 Act No. 459, Section 148.

SECTION 56-3-1520.

Applications.

Applications for special license plates, as authorized under this article, must be made on forms provided by the Department of Motor Vehicles, contain proof satisfactory to the department that the applicant holds an unrevoked and unexpired amateur radio license, and state the call letters assigned to the applicant.

HISTORY: 1962 Code Section 46-95.1; 1954 (48) 1543; 1955 (49) 593; 1993 Act No. 164, Part II, Section 22W; 1996 Act No. 459, Section 149.

SECTION 56-3-1530.

Design of plates; duration.

The special license plates must be of the same size and general design of regular motor vehicle license plates, upon which must be imprinted the official amateur radio call letters of the persons assigned by the Federal Communications Commission. The special plates are for biennial periods which expire twenty-four months from the month it is issued.

HISTORY: 1962 Code Section 46-95.2; 1954 (48) 1543; 1955 (49) 593; 1963 (53) 81; 1993 Act No. 164, Part II, Section 22X; 1996 Act No. 459, Section 150.

SECTION 56-3-1540.

Transfer to another vehicle of same owner; display on unauthorized car; return on loss of radio license.

Special license plates issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made therefor and approved by the Department of Motor Vehicles. It shall be unlawful for any person to whom such special license plates have been issued to knowingly permit such plates to be displayed on any vehicle except

the one authorized by the Department. If the amateur radio license of a person holding a special license plate issued pursuant to this article shall be cancelled or rescinded by the Federal Communications Commission, such person shall immediately return the special license plate to the Department.

HISTORY: 1962 Code Section 46-95.4; 1954 (48) 1543; 1955 (49) 593; 1963 (53) 81.

SECTION 56-3-1550.

Penalties.

Any person violating any of the provisions of this article or any person who (a) fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, (b) conceals a material fact or (c) otherwise commits a fraud in any such application or in the use of any special license plate issued shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars or thirty days' imprisonment, or both.

HISTORY: 1962 Code Section 46-95.6; 1955 (49) 593.

SECTION 56-3-1560.

Article is cumulative.

The provisions of this article shall not affect the registration and licensing of motor vehicles as required by other provisions of this chapter, but shall be cumulative thereto.

HISTORY: 1962 Code Section 46-95.5; 1954 (48) 1543; 1955 (49) 573.

ARTICLE 12

Special License Plates for Emergency Medical Technicians

SECTION 56-3-1610.

Issuance of special license plates to emergency medical technicians; fee.

The Department of Motor Vehicles may issue special motor vehicle license plates to emergency medical technicians for private passenger motor vehicles registered in the name of the technicians. The biennial fee for the special license plates is thirty dollars in addition to the regular motor vehicle registration fee prescribed by Article 5 of this chapter. Only one special plate may be issued to a person.

HISTORY: 1978 Act No. 613 Section 1; 1993 Act No. 164, Part II, Section 22Y; 1996 Act No. 459, Section 151.

SECTION 56-3-1620.

Applications.

Applications for special license plates, as authorized under this article, shall be made on forms provided by the Department of Motor Vehicles and shall contain proof satisfactory to the Department that the applicant has been trained as an emergency medical technician by a hospital which conducts classes in emergency medical procedures and technology.

HISTORY: 1978 Act No. 613 Section 1; 1996 Act No. 459, Section 152.

SECTION 56-3-1630.

Size and design of plates; period of validity.

The special license plates must be of the same size and general design of regular motor vehicle license plates upon which must be imprinted the letters "EMT" and numbers the Department of Motor Vehicles may determine. The special plates are for biennial periods which expire twenty-four months from the month it is issued.

HISTORY: 1978 Act No. 613 Section 1; 1993 Act No. 164, Part II, Section 22Z; 1996 Act No. 459, Section 153.

SECTION 56-3-1640.

Transfer of plates; use on unauthorized vehicle; return of plates on revocation of technician's license.

A special license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made therefor and approved by the Department of Motor Vehicles. It shall be unlawful for any person to whom such special license plate has been issued to knowingly permit such plate to be displayed on any vehicle except the one authorized by the Department. If the recognition of a licensee as a qualified emergency medical technician is revoked, such person shall immediately return the special license plate to the Department.

HISTORY: 1978 Act No. 613 Section 1.

SECTION 56-3-1650.

Unlawful acts; penalties.

Any person violating any of the provisions of this article or who fraudulently gives false or fictitious information in any application for special license plates, as authorized in this article, conceals a material fact or otherwise commits a fraud in any such application or in the use of any special license plate issued shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one hundred dollars or thirty days' imprisonment, or both.

HISTORY: 1978 Act No. 613 Section 1.

SECTION 56-3-1660.

Effect of article on rest of chapter.

The provisions of this article shall not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but shall be cumulative thereto.

HISTORY: 1978 Act No. 613 Section 1.

ARTICLE 13

Special License Plates; Publicly Owned Motor Vehicles

SECTION 56-3-1710.

Department shall design and supply special license plate for publicly owned motor vehicles; unlawful to operate motor vehicle without plate.

The Department of Motor Vehicles shall design and supply, at an appropriate fee, a special license plate, or supplemental plate or attachment, for use on all publicly-owned motor vehicles operated by any department or institution of the State of South Carolina, or any of its political subdivisions. It shall be unlawful for any such publicly-owned vehicle to be operated in the State of South Carolina that does not carry such official emblem, marker, or plates. Provided, however, that this provision shall not apply to the automobile supplied for the Governor's personal use, automobiles supplied to law enforcement officers, when in the opinion of the chief of the South Carolina Law Enforcement Division or the director of the department it is advisable that such automobiles not be so marked, nor to automobiles supplied to other state officials.

HISTORY: 1962 Code Section 46-95.21; 1963 (53) 358 [478]; 1993 Act No. 181, Section 1371; 1996 Act No. 459, Section 154.

ARTICLE 14

Special License Plates; Members of the United States Military Reserve [Repealed]

SECTIONS 56-3-1750 to 56-3-1780.

Repealed.

HISTORY: Former Section 56-3-1750, titled Special license plates authorized for members of United States Military Reserve; fee, had the following history: 1986 Act No. 409, Section 1; 1993 Act No. 164, Part II, Section 22AA; 1993 Act No. 181, Section 1372; 1996 Act No. 459, Section 155. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1760, titled Design of plates; duration, had the following history: 1986 Act No. 409, Section 1; 1993 Act No. 164, Part II, Section 22BB. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1770, titled Transfer to another vehicle of same owner; display on unauthorized car; return by holder ceasing to be member of United States Military Reserve, had the following history: 1986 Act No. 409, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1780, titled Relation to other provisions; penalties, had the following history: 1986 Act No. 409, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 15

Special License Plates; Members of National Guard [Repealed]

SECTIONS 56-3-1810 to 56-3-1840.

Repealed.

HISTORY: Former Section 56-3-1810, titled Number of special license plates to be issued to members of National Guard, had the following history: 1962 Code Section 46-95.31; 1968 (55) 2443; 1970 (56) 1884; 1979 Act No. 35; 1996 Act No. 459, Section 156; 2013 Act No. 56, Section 2.A, eff June 12, 2013. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1815, titled Special license plates authorized for retired members of National Guard, had the following history: 1986 Act No. 409, Section 2; 1999 Act No. 63, Section 1; 2002 Act No. 193, Section 1; 2013 Act No. 56, Section 2.B, eff June 12, 2013. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1820, titled Design of plates; denotation of status; fee; duration, had the following history: 1962 Code Section 46-95.32; 1968 (55) 2443; 1970 (56) 1884; 1986 Act No. 409, Section 3; 1993 Act No. 164, Part II, Section 22C; 1996 Act No. 422, Section 4 and Act No. 425, Section 9; 1999 Act No. 63, Section 2; 2013 Act No. 56, Section 2.C, eff June 12, 2013. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1830, titled Transfer to another vehicle of same owner; display on unauthorized car; return by holder ceasing to be member of National Guard, had the following history: 1962 Code Section 46-95.33; 1968 (55) 2443; 1986 Act No. 409, Section 4; 1999 Act No. 63, Section 3. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1840, titled Penalties, had the following history: 1962 Code Section 46-95.34; 1968 (55) 2443. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 16

Special License Plates; Medal of Honor Recipients [Repealed]

SECTIONS 56-3-1850 to 56-3-1880.

Repealed.

HISTORY: Former Section 56-3-1850, titled Special license plate authorized for recipients of Medal of Honor; no fee, had the following history: 1979 Act No. 37; 1993 Act No. 176, Section 1; 1993 Act No. 181, Section 1373; 1996 Act No. 459, Section 157. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1855, titled Special parking privileges for Medal of Honor recipients, had the following history: 1983 Act No. 74. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1860, titled Design of plates, had the following history: 1979 Act No. 37. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1870, titled Transfer to another vehicle of same owner; prohibition on display on unauthorized car, had the following history: 1979 Act No. 37; 1993 Act No. 176, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-1880, titled Cumulative nature of article; penalties, had the following history: 1979 Act No. 37. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 17

Special License Plates; Disabled Persons Required to Use Wheelchairs

SECTION 56-3-1910.

License plates for handicapped persons; certification forms; duplication or forgery.

(A) As used in this article, "handicapped" means a person who has one or more of the following conditions:

- (1) an inability to ordinarily walk one hundred feet nonstop without aggravating an existing medical condition, including the increase of pain;
- (2) an inability to ordinarily walk without the use of, or assistance from a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
- (3) a restriction by lung disease to the extent that the person's forced expiratory volume for one second when measured by spirometry is less than one liter, or the arterial oxygen tension is less than sixty mm/hg on room air at rest;
- (4) requires use of portable oxygen;
- (5) a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards established by the American Heart Association. If the person's status improves to a higher level, for example as a result of bypass surgery or transplantation, he no longer meets this criteria;
- (6) a substantial limitation in the ability to walk due to an arthritic, neurological, or orthopedic condition, for example, coordination problems and muscle spasticity due to conditions that include Parkinson's disease, cerebral palsy, or multiple sclerosis; or
- (7) blindness.

(B) Upon payment of the regular motor vehicle license fee, the department may issue a license plate with a special number or identification indicating that the license plate was issued to a person certified as permanently handicapped. A license plate issued pursuant to this section must be accompanied by a certification form completed by a licensed physician.

(C)(1) The department must develop a standardized certification form designed to capture criteria related information relating to persons considered handicapped. The form shall indicate whether the applicant meets one or more of the criteria, whether the condition is permanent or temporary, and if temporary, the expected duration.

(2) All persons that have been issued a handicapped license plate as of the effective date of this section will be issued a certificate upon renewal of the license plate. To renew the plate and receive the certificate, the person must be certified as permanently handicapped as provided in this section. Failure to carry a certificate as required by this section by a person that has been issued a handicapped license plate as of the effective date of this section is not a violation of the provisions of this section until after the person renews his license plate.

(D) Forms must be completed by physicians licensed to practice in South Carolina as defined in Section 40-47-5.

(E) The special license plate authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who meets the requirements of this section if the vehicle is owned and titled in the name of the disabled person or in the name of a member of his immediate family.

(F) The special license plate authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who is certified as meeting the requirements of this section for a vehicle used by an agency, organization, or facility. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for the special license plate issued to the agency, organization, or facility.

(G) When processing applications for special license plates pursuant to this section, the department also shall issue a license plate registration certificate that must be carried at all times in the vehicle driven by or transporting the disabled individual. The certificate must display the name of the individual or organization to which the plate was issued.

(H) Vehicles displaying a special handicapped license plate only may park in designated handicapped parking spaces if that vehicle is driven by or transporting the disabled individual whose name appears on the license plate registration certificate, or if the certificate lists the name of the agency, organization, or facility authorized under subsection (G). The driver of the vehicle displaying the plate must present the registration when requested by law enforcement entities or their duly authorized agents.

(I) A person who qualifies for a license plate under this section and also qualifies as a disabled veteran under Section 56-3-1110 must be issued the license plate provided for in this section free of charge.

(J)(1) Except as provided in item (2), a person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars and not more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped license plate or a person who falsifies information on an application form for a handicapped license plate is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.

HISTORY: 1962 Code Section 46-95.41; 1968 (55) 3042; 1986 Act No. 498, Section 2; 1986 Act No. 530, Section 1; 1990 Act No. 492, Section 2; 1993 Act No. 82, Section 1993 Act No. 181, Section 1374; 2009 Act No. 24, Section 1, eff six months after approval (approved June 2, 2009).

Editor's Note

Section 56-3-1110, referenced in (I), was repealed by 2021 Act No. 38, Section 2, effective May 6, 2022. See, now, Section 56-3-14940.

SECTION 56-3-1920.

Identification placards for hearing impaired licensed drivers; fees.

(A) An identification placard must be issued to a hearing impaired licensed driver upon application. The application is to be on a

form prescribed by the department and may be made in person or by mail. The application must include an original certificate from a licensed physician, as defined in Section 40-47-5, that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. No licensed applicant may be denied a placard if the completed application includes an original certificate from a licensed physician. The placard shall expire on the licensee's birth date of the fifth calendar year after the calendar year in which a hearing impaired driver is issued a license.

(B) The placard must be rectangular in shape, approximately the same size as an average motor vehicle sun visor, as determined by the department, to enable it to be attached to a sun visor in a motor vehicle. The department shall determine the shape, size preferred, and manner in which a hearing impaired motorcycle operator is to carry or display the placard. The placard must contain the heading "Hearing Impaired Driver" in boldface type and the name, signature, and driver's license number of the hearing impaired person along with an explanation of appropriate use if the hearing impaired driver is stopped by a law enforcement officer while driving.

(C) A fee not to exceed five dollars may be charged to each applicant issued a placard in accordance with this section. These fees must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 2012 Act No. 147, Section 3.B, eff April 23, 2012; 2016 Act No. 275 (S.1258), Section 32, eff July 1, 2016.

ARTICLE 18

Free Parking for Handicapped Persons

SECTION 56-3-1950.

Definitions.

As used in this article:

(1) "Handicapped" means a person as defined in Section 56-3-1910.

(2) "Access aisle" means a designated space for maneuvering a wheelchair or other mobility device when entering or exiting a vehicle, and that is immediately adjacent to a properly designated parking space for handicapped persons, on public or private property. Access aisles must be marked so as to discourage parking in them.

HISTORY: 1978 Act No. 462 Section 1; 1979 Act No. 97 Section 1; 1983 Act No. 72 Section 1; 1986 Act No. 530, Section 2; 1992 Act No. 266, Section 1; 1993 Act No. 181, Section 1375; 1996 Act No. 459, Section 246A; 2009 Act No. 24, Section 2, eff six months after approval (approved June 2, 2009).

SECTION 56-3-1960.

Temporary and permanent parking placards; illegal duplication or forgery.

(A) A person who is "handicapped" as defined in Section 56-3-1910 may apply to the department for issuance of a temporary or permanent placard. A person may be issued a temporary placard if the condition causing his handicap is expected to last for at least four months. No applicant may be denied a placard if the applicant follows the procedures established by the department and if the application is accompanied by a certificate from a licensed physician that certifies that the individual is handicapped and whether the handicap is temporary or permanent. The placards must indicate that the person is qualified to use reserved handicapped parking spaces. Applications for placards must be processed through and issued by the department's headquarters. Only one placard may be issued to an applicant. The certification procedure shall adhere to the requirements set forth in Section 56-3-1910. In conjunction with the issuance of a placard, applicants also must be issued a placard registration certificate that must be carried at all times in the vehicle driven by or transporting the handicapped individual. The certificate will display the name of the individual to which the placard was issued. A placard only can be displayed on a vehicle driven by or transporting the disabled individual whose name appears on the placard registration certificate. The department shall charge a fee of one dollar for a placard. An agency, organization, or facility that transports a disabled or handicapped person may receive a placard for each vehicle registered upon proper application and the payment of the appropriate fees.

(B) The placards authorized by this section also may be issued for a vehicle of special design and equipment designed to transport a disabled person who is certified as meeting the requirements of this section for a vehicle used by an agency, organization, or facility that is designed to transport a handicapped or disabled person if the vehicle is titled in the name of the agency, organization, or facility. Proof that the agency, organization, or facility transports a handicapped or disabled person must be in a manner prescribed by the department. A certificate from a licensed physician is not required to apply for placards issued to an agency, organization, or facility. At the time of qualification, applicants qualifying for a placard under this section also must be issued a placard registration certificate that must be carried at all times in the vehicle transporting handicapped or disabled individuals. The certificate will display the name of the agency, organization, or facility to which the placard was issued.

(C) The placards shall conform to specifications set forth in the standards established for compliance with the Americans with Disabilities Act. The design must incorporate a means for hanging the placard from a vehicle windshield rearview mirror, and:

(1) contain the International Symbol of Access;

(2) be color coded to reflect user status in the following manner:

(a) dark blue-permanently disabled; and

(b) red-temporarily disabled.

(D) Blue and red placards shall contain the qualified user's photograph. The photograph must be taken from the qualified user's driver's license or identification card on file with the department or any other photograph approved by the department. However, a photograph is not required for a placard issued to an agency, organization, or facility.

(E) Each placard shall contain the placard's expiration date.

(F) When qualified users park in designated spaces, the placard must be displayed in the windshield of the vehicle by hanging it from the rearview mirror. In vehicles in which hanging may not be feasible, the placard must be placed on the side of the dashboard so that it is clearly visible through the windshield. When more than one placard holder is transported in the same vehicle, only one placard needs to be displayed.

(G) Placards used for parking in designated handicapped spaces must be displayed on vehicles driven by or transporting the handicapped individual whose name appears on the placard registration certificate. When parked in designated spaces, the driver of the vehicle displaying the placard must present the placard registration certificate when requested by law enforcement entities or their duly authorized agents.

(H) Placards and placard registration certificates for permanently disabled persons may be issued and renewed for a maximum period of four years and are renewable on the owner's birth date. Placards issued to an agency, organization, or facility must be renewed every four years.

(I) A vehicle displaying a valid out-of-state handicapped license plate or placard or other evidence of handicap issued by the appropriate authority as determined by the department is entitled to the parking privileges provided in this section. Handicapped individuals from other states seeking permanent residence in South Carolina have forty-five days after becoming a resident to obtain South Carolina certification.

(J) Placards issued prior to the effective date of this section must be renewed by the expiration date on the placard or by January 1, 2013, whichever is sooner. To renew the placard and receive the certificate, the person must be certified as permanently handicapped as provided in Section 56-3-1910. Upon renewal, the department will issue a certificate as required by this section. Failure to carry a certificate as required by this section by a person using a placard issued prior to the effective date of this section is not a violation of the provisions of this section until after the placard is renewed or January 1, 2013, whichever is sooner.

(K)(1) Except as provided in item (2), a person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both, for each offense.

(2) A person who illegally duplicates, forges, or sells a handicapped placard or a person who falsifies information on an application form for a handicapped placard is guilty of a misdemeanor and, upon conviction, must be imprisoned for thirty days and fined not less than five hundred dollars and not more than one thousand dollars.

HISTORY: 1978 Act No. 462 Section 2; 1986 Act No. 530, Section 2; 1990 Act No. 492, Section 1; 1990 Act No. 514, Section 1; 1990 Act No. 597, Section 2; 1993 Act No. 82, Section 2; 1993 Act No. 181, Section 1376; 2009 Act No. 24, Section 3, eff six months after approval (approved June 2, 2009); 2024 Act No. 147 (H.4819), Section 1, eff May 13, 2024.

Effect of Amendment

2024 Act No. 147, Section 1, in (D), in the second sentence, inserted "or any other photograph approved by the department".

SECTION 56-3-1965.

Free parking in metered or timed parking places for handicapped persons.

Those municipalities having marked parking spaces shall provide appropriately designated space or spaces reserved for the parking of handicapped persons. A person who is handicapped as defined in this article must be allowed to park in metered or timed parking places without being subject to parking fees or fines. This section does not apply to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or to areas which are reserved for special types of vehicles. A vehicle must display a distinguishing license plate which must be issued by the department, or a distinguishing placard which must be issued by the department, pursuant to Section 56-3-1960 when parked in metered or timed parking places.

HISTORY: 1980 Act No. 467; 2009 Act No. 24, Section 4, eff six months after approval (approved June 2, 2009).

SECTION 56-3-1970.

Unlawful acts; penalties; summary court jurisdiction.

(A) It is unlawful to park any vehicle in a parking place clearly designated for handicapped persons unless the vehicle bears the distinguishing license plate or placard provided in Section 56-3-1960.

(B) It is unlawful for any person who is not handicapped or who is not transporting a handicapped person to exercise the parking privileges granted handicapped persons pursuant to Sections 56-3-1910, 56-3-1960, and 56-3-1965.

(C) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days for each offense.

(D) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.

HISTORY: 1978 Act No. 462 Section 3; 1983 Act No. 72 Section 2; 1986 Act No. 530, Section 2; 1988 Act No. 429, Section 1; 1992 Act No. 421, Section 3; 2009 Act No. 24, Section 6, eff six months after approval (approved June 2, 2009); 2010 Act No. 273, Section 14.B, eff June 2, 2010.

SECTION 56-3-1971.

Uniform parking violations tickets; who may issue; form and contents.

All law enforcement officers issuing tickets on public and private property and state law enforcement division licensed security officers of shopping centers and business and commercial establishments, which provide parking spaces designated for handicapped persons, are authorized to issue a uniform parking violations ticket to the vehicle for violations of the prescribed use of the parking spaces. The uniform parking violations ticket shall provide a means for tracking violators by tag number and recording the violations with the Department of Motor Vehicles.

The procedures governing the issuance, form, and content of the uniform parking violations ticket must be prescribed by the

department and approved by the Attorney General within thirty days of submission by the department.

HISTORY: 1992 Act No. 421, Section 4; 1993 Act No. 181, Section 1377; 1994 Act No. 497, Part II, Section 36Q; 1996 Act No. 459, Section 158.

SECTION 56-3-1973.

Printing of uniform parking violations tickets; distribution; cost; forwarding of audit copies.

The Department of Motor Vehicles shall have the uniform parking violations ticket printed. The department may authorize a law enforcement agency to automate the issuance of uniform parking violations tickets. Law enforcement and security agencies shall order tickets from the department and shall record the identifying numbers of the tickets received by them. The cost of the tickets must be paid by the law enforcement or security agency. The audit copy and the department's record copy must be forwarded to the department within thirty days of the disposition of the case by final trial court action. The head of each law enforcement agency is responsible for forwarding the audit copies and for conducting an annual inventory on December thirty-first of all tickets received but not yet disposed of by final trial court action and forwarding the results of the inventory on a form prescribed by the department to the department within ten days of the completion of the inventory.

HISTORY: 1992 Act No. 421, Section 4; 1993 Act No. 181, Section 1379; 1996 Act No. 459, Section 160.

SECTION 56-3-1974.

Penalty for unaccounted or unforwarded tickets; jurisdiction over tickets.

A person who wilfully and intentionally violates the provisions of Section 56-3-1973 is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred fifty dollars nor more than fifteen hundred dollars or imprisoned not more than six months, or both, for each ticket unaccounted for or for each failure to timely forward the issuing agency's copy or department's record copy or audit copy of a ticket.

If the failure to account for a ticket or the failure to timely forward the issuing agency's copy or the department's record or audit copy of the ticket is inadvertent or unintentional, the misuse is triable in magistrate's court and, upon conviction, the person must be fined not more than one hundred dollars.

The service of the uniform parking violations ticket vests all traffic, recorder's, and magistrate's courts with jurisdiction to hear and dispose of the charge for which the ticket was issued and served.

HISTORY: 1992 Act No. 421, Section 4; 1993 Act No. 181, Section 1380; 1996 Act No. 459, Section 161.

SECTION 56-3-1975.

Identification of handicapped parking spaces; access aisles.

Each handicapped parking place must be clearly identified as a handicapped parking place. The handicapped parking place includes all access aisles. If the handicapped parking place is on public property, the marker must be maintained by the political subdivision having jurisdiction over the public property or the street or highway where the handicapped parking place is located. If the handicapped parking place is on private property, the marker must be maintained by the owner of the property.

HISTORY: 1988 Act No. 429, Section 2; 2009 Act No. 24, Section 7, eff six months after approval (approved June 2, 2009).

ARTICLE 19

Special License Plates; Special Personalized Plates

SECTION 56-3-2010.

Special and personalized license plates; International Symbol of Access decals.

(A) The Department of Motor Vehicles shall provide, upon proper application being made, special personalized motor vehicle license plates to the owner of a private passenger motor vehicle and motorcycles. The personalized plates must be of the design and bear the letters and numerals the department prescribes. However, there may be no duplication of registration plates, except South Carolina members of the United States Congress or members of the South Carolina General Assembly may purchase a maximum of the original and two duplicate registration plates. The department, in its discretion, may refuse the issue of letter combinations which may carry connotations offensive to good taste and decency and may not assign to a person not holding the relevant office letters or numerals denoting the holder to have a public office.

(B) Private passenger motor vehicles must be assigned a biennial registration which expires on a staggered monthly basis. Where a current vehicle license plate currently is displayed, the owner of the vehicle may make application for personalized license plates two months in advance of the current registration expiration. A sticker reflecting the month of expiration of registration must be issued and affixed in the space provided on the license plate assigned to the vehicle. A personalized license plate issued to a motorcycle must be assigned a biennial registration which expires on a staggered monthly basis. Every personalized license plate issued to members of the General Assembly and members of licensed state or federal commissions and boards expires on January thirty-first each year. Every vehicle registration must be renewed biennially upon application by the owner and by payment of the fee required by law to take effect the first day of the month following the expiration of the registration to be renewed.

(C) If a person who qualifies for the special license plate issued under this section also qualifies for the handicapped license plate issued pursuant to Section 56-3-1910, then the license plate issued pursuant to this section also shall include a decal with the International Symbol of Access used on license plates issued pursuant to Section 56-3-1910. The decal only can be used if space is available to place the decal on the license plate without covering any identifying numbers or letters on the license plate.

HISTORY: 1962 Code Section 46-95.51; 1971 (57) 224; 1977 Act No. 219 Pt II Section 15; 1987 Act No. 170, Part II, Section 43A; 1993 Act No. 164, Part II, Section 22DD; 1993 Act No. 181, Section 1381; 1996 Act No. 459, Section 162; 2008 Act No. 353, Section 2, Pt 13F.1, eff July 1, 2008; 2009 Act No. 24, Section 5, eff six months after approval (approved June 2, 2009).

SECTION 56-3-2020.

Amount and disposition of fee.

The fee for the issue of special personalized motor vehicle license plates is thirty dollars biennially in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of this title. This revenue must be deposited to the state general fund. The fee is due and payable upon application. The Department of Motor Vehicles may not refund the fee if the personalized plate has been manufactured.

HISTORY: 1962 Code Section 46-95.52; 1971 (57) 224; 1976 Act No. 738 Section 2; 1987 Act No. 170, Part II, Section 43B; 1993 Act No. 164, Part II, Section 22EE; 1993 Act No. 181, Section 1382.

SECTION 56-3-2030.

Special personalized plates may not be issued to certain applicants.

Special personalized plates may not be issued to any applicant whose operator's or chauffeur's license has been suspended or revoked within two years from the date of application or to any applicant whose driving record indicates a disregard of traffic violations or unsafe driving practices within two years from the date of application.

HISTORY: 1962 Code Section 46-95.53; 1971 (57) 224; 1987 Act No. 170, Part II, Section 43C; 1996 Act No. 459, Section 163.

ARTICLE 20

Special License Plates; Members of Foreign Consulates [Repealed]

SECTIONS 56-3-2060 to 56-3-2090.

Repealed.

HISTORY: Former Section 56-3-2060, titled Special license plates authorized for members of foreign consulates; fee, had the following history: 1977 Act No. 72 Section 1; 1993 Act No. 181, Section 1383. Repealed by 2022 Act No. 216, Section 8, eff May 6, 2022.

HISTORY: Former Section 56-3-2070, titled Design of plates; duration, had the following history: 1977 Act No. 72 Section 2.

Repealed by 2022 Act No. 216, Section 8, eff May 6, 2022.

HISTORY: Former Section 56-3-2080, titled Transfer to another vehicle of same owner; display on unauthorized car; return on cessation of membership of consulate, had the following history: 1977 Act No. 72 Section 3. Repealed by 2022 Act No. 216, Section 8, eff May 6, 2022.

HISTORY: Former Section 56-3-2090, titled Cumulative effect of article; penalties, had the following history: 1977 Act No. 72 Section 4. Repealed by 2022 Act No. 216, Section 8, eff May 6, 2022.

ARTICLE 21

Special License Plates; Transportation of House Trailers

SECTION 56-3-2110.

Carriers transporting house trailers may purchase special license plates.

Any common carrier engaged in the transportation of house trailers by the haulaway method and which has registered according to the laws of this State with the Public Service Commission, whether engaged in interstate or intrastate operations, or both, may purchase license plates for the transportation of house trailers.

HISTORY: 1962 Code Section 46-96; 1958 (50) 1927.

SECTION 56-3-2120.

Fees.

The carrier shall pay twelve dollars and fifty cents for the first such license plate and six dollars each for additional plates and the highway safety fee authorized by Section 56-3-810.

HISTORY: 1962 Code Section 46-96.1; 1958 (50) 1927.

Editor's Note

Section 56-3-810, which authorized a highway safety fee, was repealed by 1980 Act No. 506, Section 13, effective October 1, 1980.

SECTION 56-3-2130.

Display, transferability, and use.

The plate shall be displayed on the rear end of the house trailer being towed and be transferable from one house trailer to another, but shall be used only on a house trailer that is in the custody of the common carrier. The Department of Motor Vehicles shall have a special plate made for this purpose or it may authorize the use of dealers' plates in lieu thereof.

HISTORY: 1962 Code Section 46-96.2; 1958 (50) 1927.

SECTION 56-3-2140.

Reciprocal recognition of plates from other states.

The Department of Motor Vehicles shall honor similar plates from other states, if such states honor the South Carolina plates for house trailers authorized by this article.

HISTORY: 1962 Code Section 46-96.3; 1958 (50) 1927.

ARTICLE 22

Special License Plates: Former Members of the South Carolina Delegation of the United States Congress, Retired Judicial Officers, Members of Municipal and County Councils, Coroners, Mayors, and Members of the General Assembly Receiving Retirement Benefits

SECTION 56-3-2150.

Issuance of special plates; fees.

The Department of Motor Vehicles may issue special motor vehicle license plates to former members of the South Carolina

Delegation of the United States Congress, retired judicial officers elected by the General Assembly or confirmed by the United States Senate, respectively, members of municipal and county councils, county coroners, and mayors of this State for private passenger motor vehicles owned by them. The department also may issue special motor vehicle license plates to former members of the General Assembly for private passenger motor vehicles and vehicles classified as private passenger motor vehicles in Section 56-3-630 owned by them. The biennial fee for these special license plates is the same as the fee provided in Section 56-3-2020, and only one plate may be issued to former members of the South Carolina Delegation of the United States Congress, retired judicial officers elected by the General Assembly or confirmed by the United States Senate, respectively, a councilman or a mayor. A coroner and a former member of the General Assembly may be issued two license plates. These license plates must be issued or revalidated biennially for the regular registration and licensing period. A person who has been investigated by state or local authorities resulting in a resignation or convicted of a crime involving dishonesty or moral turpitude, or another crime punishable by imprisonment for at least one year may not apply for special motor vehicle license plates issued pursuant to this section. A person convicted of an offense contained in this section subsequent to issuance of a special motor vehicle license plate shall surrender the special license plate to the Department of Motor Vehicles within three days of the date of the conviction.

HISTORY: 1987 Act No. 170, Part II, Section 44; 1990 Act No. 591, Section 2; 1993 Act No. 164, Part II, Section 22FF; 1993 Act No. 181, Section 1384; 1996 Act No. 459, Section 164; 2002 Act No. 349, Section 2; 2008 Act No. 177, Section 1, eff upon approval (became law without the Governor's signature on February 7, 2008); 2012 Act No. 272, Section 15, eff December 26, 2012; 2018 Act No. 255 (H.4973), Section 1, eff June 28, 2018.

Effect of Amendment

2018 Act No. 255, Section 1, in the second sentence, deleted "who are eligible to receive retirement benefits under the General Assembly Retirement System" following "former members of the General Assembly"; in the third sentence, substituted "or a mayor" for ", a mayor, or a member of the General Assembly who is receiving retirement benefits" at the end; in the fourth sentence, inserted "and a former member of the General Assembly" following "A coroner"; and added the sixth and seventh sentences, providing that a person who resigns from office as a result of an investigation or conviction of certain crimes may not apply for or maintain a special license plate.

SECTION 56-3-2160.

Design and size of plates; biennial validation.

The special plates must be of the same size as regular motor vehicle license plates, but must be of a distinctive design and bear letters and numerals the Department of Motor Vehicles prescribes. The plates must be issued or revalidated biennially for the regular registration and licensing period.

HISTORY: 1987 Act No. 170, Part II, Section 44; 1993 Act No. 164, Part II, Section 22GG; 2002 Act No. 349, Section 2; 2008 Act No. 177, Section 1, eff upon approval (became law without the Governor's signature on February 7, 2008).

SECTION 56-3-2170.

Transfer and return of plates.

The license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made to and approved by the Department of Motor Vehicles. It is unlawful for a person to whom this plate has been issued to knowingly permit it to be displayed on a vehicle except the one authorized by the department. If a holder of this plate ceases to be a member of the municipal or county council or ceases to be county coroner, or mayor he immediately shall return the plate to the department.

HISTORY: 1987 Act No. 170, Part II, Section 44; 1990 Act No. 591, Section 3; 2008 Act No. 177, Section 1, eff upon approval (became law without the Governor's signature on February 7, 2008).

SECTION 56-3-2180.

Other registration and licensing provisions unaffected; penalties for violations.

The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but are cumulative to them. A person violating the provisions of this article or a person who fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, conceals a material fact, or otherwise commits a fraud in any application or in the use of a special license plate issued is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days.

HISTORY: 1987 Act No. 170, Part II, Section 44; 2008 Act No. 177, Section 1, eff upon approval (became law without the Governor's signature on February 7, 2008).

ARTICLE 23

Special License Plates; Antique Motor Vehicles and Motorcycles

SECTION 56-3-2210.

Department of Motor Vehicles may classify certain motor vehicles as antique.

Every motor vehicle as herein defined which is over twenty-five years old, is owned solely as a collector's item and is used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event used for general transportation, may be classified by the Department of Motor Vehicles as an antique motor vehicle.

HISTORY: 1962 Code Section 46-100.11; 1966 (54) 2389; 1993 Act No. 181, Section 1385; 2003 Act No. 52, Section 4.

SECTION 56-3-2220.

Issuance of special license plates for antique motor vehicles authorized; duration; fee.

Upon receipt of an application on a form prescribed by the Department of Motor Vehicles, it may issue appropriate designated

license plates to owners of antique motor vehicles. Such license plate shall be valid so long as title to such vehicle is vested in the applicant. The fee for the certificate of registration and license plate of any such vehicle shall be ten dollars.

HISTORY: 1962 Code Section 46-100.12; 1966 (54) 2389.

SECTION 56-3-2230.

Department of Motor Vehicles may classify certain motorcycles as antique.

(a) Every motorcycle over twenty-five years old, which is owned solely as a collector's item and is used for participation in club activities, exhibits, tours, parades and similar uses, but is not used for general transportation, may be classified by the Department of Motor Vehicles as an antique motorcycle.

(b) Upon receipt of an application on a form prescribed by the Department, it may issue appropriately designated license plates to owners of antique motorcycles. An antique motorcycle license plate shall be valid as long as title to the motorcycle is vested in the applicant. The fee for the certificate of registration and license plate of any such motorcycle shall be ten dollars.

HISTORY: 1976 Act No. 565 Sections 1, 2; 1993 Act No. 181, Section 1386.

ARTICLE 24

Sample License Plates

SECTION 56-3-2250.

Sample and souvenir license plates; application for personalized special organizational souvenir license plate; penalties.

(A) The Department of Motor Vehicles may provide, upon request, a sample motor vehicle license plate. The license plate shall be of the same size and general design of regular motor vehicle license plates. The fee for issuance of such license plate shall be ten dollars. The department may retain the ten dollar fee to recoup its cost for producing the license plate.

(B)(1) The department is authorized to produce, upon request, souvenir license plates for any special organizational license plate produced pursuant to Section 56-3-8000 or Section 56-3-8100 or any other special organizational license plate authorized by law. In order for a special organizational license plate to be available as a souvenir license plate, the sponsoring organization, if there is one, must agree to make the license plate available as a souvenir license plate.

(2) The fee for the special organizational souvenir license plate is twenty dollars. Ten dollars of this fee shall be retained by the department as specified in subsection (A), and the additional ten dollars shall be distributed to the sponsoring organization.

(C) The department shall determine the method to designate the sample and souvenir license plates described in this section.

(D)(1) An individual may apply for a personalized special organizational souvenir license plate with a license plate text to be selected by the applicant in a letter and numeral plate text format the department prescribes. The department, in its discretion, may refuse the issuance of letter or number combinations which may carry connotations offensive to good taste and decency.

(2) In order for a special organizational license plate to be available as a personalized souvenir license plate, the sponsoring organization, if there is one, must agree to make the license plate available as a souvenir license plate.

(3) The fee for the license plate contained in this subsection is thirty dollars. Twenty dollars of this fee shall be retained by the department to defray the expenses of the department. Ten dollars of this fee shall be distributed to the organization described in subsection (B).

(E) These sample or souvenir license plates may be displayed only on the front of private passenger motor vehicles as defined in Section 56-3-630 or as otherwise allowed by law in the owner's home state and shall not be displayed on the back of any vehicle registered or required to be registered in this State or as otherwise allowed by law in the owner's home state.

(F) Any person displaying a license plate in violation of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days for each violation.

HISTORY: 1976 Act No. 738 Section 1; 1993 Act No. 181, Section 1387; 2016 Act No. 186 (H.3927), Section 2, eff May 25, 2017.

ARTICLE 25

Motor Vehicle Dealers' Licenses; Demonstration Plates

SECTION 56-3-2320.

Dealer and wholesaler license plates; restrictions on use.

(A)(1) Upon application being made and the required fee being paid to the Department of Motor Vehicles, the department may issue dealer license plates to a licensed motor vehicle dealer. The license plates, notwithstanding other provisions of this chapter to the contrary, may be used exclusively on motor vehicles owned by, assigned, or loaned for test driving purposes to the dealer when operated on the highways of this State by the dealer, its corporate officers, its employees, a prospective purchaser of the motor vehicle, or a person whose vehicle is being serviced or repaired by the dealer. The use by a prospective purchaser is limited to seven days, and the dealer shall provide the prospective purchaser with a dated demonstration certificate. A dealer license plate may be used by a person whose vehicle is being serviced or repaired by the dealership, provided that the vehicle displaying the license plate is part of a manufacturer program and given to the person by the dealer at no charge to the consumer. The use of a dealer license plate by the consumer for service and repair is limited to thirty days. The demonstration certificate for a prospective customer must be approved by the department. Dealer plates must not be used to operate wreckers or service vehicles in use by the dealer nor to operate vehicles owned by the dealer that are leased or rented by the public. No dealer plates may be issued by the department unless the dealer furnishes proof in a form acceptable to the department that he has a retail business license as required by Chapter 36, Title 12 and has made at least twenty sales of motor vehicles in the twelve months preceding his application for a dealer plate. The sales requirement may be waived by the department if the dealer has been licensed for less than one year. For purposes of this section, the transfer of ownership of a motor vehicle between the same individual or corporation more than one time is considered as only one sale. Multiple transfer of motor vehicles between licensed dealers for the purpose of meeting eligibility requirements for

motor vehicle dealer plates is prohibited.

(2) A dealer may be issued two plates for the first fifteen vehicles sold during the preceding year and one additional plate for each fifteen vehicles sold beyond the initial twenty during the preceding year. A dealer participating in a manufacturer program may be issued two additional plates for each fifteen vehicles sold beyond the initial twenty during the preceding year. For good cause shown, the department in its discretion may issue extra plates. If the dealer has been licensed less than one year, the department shall issue a number of license plates based on an estimated number of sales for the coming year. The department may increase or decrease the number of plates issued based on actual sales made.

(3) The cost of each dealer plate issued is twenty dollars.

(4) Upon application to the department, a public or private school, college, or university, the United Service Organization South Carolina, the American Red Cross, or an economic development entity created or sanctioned by the county where the entity is located, may be issued a license plate to be used on vehicles loaned or rented to the school, college, university, the United Service Organization South Carolina, the American Red Cross, or economic development entity by a licensed motor vehicle dealer. The plate must be a personalized plate designed by the department. The cost of each plate issued is two hundred dollars, of which one hundred sixty dollars must be remitted by the department to the county in which the school, college, university, chapter of the United Service Organization South Carolina, chapter of the American Red Cross, or economic development entity is located. Each plate is valid for two years, and there is no limit on the number of plates which may be issued, except in the case of an economic development entity where only one plate per entity is allowed.

(5) A dealer license plate is allowed on a motor vehicle which the dealer lends to a public or private school for use in a driver education program. A plate used for this purpose may be obtained without fee and without regard to the limit on plates issued pursuant to this section. When the motor vehicle is no longer used for driver education, the dealer shall surrender the plate to the department.

(6) Notwithstanding the provisions of this section, a dealer exclusively selling heavy duty trucks at retail is eligible to obtain license plates for exclusive use on the heavy duty trucks regardless of the number of trucks sold by him during the preceding required number of months. These license plates for trucks must be noted with a distinct and separate identification and used only on heavy duty trucks. For purposes of this section, heavy duty trucks include trucks having a gross vehicle weight of sixteen thousand pounds or greater.

(B) For purposes of this section, the testing or demonstration of a heavy duty truck with a GVW of 16,000 pounds or over as defined in Section 56-3-20(10) includes permitting a prospective buyer to use the truck for carrying merchandise or cargo for not more than three days upon the dealer providing the buyer with a special demonstration certificate for this purpose. The form and content of the demonstration certificate must be as prescribed by the department which also shall provide certificates to dealers upon their request. The original certificate must be kept by the buyer in the cab of the truck during the three-day demonstration period, and the dealer shall retain a copy of the certificate and mail a copy of the certificate to the department within twenty-four hours after it is issued to the buyer.

HISTORY: 1962 Code Section 46-93; 1952 Code Section 46-93; 1949 (46) 342; 1959 (51) 419; 1980 Act No. 396; 1983 Act No. 118 Section 3; 1991 Act No. 91, Section 1992 Act No. 498, Section 2; 1993 Act No. 181, Section 1388; 1993 Act No. 164, Part II, Section 105B; 1994 Act No. 423, Section 4; 1994 Act No. 497, Part II, Section 37A; 1994 Act No. 497, Part II, Section 121J; 1996 Act No. 459, Sections 1, 165; 2012 Act No. 253, Section 2, eff June 18, 2012; 2017 Act No. 57 (S.488), Section 1, eff May 19, 2017.

Effect of Amendment

2017 Act No. 57, Section 1, redesignated (A) as (A)(1) and added paragraph identifiers to the subsequent unidentified paragraphs; amended (A)(1), providing that dealer license plates may be used by a person whose vehicle is being serviced or repaired by the dealership; and amended (A)(2), providing that a dealer may be issued two plates for the first fifteen vehicles sold during the preceding year and that a dealer participating in a manufacturer program may be issued two additional plates for each fifteen vehicles sold beyond the initial twenty during the preceding year.

SECTION 56-3-2325.

Fine and forfeiture for misuse of dealer plates.

A person who misuses a dealer license plate issued pursuant to this article must be fined three hundred dollars or forfeit the dealer license plate, or both.

HISTORY: 1993 Act No. 164, Part II, Section 105A.

SECTION 56-3-2330.

Manufacturer license plates.

(A) Upon application and payment of the required fee, the Department of Motor Vehicles may issue not more than five hundred manufacturer license plates to a motor vehicle manufacturer. The license plates must be used exclusively on motor vehicles, including motorcycles, owned or in the possession of a manufacturer. Manufacturer license plates must not be used to operate wreckers in use by the manufacturer nor to operate vehicles leased or rented to the public by the manufacturer.

(B) A motor vehicle manufacturer shall apply for manufacturer license plates on a form prescribed by the department and shall provide proof the applicant is a bona fide motor vehicle manufacturer. The cost of each manufacturer plate issued is two hundred dollars, of which one hundred sixty dollars must be remitted by the department to the county in which the principal facility of the manufacturer is located. Forty dollars of the fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. Each plate is valid for two years.

(C) Vehicles with manufacturer plates, not to exceed one licensed vehicle for each household, may be operated by persons authorized by the manufacturer on vehicles of that manufacturer's brand on state streets and highways for testing, distribution, evaluation, and promotion of vehicles. Vehicles with manufacturer plates may be used no more than twenty consecutive days in connection with civic events and sporting events.

(D) A manufacturer who violates the provisions regarding use of motor vehicles is subject to the imposition of any administrative penalty permitted by law.

(E) For the purpose of this section only, "motor vehicle manufacturer" is defined as a person in the business of manufacturing or assembling new and unused vehicles in this State.

HISTORY: 1994 Act No. 497, Section 70A; 2006 Act No. 261, Section 1, eff April 8, 2006; 2010 Act No. 188, Section 1, eff May 28, 2010; 2016 Act No. 275 (S.1258), Section 33, eff July 1, 2016.

SECTION 56-3-2332.

Issuance of standard license plate to manufacturer for vehicles used in employee benefit program or for testing and promotional purposes; registration fee.

(A) Upon application and payment of the required fee, the Department of Motor Vehicles may issue a standard license plate to a manufacturer for vehicles it has manufactured and which are used in a benefit program for the manufacturer's employees or used by the manufacturer for testing, distribution, evaluation, and promotion.

(B) The annual registration fee provided for by this section is derived by computing the average price of the vehicle manufacturer's fleet times the property tax rates times the average millage for all purposes statewide for the preceding calendar year.

(C) The plates issued in connection with an employee benefit program may be used only on vehicles provided for the applicant's employees. In the application, the manufacturer shall notify the department in which county the employee assigned the vehicle resides. Twenty dollars of the fee must be credited to the general fund of the State and the remainder must be remitted to the county noted on the application. Amounts received by a county pursuant to this subsection must be credited to the accounts of taxing entities in the county as if it were a county property tax and are instead of state sales or use taxes. If the employee resides outside this State, the fee must be credited to the general fund of the State.

(D) The plates issued in connection with testing, distribution, evaluation, and promotion, not to exceed fifty plates, may be used only for those purposes. Twenty dollars of the fee must be credited to the general fund of the State and the remainder must be remitted to the county in which the principal facility of the manufacturer is located. Amounts received by a county pursuant to this subsection must be credited to the accounts of taxing entities in the county as if it were a county property tax and are instead of state sales or use taxes. The department may require the documentation it determines necessary to ensure compliance with the provisions of this subsection.

(E) Before December thirty-first of each odd-numbered year, the manufacturer shall review the average price of its fleet and submit the cost to the Department of Revenue. The Department of Revenue shall determine the annual registration fee pursuant to subsection (B) and then notify the Department of Motor Vehicles of the adjusted fee amount, which is effective for the next two years.

HISTORY: 1997 Act No. 155, Part II, Section 32C; 2000 Act No. 278, Section 1; 2000 Act No. 387, Part II, Section 20A; 2016 Act No. 214 (S.1111), Section 1, eff June 3, 2016.

Editor's Note

2016 Act No. 214, Section 2, provides as follows:

"SECTION 2. Notwithstanding Section 56-3-2332(B), for 2017 and 2018, the annual registration fee for license plates issued pursuant to Section 56-3-2332 is seven hundred eighty-nine dollars."

SECTION 56-3-2335.

Research and development license plates.

(A) As used in this section:

(1) "Research and development business" or "business" means a person who manufactures tires or transmissions in this State for use as original or replacement equipment on motor vehicles and who conducts research and development activities on tires or transmissions in conjunction with the person's manufacturing activities in South Carolina.

(2) "Contracted fleet owner" or "contractor" means a person or company in the business of operating a group of vehicles driven by their employees for the purpose of testing and evaluating the performance of a research and development business' tires or transmissions.

(3) "Tires" includes tires and tire replacement parts.

(4) "Transmissions" includes transmissions and transmission parts.

(B)(1) Upon application and payment of the required fee, the Department of Motor Vehicles may issue research and development license plates to a research and development business. The license plates must be used exclusively on motor vehicles, including motorcycles, provided by a motor vehicle manufacturer to the research and development business for the purpose of testing and evaluating the performance of the research and development business' tires or transmissions on the motor vehicle.

(2) Application for research and development license plates must be made by the research and development business on a form prescribed by the department and submitted with proof of the applicant's status as a bona fide research and development business. The cost of each research and development license plate issued is two hundred dollars, of which one hundred sixty dollars must be remitted by the department to the county in which the testing facility of the business is located. Forty dollars of the fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in

Section 11-43-167. Each plate is valid for two years. A maximum of one hundred research and development license plates may be issued for the two-year period.

(C)(1) Upon application and payment of the required fee, the Department of Motor Vehicles may issue fleet research and development plates to a research and development business or to a contracted fleet owner. The license plates will be registered to a specific vehicle owned by the research and development business, or owned by a contracted fleet owner under contract with the research and development business.

(2) Application for fleet research and development license plates must be made by the contractor on a form prescribed by the department and submitted with certification from the research and development business establishing the applicant's status as a bona fide contracted fleet owner under contract with the research and development business. The cost of each fleet research and development license plate is two hundred dollars, of which one hundred sixty dollars must be remitted by the department to the county in which the vehicle is sited, as evidenced by the address on the registration card. Each plate is valid for two years. A maximum of one hundred fleet research and development license plates may be issued to a contracted fleet owner for the two-year period.

(D) Vehicles with research and development plates or fleet research and development plates may be operated on the state's streets and highways or another state's streets and highways pursuant to a reciprocity agreement with that state. The vehicles may be operated pursuant to this section only for the purpose of testing and evaluating the performance of the research and development business' tires or transmissions on the motor vehicle.

(E) The Department of Motor Vehicles may enter into reciprocal agreements with other states concerning the registration and operation of vehicles owned by a research and development business, provided to the research and development business by a contractor under contract with the research and development business, or provided by a motor vehicle manufacturer to the research and development business for the purpose of testing and evaluating the performance of the research and development business' tires or transmissions.

(F) It is the sole responsibility of the research and development business, or contracted fleet owner, to take any other actions required by another state that are necessary for the research and development business, or contracted fleet owner, to legally test and evaluate the performance of the research and development business' tires or transmissions in that state. The research and development business must comply with any other requirements associated with the operation of the vehicle on the other state's roads and highways.

HISTORY: 1994 Act No. 497, Part II, Section 84A; 2011 Act No. 15, Section 1, eff May 9, 2011; 2013 Act No. 51, Section 1, eff June 7, 2013; 2016 Act No. 275 (S.1258), Section 34, eff July 1, 2016.

SECTION 56-3-2340.

Licensed motor vehicle dealers to issue first time registrations and license plates from dealership; certification of third-party providers; fees.

(A) The Department of Motor Vehicles, or its designated agent, shall require licensed motor vehicle dealers to issue temporary motor vehicle registrations and temporary license plates directly from the dealership. Unless disallowed by the department, any dealership that begins a transaction through a third-party vendor pursuant to Section 56-3-210(C)(2) that provides a service connection between issuing entities and the department must complete the entire transaction, including titling and registering the vehicle in the same manner. Unless extenuating circumstances apply, at the department's discretion, dealers may not obtain certificates of title, temporary motor vehicle registrations, or temporary license plates from the department's branch offices. A dealership must make attempts to apply to the department electronically, including utilizing digital scans of forms approved and provided by the department.

(B) The department may certify third-party providers to process titles, temporary license plates as provided in Section 56-3-210, license plates, and vehicle registration transactions on behalf of the department. The department shall develop program standards and specifications that would be required for certification. Third parties requesting certification must agree to the program terms, conditions, standards, and specifications in order to participate.

(C) The department is authorized to collect a transaction fee from entities who either transmit or retrieve data from the department pursuant to this section. The fee must not exceed the fee authorized in Section 56-19-265(B) for each transaction. These fees must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1994 Act No. 497, Part II, Section 121B; 1996 Act No. 459, Section 166; 2014 Act No. 201 (H.3904), Section 1, eff June 2, 2014; 2016 Act No. 275 (S.1258), Section 35, eff July 1, 2016; 2023 Act No. 51 (S.549), Section 12, eff January 18, 2024.

Editor's Note

2023 Act No. 51, Section 40(C)(1), provides as follows:

"[SECTION 40.](C)(1) SECTIONS 8, 9, 10, 11, 12, 30, 31, 32, and 33 take effect eight months after the approval by the Governor, provided that necessary solicitations are awarded in a timely manner in accordance with the State Consolidated Procurement Code."

Effect of Amendment

2023 Act No. 51, Section 12, rewrote (A).

SECTION 56-3-2345.

Antique dealer license plates.

(A) Upon application being made and the required fee being paid to the Department of Motor Vehicles, the department may issue antique dealer license plates to a licensed motor vehicle dealer. The license plates, notwithstanding other provisions of this chapter

to the contrary, may be used exclusively on antique motor vehicles owned by, assigned, or loaned for test driving purposes to the dealer when operated on the highways of this State by the dealer, its corporate officers, its employees, or a prospective purchaser of the antique motor vehicle. The use by a prospective purchaser is limited to seven days, and the dealer shall provide the prospective purchaser with a dated demonstration certificate. The certificate must be approved by the department. Antique dealer plates must not be used to operate wreckers or service vehicles in use by the dealer nor to operate vehicles owned by the dealer that are leased or rented by the public. No antique dealer plates may be issued by the department unless the dealer furnishes proof in a form acceptable to the department that he has a retail business license as required by Chapter 36 of Title 12 and has made at least five sales of antique motor vehicles in the twelve months preceding his application for a dealer plate. The sales requirement may be waived by the department if the dealer has been licensed for less than one year. For purposes of this section, the transfer of ownership of an antique motor vehicle between the same individual or corporation more than one time is considered as only one sale. Multiple transfer of antique motor vehicles between licensed dealers for the purpose of meeting eligibility requirements for antique motor vehicle dealer plates is prohibited.

(B) For good cause shown, the department may issue extra plates. If a dealer has been licensed less than one year, the department shall issue a number of license plates based on an estimated number of sales for the coming year. The department may increase or decrease the number of plates issued based on actual sales made.

(C) The cost of each plate is twenty dollars.

(D) For purposes of this section, "antique motor vehicle" means a motor vehicle which is over thirty years old.

HISTORY: 1996 Act No. 385, Section 1.

ARTICLE 26

Special Motor Vehicle Registration

SECTION 56-3-2350.

Application for special registration for business of facilitating movement of vehicles from manufacturer to dealer or distributor, or movement for further construction of cabs or bodies, or for foreclosure or repossession of such motor vehicles; fees.

(A) For purposes of this section "financial institution" means a supervised financial organization as defined in Section 37-1-301(27) or a supervised lender as defined in Section 37-3-501(2).

(B) A financial institution engaged in the business of repossessing vehicles or accepting voluntary repossession or relinquishment of vehicles for which the financial institution has exercised rights under a valid security agreement or lien may apply for special registration only for the purpose of repossession of such vehicles; acceptance of voluntary repossession or reclamation of such vehicles; transport of such vehicles to locations of repair, cleaning, or reconditioning; storage of such vehicles; or demonstration of such vehicles for purposes of potential resale. Transporter plates must not be used to operate wreckers or service vehicles. The use of transporter plates for demonstration purposes is limited to prospective purchasers and limited to seven days. The financial institution must provide the prospective purchaser with a dated demonstration certificate approved by the department.

(C) A person engaged in the business of limited operation of motor vehicles to facilitate the movement of vehicles from a manufacturer to a dealer or distributor, or from a railroad terminal yard to a temporary storage facility prior to delivery to a dealer, or for the movement of vehicles to further the construction of cabs or bodies, or in connection with the foreclosure or repossession of these motor vehicles may apply to the Department of Motor Vehicles for special registration to be issued to and used by the person upon the following conditions:

(1) The application must be in a form prescribed by the department to include the applicable liability insurance as prescribed by statute and filed with the department each year. If the applicant is an entity with multiple branches, then an application may be made for each branch, not to exceed two registrations. The application must include the name and residence address of the applicant as follows:

(a) if an individual, the name under which he intends to conduct business;

(b) if a partnership, the name and residence address of each member of the partnership and the name under which the business is to be conducted, and if multiple branches are intended to have registrations, an appropriate identifier for each branch;

(c) if a corporation, the name and company address of the corporation and the name and residence address of its responsible officer.

(2) The application must be certified by the applicant and by an agent of the department to verify the facts set forth in the application.

(3) The annual fee for registration is fifty dollars, plus an annual fee of ten dollars for each license plate.

(4) License plates authorized by this section must not be used on vehicles that are loaned, rented, or leased by the licensed registrants to employees or any other individuals.

(D) All records relating to registration must be open at all reasonable times for inspection and copying by the department or any of its duly authorized agents. The vehicles for which special registrations are issued must be made available to the department or any of its duly authorized agents at the place where the vehicles may be located at the time that the department or any of its duly authorized agents request an opportunity to inspect them.

HISTORY: 1982 Act No. 371, Section 2; 1993 Act No. 164, Part II, Section 105C; 1994 Act No. 497, Part II, Section 37B; 1997 Act No. 155, Part II, Section 32A; 2004 Act No. 288, Section 2; 2018 Act No. 255 (H.4973), Section 2, eff June 28, 2018.

Effect of Amendment

2018 Act No. 255, Section 2, inserted (A), relating to the definition of "financial institution"; inserted (B), providing that a financial institution engaged in the business of repossession vehicles under certain circumstances may apply for special registration; redesignated the former first undesignated paragraph as (C); in (C)(1), inserted the second sentence, in (b), inserted ", and if multiple

branches are intended to have registrations, an appropriate identifier for each branch", and in (c), substituted "its responsible officer" for "each of its officers"; in (C)(4), substituted "licensed registrants" for "licensed transporter"; and added (D), providing that all registration records and registered vehicles must be available to the department for inspection.

SECTION 56-3-2360.

Notice of change of address; cancellation of registration and license plates.

Registrants licensed under this article shall notify the Department of Motor Vehicles of any change of address of his principal place of business within thirty days after such change is made, and the Department may cancel the registration and all license plates issued upon failure to give such notice.

HISTORY: 1982 Act No. 371, Section 2.

SECTION 56-3-2370.

Transfer of transporter license plates.

Transporter license plates issued under this article may be transferred from vehicle to vehicle, but shall be used only for the limited purposes as provided in Section 56-3-2350.

HISTORY: 1982 Act No. 371, Section 2; 2018 Act No. 255 (H.4973), Section 3, eff June 28, 2018.

Effect of Amendment

2018 Act No. 255, Section 3, substituted "purposes as provided in Section 56-3-2350" for "operation of vehicles in connection with the manufacture or construction of cabs or bodies or with the foreclosure or repossession of vehicles owned or controlled by the registrant" at the end.

SECTION 56-3-2380.

Denial of application; suspension or revocation of registration; refusal to renew registration.

The Department of Motor Vehicles may deny the application of any person for registration under this article and may suspend or revoke a registration or refuse to issue a renewal thereof if it is determined that the applicant or registrant has:

- (a) Made a material misrepresentation in his application;
- (b) Used or permitted the use of plates contrary to law;
- (c) Been found guilty of fraud or fraudulent practices;
- (d) Failed to comply with any of the regulations of the department for the enforcement of this article.

HISTORY: 1982 Act No. 371, Section 2; 1996 Act No. 459, Section 167.

ARTICLE 27

Enforcement; Records and Reports

SECTION 56-3-2420.

Powers of State Highway Patrol.

Commissioned and uniformed personnel of the South Carolina Highway Patrol when on duty may:

- (1) Upon reasonable belief that any vehicle is being operated in violation of any provision of this chapter require the driver thereof to stop and exhibit the registration card issued for the vehicle and submit to an inspection of such vehicle and the license plates;
- (2) Inspect any vehicle of a type required to be registered and licensed hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the ownership and registration and license thereof; and
- (3) Investigate reported thefts of vehicles.

HISTORY: 1962 Code Section 46-112; 1952 Code Section 46-112; 1949 (46) 342.

SECTION 56-3-2430.

Authority to administer oaths and acknowledge signatures.

Officers and employees of the Department of Motor Vehicles engaged in the work of administering and enforcing the provisions of this chapter are, for the purpose of such work of administering and enforcing the provisions of this chapter, authorized to administer oaths and acknowledge signatures and shall do so without fee.

HISTORY: 1962 Code Section 46-116; 1952 Code Section 46-116; 1949 (46) 342.

SECTION 56-3-2440.

Department of Motor Vehicles shall keep certain records.

The Department of Motor Vehicles shall keep such records of all transactions relating to the enforcement and administration of this chapter as the Department shall determine to be necessary and appropriate for fiscal, statistical and administrative purposes. Suitable and appropriate records of every vehicle registered shall be kept by the Department in cross-reference books or on cards, as follows:

- (1) Numerically, under the descriptive registration and license number assigned to the vehicle;
- (2) Alphabetically, under the name of the owner;
- (3) Numerically, under the motor or serial number, if available and otherwise under any other identifying number of the vehicle; and
- (4) In any other manner the Department may deem desirable.

HISTORY: 1962 Code Section 46-117; 1952 Code Section 46-117; 1949 (46) 342.

SECTION 56-3-2450.

Certified copies of Department of Motor Vehicle records; use as evidence.

The Department of Motor Vehicles and such officers and employees of the Department as the Department may designate may prepare and deliver upon request a certified copy of any record of the Department relating to the registration and licensing of any vehicle, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original thereof.

HISTORY: 1962 Code Section 46-118; 1952 Code Section 46-118; 1949 (46) 342.

SECTION 56-3-2460.

Affidavit as to registration records of Department of Motor Vehicles as evidence of ownership.

In any case tried in any court of competent jurisdiction in this State in which the ownership of any motor vehicle is in issue an affidavit by a duly authorized officer or agent of the Department of Motor Vehicles showing what the registration records of the Department show or fail to show relative to the ownership of the motor vehicle in question shall be admissible in evidence on the sole issue of ownership of the motor vehicle.

HISTORY: 1962 Code Section 46-119; 1952 Code Section 46-119; 1949 (46) 342.

SECTION 56-3-2470.

Publication of registration and license lists; obtaining copies of lists.

The Department of Motor Vehicles may compile and publish annually or at shorter intervals a list of all registered and licensed vehicles. The list shall show vehicles registered and licensed serially according to registration and license numbers and also may contain the names and addresses of the recorded owners and a brief description of each vehicle, including the serial or other identifying number. The Department may furnish without charge therefor a copy of the registration and license list and any supplements thereto to any police department in this State requesting it, and the Department may also sell copies of the list to any person requesting it upon payment to the Department of a uniform amount as determined by the Department.

HISTORY: 1962 Code Section 46-120; 1952 Code Section 46-120; 1949 (46) 342.

SECTION 56-3-2480.

Destruction of obsolete records.

The Department of Motor Vehicles may destroy any records accumulated by it in connection with the administration of this chapter which have been maintained on file for three years or more and which may be deemed by the Department to be obsolete and of no further service in connection with the administration of this chapter or other use by the Department.

HISTORY: 1962 Code Section 46-121; 1952 Code Section 46-121; 1949 (46) 342.

SECTION 56-3-2490.

Unlawful to conceal motor vehicle whose serial number has been altered or removed.

Whoever knowingly conceals any motor vehicle from which the manufacturer's serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed for the purpose of concealing or misrepresenting the identity of the motor vehicle shall be guilty of a misdemeanor.

HISTORY: 1962 Code Section 46-113; 1952 Code Section 46-113; 1949 (46) 342; 1957 (50) 595.

SECTION 56-3-2510.

Department of Motor Vehicles may assign new identifying numbers; special plate or number affixed to vehicle.

The Department of Motor Vehicles may assign a distinguishing number to a motor vehicle whenever the motor or serial number thereon is destroyed, replaced or obliterated and may issue or assign to the owner a special plate or number which shall be affixed to the vehicle or stamped on the vehicle in a place to be determined by the Department. Such motor vehicle shall be registered and licensed under such distinguishing number in lieu of the former motor number or serial number.

HISTORY: 1962 Code Section 46-115; 1952 Code Section 46-115; 1949 (46) 342.

SECTION 56-3-2520.

Penalties.

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this State declared to be a felony. Unless another penalty is by the laws of this State provided every person convicted of a misdemeanor for violation of any provisions of this chapter shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 46-122; 1952 Code Section 46-122; 1949 (46) 342.

ARTICLE 28

Special License Plates; "Conserve South Carolina"

SECTION 56-3-2540.

"Conserve South Carolina" license plates.

The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names which shall have imprinted on the plate "Conserve South Carolina" and which may have an emblem, a seal, logo, or other symbol of the South Carolina Conservation Bank. The South Carolina Conservation Bank shall submit to the department for its approval the emblem, seal, logo, or other symbol it desires to be used for this special license plate. The South Carolina Conservation Bank may request a change in the emblem, seal, logo, or other symbol not more than once every five years. The fee for this special license plate is forty-eight dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

HISTORY: 2002 Act No. 200, Section 2(A); 2008 Act No. 347, Section 21, eff June 16, 2008.

SECTION 56-3-2545.

Collection and disbursement of fees.

Of the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to

be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering this special license plate. The remaining fees collected pursuant to this section must be credited to the South Carolina Conservation Bank Trust Fund established pursuant to Section 48-59-60 of the 1976 Code.

HISTORY: 2002 Act No. 200, Section 2(B).

SECTION 56-3-2550.

Applicability of special license plates provisions.

The provisions of Section 56-3-8100 of the 1976 Code apply to the license plate authorized by this section.

HISTORY: 2002 Act No. 200, Section 2(C).

ARTICLE 29

Temporary License Plates and Certificates of Registration of Motor Vehicles to be Registered and Licensed in Another State

[Repealed]

SECTIONS 56-3-2600 to 56-3-2690.

Repealed.

HISTORY: Former Section 56-3-2600, titled Powers and duties of Department of Motor Vehicles; fees; application; issuance by dealers, had the following history: 1982 Act No. 447; 1993 Act No. 181, Section 1389; 1999 Act No. 100, Part II, Section 61.

Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2610, titled Records of dealer, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2620, titled Dealer issuing temporary registration certificate, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2630, titled Restrictions on dealer issuing temporary plates and cards; misstatement of fact; false information, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2640, titled Information to be placed on temporary license plate, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2650, titled Transfer, loan, or assignment of temporary license plate, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2660, titled Duration of temporary license plate and registration certificate, had the following history: 1982 Act No. 447; 1999 Act No. 100, Part II, Section 61. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2675, titled Motor vehicle manufacturers authorized to obtain and issue temporary license plates, had the following history: 1999 Act No. 100, Part II, Section 61. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2680, titled Penalties, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

HISTORY: Former Section 56-3-2690, titled Applicability of other laws, had the following history: 1982 Act No. 447. Repealed by 2023 Act No. 51, Section 32, eff January 18, 2024.

ARTICLE 30

Temporary License Plates and Certificates of Registration of Motor Vehicles Used Only for Corporate Research and Development

[Repealed]

SECTIONS 56-3-2710 to 56-3-2760.

Repealed.

HISTORY: Former Section 56-3-2710, titled Temporary plates and registration certificates authorized for certain motor vehicles, had the following history: 1989 Act No. 143, Section 1; 1993 Act No. 181, Section 1390. Repealed by 2023 Act No. 51, Section 33, eff January 18, 2024.

HISTORY: Former Section 56-3-2720, titled Fee; application, had the following history: 1989 Act No. 143, Section 1. Repealed by 2023 Act No. 51, Section 33, eff January 18, 2024.

HISTORY: Former Section 56-3-2730, titled Design of temporary plates and registration certificates, had the following history: 1989 Act No. 143, Section 1. Repealed by 2023 Act No. 51, Section 33, eff January 18, 2024.

HISTORY: Former Section 56-3-2740, titled Temporary plates and registration certificates not to be transferred; term; renewal, had the following history: 1989 Act No. 143, Section 1. Repealed by 2023 Act No. 51, Section 33, eff January 18, 2024.

HISTORY: Former Section 56-3-2760, titled Violations; penalties, had the following history: 1989 Act No. 143, Section 1. Repealed by 2023 Act No. 51, Section 33, eff January 18, 2024.

ARTICLE 31

Special License Plates for Volunteer Firemen

SECTION 56-3-2810.

Issuance of special plates; cost; application.

The Department of Motor Vehicles shall issue special motor vehicle license plates to "volunteer firemen" who request them in the manner provided in this article and who are residents of the State for private passenger motor vehicles registered in their respective names. For the purposes of this article "volunteer firemen" means members of organized units providing fire protection without compensation being paid to the members of the units for the service provided and whose membership is certified to the municipal clerk or chairman of the council of the municipality or county in which their unit is based by the chief officer of the unit concerned. The cost of the special license plate as determined by the department must be paid biennially by the requesting volunteer fireman,

and only one license plate may be issued to a volunteer fireman. The plate must be issued upon application in a manner and upon forms prescribed by the department and upon approval of the application by the department.

HISTORY: 1984 Act No. 512, Part II, Section 67; 1993 Act No. 164, Part II, Section 22HH; 1993 Act No. 181, Section 1391; 1996 Act No. 459, Section 168.

SECTION 56-3-2820.

Plate specifications.

The special license plates must be of the same size and general design of regular motor vehicle license plates and imprinted with the words "Volunteer Fireman" with numbers the Department of Motor Vehicles may determine. The plates are for biennial periods as provided by law.

HISTORY: 1984 Act No. 512, Part II, Section 67; 1993 Act No. 164, Part II, Section 22II.

SECTION 56-3-2830.

Transfer and return of plates.

A license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made therefor, in a manner and upon forms which must be prescribed by the Department of Motor Vehicles, and upon approval of the application by the Department. It is unlawful for any person to whom a plate has been issued pursuant to this article knowingly to permit it to be displayed on any vehicle except that one authorized by the Department. If a holder of the plate ceases to be a volunteer fireman he must immediately return the plate to the Department.

HISTORY: 1984 Act No. 512, Part II, Section 67.

SECTION 56-3-2840.

Other registration and licensing provisions unaffected; penalties for violations.

The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but are cumulative thereto. Any person violating the provisions of this article or any person who (a) fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, (b) conceals a material fact in any such application, or (c) otherwise commits a fraud in any such application or in the use of any special license plate issued pursuant to this article is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one hundred dollars or thirty days' imprisonment, or both.

HISTORY: 1984 Act No. 512, Part II, Section 67.

ARTICLE 32

Temporary License Plates and Registration Cards For Trailers and Semi-Trailers

SECTION 56-3-2900.

Department of Motor Vehicles authorized to provide temporary license plates and registration cards for trailers and semi-trailers; fees; issuance by manufacturer.

Upon request the Department of Motor Vehicles shall provide temporary license plates and registration cards designed by the department to manufacturers in South Carolina who produce trailers or semi-trailers and who apply for these plates and cards. The fee for each set of license plates and registration cards is twenty dollars. Applications for these license plates and registration cards must be made to the department on forms prescribed and furnished by the department. The department shall issue temporary license plates and registration cards in blocks of up to one hundred per application. When a block of temporary license plates and registration cards is issued, the fee is equal to the number of sets of temporary license plates and registration cards in the block multiplied by twenty dollars. A manufacturer may issue a temporary license plate to a trailer or semi-trailer that is being moved from the manufacturer to the dealer's or purchaser's place of business.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2910.

Records to be kept by manufacturer.

Each manufacturer must maintain a permanent record of all temporary license plates and registration cards either delivered to it, issued by it, or both. In addition, each manufacturer shall maintain a permanent record of any other information pertaining to the receipt or the issuance of temporary license plates and registration cards that the Department of Motor Vehicles may require. Each record must be kept for a period of at least one year from the date of the latest entry on the record.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2920.

Issuance and delivery of registration cards by manufacturer.

A manufacturer who issues a temporary license plate shall also prepare a temporary registration card upon a form prescribed and furnished by the Department of Motor Vehicles and must deliver it with the temporary plate to the owner of the trailer or semi-trailer.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2930.

False information prohibited.

It is unlawful for a manufacturer to issue a temporary plate or registration card containing a misstatement of fact, to knowingly insert false information upon the face of it, or to intentionally leave blank any required information.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2940.

Information to appear on temporary license plate.

A manufacturer who issues temporary plates shall insert clearly and indelibly on the face of each temporary license plate the date of issuance, the date of expiration, the make, and the identification number of the trailer or semi-trailer for which it is issued and any other information the Department of Motor Vehicles requires.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2950.

Transfers prohibited.

A temporary license plate must be used only on the trailer or semi-trailer for which it is issued and must not be transferred, loaned, or assigned to any other trailer or semi-trailer.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2960.

Duration.

The temporary license plate and registration card is valid for thirty days from the date of issuance to the owner of the trailer or semi-trailer.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2970.

Violations; penalties; forfeit of license plates and registration cards; suspension of privilege to obtain.

(A) A person who violates the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days. Each temporary license plate and registration card issued in violation of this article is a separate offense.

(B) Upon determining that a person has violated a provision of this article, the Department of Motor Vehicles may order any and all temporary plates and registration cards issued to the manufacturer be forfeited without refunding any fees, and may suspend or revoke the privilege of the manufacturer to obtain temporary plates.

HISTORY: 2000 Act No. 232, Section 1.

SECTION 56-3-2980.

Applicability of other licensing provisions.

If temporary license plates and registration cards are issued for a trailer or semi-trailer pursuant to this article, no other provisions of law of this State relating to temporary licensing and registration shall apply.

HISTORY: 2000 Act No. 232, Section 1.

ARTICLE 33

Special License Plates for Recipients of the Purple Heart [Repealed]

SECTIONS 56-3-3310 to 56-3-3340.

Repealed.

HISTORY: Former Section 56-3-3310, titled Recipient of the Purple Heart special license plates, had the following history: 1987 Act No. 138 Section 1; 1993 Act No. 164, Part II, Section 22JJ; 1993 Act No. 181, Section 1392; 1996 Act No. 459, Section 169; 1996 Act No. 422, Section 1; 2001 Act No. 17, Section 1; 2005 Act No. 53, Section 1, eff May 9, 2005; 2008 Act No. 297, Section 9, eff upon approval (became law without the Governor's signature on June 12, 2008); 2012 Act No. 272, Section 20, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-3320, titled Design of plate; handicapped eligibility, had the following history: 1987 Act No. 138 Section 1; 1993 Act No. 164, Part II, Section 22KK; 1996 Act No. 422, Section 2; 2000 Act No. 242, Section 2. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-3330, titled Transfer of plate to different vehicle without authorization prohibited, had the following history: 1987 Act No. 138 Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-3340, titled Compliance with licensing and registration provisions required; penalties, had the following history: 1987 Act No. 138 Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 34

National Wild Turkey Federation Special License Plates

SECTION 56-3-3410.

National Wild Turkey Federation special license plates authorized.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to members of the National Wild Turkey Federation for private motor vehicles registered in their names. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee contained in Article 5. The license plates issued pursuant to this section must conform to a design agreed to by the department and the chief executive officer of the organization. The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed to the National Wild Turkey Federation.

HISTORY: 2001 Act No. 104, Section 7.

SECTION 56-3-3420.

Prepaid applications required.

(A) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must

receive:

(1) four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department shall retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(B) If the department receives fewer than three hundred biennial applications and renewals for a particular special license plate, it may not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2001 Act No. 104, Section 7.

ARTICLE 35

Penn Center Special License Plates

SECTION 56-3-3500.

"Penn Center" license plates; fee; special fund for Penn Center, Inc.

(A) The Department of Motor Vehicles may issue "Penn Center" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names which may have imprinted on the plate an emblem, a seal, or other symbol of the Penn Center. Penn Center, Inc. shall submit to the department for its approval the emblem, seal, or other symbol it desires to be used for this special license plate. Penn Center, Inc. may request a change in the emblem, seal, or other symbol not more than once every five years. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be distributed to Penn Center, Inc., to support its activities.

(C) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 290, Section 1; 2008 Act No. 347, Section 22, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 36, eff July 1, 2016.

ARTICLE 36

South Carolina Nurses Special License Plates

SECTION 56-3-3600.

South Carolina Nurses license plates; fee; special fund for South Carolina Nurses Foundation.

(A) The Department of Motor Vehicles may issue South Carolina Nurses special license plates to owners of private passenger-carrying motor vehicles registered in their names. The fee for each special license plate is forty-six dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering this special license plate. The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Nurses Foundation to endow scholarships for all of the state's registered nursing programs.

(C) Before the department produces and distributes the South Carolina Nurses special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit;

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it may not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 290, Section 2; 2016 Act No. 275 (S.1258), Section 37, eff July 1, 2016.

ARTICLE 37

Special College or University License Plates

SECTION 56-3-3710.

Issuance of license plates with college or university emblems; fee; distribution of fee revenues; minimum number of licenses required.

(A) The Department of Motor Vehicles may issue to owners of private passenger motor vehicles special motor vehicle license plates which may have imprinted on them an emblem, a seal, or other symbol the department considers appropriate of a public college or university or independent institution of higher learning, defined in Section 59-113-50, located in this State. A school may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate. A school also may request a change in the emblem, seal, or other symbol once the existing inventory of the license plate has been exhausted. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of this title. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section must be distributed to a separate fund for each of the respective colleges, universities, or independent institutions of higher learning. Each fund must be administered by the school and may be used only for academic scholarships. Funds collected for state colleges and universities must be deposited with the State Treasurer. Funds collected for independent institutions must be deposited in an account designated by the respective school. The distribution of the fee is forty dollars to the school for each special license plate sold for the respective school and thirty dollars placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

The department shall receive one hundred or more applications requesting a special license plate for a school before a specialized license plate may be developed for that school.

HISTORY: 1986 Act No. 540, Part II, Section 11; 1987 Act No. 170, Part II, Section 16; 1990 Act No. 591, Section 4; 1993 Act No. 164, Part II, Section 22LL; 1993 Act No. 181, Section 1393; 1996 Act No. 459, Section 170; 1999 Act No. 63, Section 9; 2016 Act No. 275 (S.1258), Section 38, eff July 1, 2016.

SECTION 56-3-3720.

Transfer of special license plates; prohibition against display of license plate on unauthorized vehicle.

The license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made and approved by the Department of Motor Vehicles. It is unlawful for any person to whom the special plate has been issued to knowingly permit it to be displayed on any vehicle except the one authorized by the department.

HISTORY: 1986 Act No. 540, Part II, Section 11.

SECTION 56-3-3725.

Reference to or symbol of college or university on license plate.

License plates issued pursuant to this article shall not contain a reference to a private or public college or university in this State or use symbols, designs, or logos of these institutions without the institution's written authorization.

HISTORY: 1998 Act No. 392, Section 3.

SECTION 56-3-3730.

Applicability of article to other provisions of chapter; violations and penalties.

The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter, but are cumulative to them. Any person violating the provisions of this article is guilty of a misdemeanor and upon conviction must be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

HISTORY: 1986 Act No. 540, Part II, Section 11.

ARTICLE 38

American Legion Special License Plates [Repealed]

SECTION 56-3-3800.

Repealed.

HISTORY: Former Section, titled American Legion special license plate; deposit requirement; production limitations for special license plates, had the following history: 2002 Act No. 354, Section 8; 2008 Act No. 347, Section 2, eff June 16, 2008. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 39

Shag Commemorative License Plates

SECTION 56-3-3910.

Issuance of special license plate; fee; size of plate; reserved number.

The Department of Motor Vehicles may issue a special commemorative motor vehicle license plate commemorating the fiftieth anniversary of the introduction of the State Dance, the Shag, in 1988 for use by owners on their private passenger motor vehicles.

The biennial fee for the commemorative license plate is fifty dollars in addition to the regular motor vehicle registration fee prescribed by Article 5 of this chapter. This license plate must be of the same size and general design of regular motor vehicle license plates. The plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it was issued. License number "one" for the Shag license plate is reserved for the president of the Columbia Shag Club in Richland County. HISTORY: 1987 Act No. 170, Part II, Section 13; 1989 Act No. 189, Part II, Section 19; 1993 Act No. 164, Part II, Section 22MM; 1996 Act No. 459, Section 171; 2012 Act No. 264, Section 3, eff June 18, 2012.

SECTION 56-3-3920.

Transfer of plate; unauthorized use.

A special license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made therefor and approved by the Department of Motor Vehicles. It is unlawful for any person to whom such a commemorative license plate has been issued knowingly to permit the plate to be displayed on any vehicle except the one authorized by the department.

HISTORY: 1987 Act No. 170, Part II, Section 13.

SECTION 56-3-3930.

Applicability of article to other provisions of chapter.

The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but are cumulative thereto.

HISTORY: 1987 Act No. 170, Part II, Section 13.

ARTICLE 40

Keep South Carolina Beautiful License Plates

SECTION 56-3-3950.

"Keep It Beautiful" license plates; special fund for road enhancement.

The department may issue a special commemorative "Keep It Beautiful" motor vehicle license plate for use by owners on their private passenger motor vehicles to establish a special fund to be used by the Department of Transportation for the purposes of enhancing the state's roads and highways. These enhancements may include landscaping, wildflower plantings, scenic easements, or other highway enhancement projects. The Department of Transportation, in implementing this program, may not expend beautification funds for wildflowers without prior approval of the South Carolina Department of Agriculture. The Department of Agriculture shall ensure, before granting approval, that the varieties of wildflowers used in beautification are not harmful to agriculture at or near a proposed project. The biennial fee for the commemorative license plate is fifty-four dollars. Notwithstanding any other provision of law, of the fees collected for this special license plate, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the department's expenses in producing and administering this special license plate. Any remaining funds must be placed in a special "Highway Beautification Fund" established within and administered by the Department of Transportation. This biennial fee is in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 7 of this title. The commemorative plate must be of the same size and general design of regular motor vehicle license plates and must be imprinted with the words "Keep It Beautiful". The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

HISTORY: 1990 Act No. 591, Section 5; 1993 Act No. 164, Part II, Section 22NN; 1994 Act No. 497, Part II, Section 86B; 2005 Act No. 31, Section 1, eff upon approval (became law without the Governor's signature on April 7, 2005); 2016 Act No. 275 (S.1258), Section 39, eff July 1, 2016.

SECTION 56-3-3960.

Transfer of special license plate to another vehicle; unauthorized use.

A special license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made and approved by the Department of Motor Vehicles. It is unlawful for any person to whom such a commemorative license plate has been issued knowingly to permit the plate to be displayed on any vehicle except the one authorized by the department.

HISTORY: 1990 Act No. 591, Section 5.

SECTION 56-3-3970.

Cumulative effect of article.

The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter but are cumulative thereto.

HISTORY: 1990 Act No. 591, Section 5.

ARTICLE 41

South Carolina Elks Association Special License Plates

SECTION 56-3-4100.

South Carolina Elks Association Special License Plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 and motorcycles registered in their names which shall have imprinted on the plate the words "South Carolina Elks Association". The fee for this special license plate is the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title and the special fee required by Section 56-3-2020. This special license plate must be of the same size and

general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) Notwithstanding any other provision of law, of the fees collected for the special license plate, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plate. Any remaining funds must be deposited in a special account, separate and apart from the general fund, designated for use by the South Carolina Elks Association to be used to support its Alzheimer's state project.

(C) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate and, a plan to market the sale of the special license plate must be approved by the department. If the equivalent amount is not collected within four years of the first issuance of the license plate, the department shall retain the deposit.

(D) If the department receives less than three hundred biennial applications and renewals for the 'South Carolina Elks Association' special license plate, it may not produce additional special license plates in that series. However, the department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2003 Act No. 51, Section 1; 2008 Act No. 347, Sections 3, 23, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 40, eff July 1, 2016.

ARTICLE 42

Carolina Panthers Special License Plates

SECTION 56-3-4200.

Authority to issue special license plates; collector plates; fees; minimum number of orders.

(A) The Department of Motor Vehicles may issue "Carolina Panthers" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names which may have imprinted on the plates an emblem, seal, or symbol of the National Football League's Carolina Panthers. The National Football League's Carolina Panthers shall submit to the department for its approval the emblem, seal, or symbol it desires to be used for the plates. The National Football League's Carolina Panthers shall submit to the department written authorization for the use of any copyrighted or registered logos, trademarks, or designs. The National Football League may request a change in the emblem, seal, or symbol not more than once every five years. The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued. The fee for the plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of seventy dollars.

(B) The department also may provide, upon request, special "Carolina Panthers" collector license plates which must not be displayed on a vehicle registered or required to be registered in this State. A person displaying the collector license plates on a vehicle registered or required to be registered in this State is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or be imprisoned for not more than thirty days. The collector license plates must be the same size and general design of the "Carolina Panthers" special motor vehicle license plates. The fee for issuance of the collector license plates is twenty-five dollars. The words "collector license plate" must be imprinted on the collector license plates.

(C) Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the department in producing and administering the plates. The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Department of Parks, Recreation and Tourism and used by the State Park Service for recreational enhancements and improvements.

(D) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred prepaid applications for the plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of fees is collected for the plate. If the equivalent amount is not collected within four years of the first issuance of the plate, then the department shall retain the deposit; and

(2) a plan to market the sale of the plate which must be approved by the department.

(E) If the department receives less than three hundred biennial applications and renewals for the plate, it may not produce additional plates in that series. The department shall continue to issue plates of that series until the existing inventory is exhausted.

HISTORY: 2004 Act No. 309, Section 1; 2008 Act No. 347, Section 24, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 41, eff July 1, 2016.

ARTICLE 43

Special License Plates-Retired Members of the United States Armed Forces [Repealed]

SECTIONS 56-3-4310 to 56-3-4340.

Repealed.

HISTORY: Former Section 56-3-4310, titled Issuance of plates; who is entitled; fees, had the following history: 1991 Act No. 96, Section 1; 1993 Act No. 181, Section 1394; 1996 Act No. 459, Section 173; 2008 Act No. 347, Section 4, eff June 16, 2008.

Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-4320, titled Size, design, imprint, had the following history: 1991 Act No. 96, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-4330, titled Transfer to or display on different vehicle, had the following history: 1991 Act No. 96, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-4340, titled Cumulative effect of article; prohibited acts; penalties, had the following history: 1991 Act No. 96, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 44

Share the Road License Plates

SECTION 56-3-4410.

"Share the Road" license plates; fees; special fund for bicycling safety and education programs.

(A) The Department of Motor Vehicles may issue "Share the Road" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 and motorcycles registered in their names which may have imprinted on the plate an emblem, a seal, or other symbol of the Palmetto Cycling Coalition, Inc. The Palmetto Cycling Coalition, Inc. shall submit to the department for its approval the emblem, seal, or other symbol it desires to be used for this special license plate. The Palmetto Cycling Coalition, Inc. may request a change in the emblem, seal, or other symbol not more than once every five years. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be distributed to the Palmetto Cycling Coalition, Inc., or another nonprofit fund designated by the Palmetto Cycling Coalition, Inc., for the promotion of bicycling safety and education programs. Any remaining funds must be administered by the Palmetto Cycling Coalition, Inc., used only for efforts to promote bicycle safety and education programs, and deposited in an appropriate nonprofit account designated by the Palmetto Cycling Coalition, Inc.

(C) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 264, Section 1; 2008 Act No. 347, Sections 5, 25, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 42, eff July 1, 2016.

ARTICLE 45

South Carolina Wildlife License Plates

SECTION 56-3-4510.

"South Carolina Protects Endangered Species" and "South Carolina Wildlife" commemorative plates; disposition of fees collected.

(A) The Department of Motor Vehicles shall issue a series of special commemorative motor vehicle license plates for use by the owner on his private passenger motor vehicle for the purposes of the "Nongame Wildlife and Natural Areas Fund" provided in Section 50-1-280. The special fee for the commemorative license plate is thirty dollars and this amount must be placed in the fund. This fee is in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of Title 56. The commemorative plate must be of the same size and general design of regular motor vehicle license plates and must be imprinted with the words "South Carolina Protects Endangered Species". The plates must be issued or revalidated for a biennial period, which expires twenty-four months from the month they are issued. Once the plate supply is exhausted, any revenues derived from a renewal or transfer of a "South Carolina Protects Endangered Species" plate must be distributed as directed in this subsection.

(B) The department shall issue a collection of special motor vehicle license plates to owners of private passenger carrying motor vehicles and motorcycles. The fee for each special license plate is thirty dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates, and must be imprinted with the words "South Carolina Wildlife". Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(C) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the department in producing and administering this special license plate collection. The remaining funds collected from each special motor vehicle license plate fee must be deposited in the Game Protection Fund provided for in Title 50.

(D) The department simultaneously may make available more than one special license plate. However, before the department

produces and distributes a special license plate with the South Carolina Wildlife collection pursuant to this section, it must comply with the provisions contained in Section 56-3-8100.

HISTORY: 1993 Act No. 156, Section 1; 1995 Act No. 115, Section 1; 1996 Act No. 459, Section 174; 2008 Act No. 353, Section 2, Pt 8C.1, eff July 1, 2008; 2009 Act No. 79, Section 2.A, eff June 16, 2009; 2016 Act No. 275 (S.1258), Section 43, eff July 1, 2016.

ARTICLE 46

Homeownership: The American Dream Special License Plates

SECTION 56-3-4600.

Authority to issue special license plates; fees; minimum number required.

(A) The Department of Motor Vehicles may issue "Homeownership: The American Dream" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in the owners' names, which may have imprinted on the plate an emblem, a seal, or other symbol approved by the South Carolina Association of Realtors and the department. The South Carolina Association of Realtors may submit to the department for approval the emblem, seal, or symbol the South Carolina Association of Realtors wishes to display on the plate. The association must submit to the department written authorization for the use of any copyrighted or registered logo, trademark, or design. The association may request a change in the emblem, seal, or symbol used not more than once in five years. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title and one hundred dollars for a special plate.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be administered by the South Carolina Association of Realtors and deposited in an appropriate nonprofit account designated by the association for distribution to Habitat for Humanity International or another nonprofit fund designated by the association for the construction of new homes for low income families in South Carolina.

(C) Before the department produces and distributes the "Homeownership: The American Dream" special license plate pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department must retain the deposit;

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for the plate, it may not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2004 Act No. 310, Section 1; 2008 Act No. 347, Section 26, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 44, eff July 1, 2016.

ARTICLE 48

Sons of Confederate Veterans Special License Plates

SECTION 56-3-4800.

Sons of Confederate Veterans license plates; distribution of fees; prepaid applications.

(A) The department may issue Sons of Confederate Veterans special license plates to owners of private passenger-carrying motor vehicles and motorcycles registered in their names. The fee for each special license plate is thirty dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the department in producing and administering this special license plate. The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Division of the Sons of Confederate Veterans.

(C) Before the department produces and distributes the Sons of Confederate Veterans special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for this special license plate, it may not

produce additional special license plates in this series. The department shall continue to issue special license plates of this series until the existing inventory is exhausted.

HISTORY: 2005 Act No. 21, Section 1, eff upon approval (became law without the Governor's signature on March 24, 2005); 2008 Act No. 347, Section 6, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 45, eff July 1, 2016.

ARTICLE 49

South Carolina Firefighters License Plates

SECTION 56-3-4910.

Authorization to issue plates; disposition of fees.

(A) The Department of Motor Vehicles shall issue special motor vehicle license plates to active and retired South Carolina firefighters who request them in the manner provided in this article and who are residents of the State for private passenger motor vehicles owned by them. The special license plates, which must be of the same size and general design of regular motor vehicle license plates, must be imprinted with the words "SOUTH CAROLINA FIREFIGHTER" together with a fire service emblem and with numbers as the department may determine. The plates are for annual periods as provided by law. The fee for this special license plate is thirty-five dollars each year which is in addition to the regular motor vehicle registration fee as set forth in Article 5, Chapter 3 of this title.

(B) The fees collected pursuant to this section must be deposited in a separate fund for the South Carolina Fire Academy. The fund must be administered by the Department of Labor, Licensing and Regulation Division of State Fire Marshal and must be used only to train in-state public firefighters, paid and volunteer, to comply with state and federal mandated training standards. Funds collected must be deposited with the State Treasurer. The distribution of the funds is based on twenty dollars to the academy for each special license plate sold and fifteen dollars placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(C) The department must receive one hundred or more applications requesting a special license plate for the South Carolina Firefighters before a specialized license plate may be developed.

HISTORY: 1992 Act No. 438, Section 1; 1993 Act No. 181, Section 1396; 1996 Act No. 459, Section 176; 2016 Act No. 275 (S.1258), Section 46, eff July 1, 2016.

SECTION 56-3-4920.

Display of plate limited to authorized vehicle; transfer to different vehicle.

The license plate issued pursuant to this article may be transferred to another vehicle of the same weight class owned by the same person upon application being made and approved by the Department of Motor Vehicles. It is unlawful for any person to whom the special plate has been issued knowingly to permit it to be displayed on a vehicle except the one authorized by the department.

HISTORY: 1992 Act No. 438, Section 1.

SECTION 56-3-4930.

Cumulative effect of article; penalties for violation.

The provisions of this article do not affect the registration and licensing of motor vehicles as required by other provisions of this chapter, but are cumulative to them. A person who violates the provisions of this article is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

HISTORY: 1992 Act No. 438, Section 1.

ARTICLE 50

Public Education: A Great Investment License Plates

SECTION 56-3-5010.

Authorization to issue special license plates; fees.

The Department of Motor Vehicles may issue a special commemorative "Public Education: A Great Investment" motor vehicle license plate to establish a special fund to be used by the Department of Education for the purpose of providing computers to the public schools. The biennial fee for the commemorative license plate is fifty-four dollars, and of this amount, twenty dollars must be placed in a special "Public Education: A Great Investment Fund" established within and administered by the Department of Education to purchase computers for use in the classroom and thirty-four dollars must be distributed to the school district or a school chosen by the license plate purchaser to be used to purchase computers for use in the classroom. The Department of Motor Vehicles shall report to the Department of Education the school district and the school chosen by the license plate purchaser to which the funds must be distributed. The Department of Education shall distribute funds to the district for further distribution to the schools chosen by the license plate purchasers. The commemorative plate must be of the same size and general design of regular motor vehicle license plates and must be imprinted with the words "Public Education: A Great Investment". The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

HISTORY: 1996 Act No. 342, Section 1; 1997 Act No. 155, Part II, Section 18A.

ARTICLE 51

South Carolina: First in Golf License Plates

SECTION 56-3-5200.

"South Carolina: First in Golf" license plates.

(A) The Department of Motor Vehicles may issue a special "South Carolina: First In Golf" motor vehicle license plate to establish a special fund to be used by the Department of Parks, Recreation and Tourism to provide grants to promote the South Carolina Junior Golf Association.

The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. The special license plate must be of the same size and general design of a regular motor vehicle license plate and must be imprinted with the words South Carolina: First in Golf". The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section must be distributed to a special "South Carolina: First In Golf" fund established within and administered by the Department of Parks, Recreation and Tourism to promote the South Carolina Junior Golf Association. The distribution is forty dollars to the fund and thirty dollars placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(C) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive:

(1) four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 1999 Act No. 63, Section 10; 2012 Act No. 264, Section 4, eff June 18, 2012; 2016 Act No. 275 (S.1258), Section 47, eff July 1, 2016.

ARTICLE 52

Charter Limousine License Plates

SECTION 56-3-5300.

Charter limousines to acquire special Class C license plates; biennial fee.

(A) In addition to complying with any other registration and license fee requirement contained in this chapter, a "charter limousine" regulated by the South Carolina Public Service Commission must acquire a special license plate from the Department of Motor Vehicles upon submission of proof that the charter limousine is certified as a "Class C Charter Limousine" by the commission.

(B) The biennial fee for this special license plate is twenty-five dollars.

(C) Of the funds appropriated to the Public Service Commission in the Annual Appropriations Act for 1997-98 and subsequent years for Operations/Administration, Other Operating Expenses, sufficient funds must be used to process documents providing proof that the charter limousine is certified as a "Class C Charter Limousine" as required by subsection (A).

HISTORY: 1997 Act No. 155, Part II, Section 62A.

ARTICLE 53

Normandy Invasion Survivors Special License Plates [Repealed]

SECTION 56-3-5350.

Repealed.

HISTORY: Former Section, titled Authority to issue Normandy Invasion Survivor license plates, had the following history: 2000 Act No. 347, Section 1. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 54

Fraternal Order of Police Special License Plates

SECTION 56-3-5400.

Fraternal Order of Police special license plates.

(A) The department may issue "Fraternal Order of Police" special license plates to owners of private passenger motor vehicles and motorcycles registered in their names who are active members in good standing with the Fraternal Order of Police. Identification of current membership must be presented at the time of initial application. The fee for each special license plate is thirty dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued. A person issued a special license plate pursuant to this section who is not or who ceases to be a member of the Fraternal Order of Police must remove the license plate from his vehicle on the date the license plate registration is due for renewal and obtain another valid license plate. A person who knowingly fails to surrender his license plate pursuant to this section is guilty of a misdemeanor and, upon conviction, may be fined one hundred dollars or sentenced to thirty days in jail, or both.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place the regular motor vehicle license fee into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remaining funds collected from the special motor vehicle license fee must be distributed to the State Lodge of the Fraternal Order of Police to be used to support the families of officers killed in the line of duty.

(C) Before the department produces and distributes the Fraternal Order of Police special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual

or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for this special license plate, it may not produce additional special license plates in this series. The department shall continue to issue special license plates of this series until the existing inventory is exhausted.

HISTORY: 2005 Act No. 54, Section 1, eff May 9, 2005; 2006 Act No. 398, Section 6, eff September 7, 2006; 2008 Act No. 347, Section 7, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 48, eff July 1, 2016.

ARTICLE 55

Pearl Harbor Survivors' License Plates [Repealed]

SECTIONS 56-3-5910 to 56-3-5950.

Repealed.

HISTORY: Former Section 56-3-5910, titled Persons eligible, had the following history: 1990 Act No. 591, Section 6; 1990 Act No. 597, Section 3; 1996 Act No. 459, Section 177. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-5920, titled Design and issuance of "Pearl Harbor Survivor" license plate, had the following history: 1990 Act No. 591, Section 6; 1990 Act No. 597, Section 3; 1993 Act No. 181, Section 1397. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-5930, titled Proof of eligibility and registration; fee; verification, had the following history: 1990 Act No. 591, Section 6; 1990 Act No. 597, Section 3; 1996 Act No. 459, Section 178. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-5940, titled Revalidation, had the following history: 1990 Act No. 591, Section 6; 1990 Act No. 597, Section 3. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-5950, titled One special plate per person; plate not transferable, had the following history: 1990 Act No. 591, Section 6; 1990 Act No. 597, Section 3. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 56

United States Armed Services Special License Plates [Repealed]

SECTION 56-3-6000.

Repealed.

HISTORY: Former Section, titled Armed Services special license plates, had the following history: 2005 Act No. 158, Section 3, eff June 10, 2005; 2008 Act No. 347, Section 8, eff June 16, 2008; 2012 Act No. 272, Section 29, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 57

United States Naval Academy Special License Plates

SECTION 56-3-6500.

United States Naval Academy special license plates.

The Department of Motor Vehicles may issue "United States Naval Academy" special license plates to owners of private passenger motor vehicles registered in their names. The applicant must be a graduate of the United States Naval Academy. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray the costs of production and distribution must be distributed to the United States Naval Academy Alumni Association.

HISTORY: 2006 Act No. 398, Section 7, eff September 7, 2006.

ARTICLE 58

County Veterans Affairs Officers Special License Plates

SECTION 56-3-7000.

County Veterans Affairs Officers special license plates.

The Department of Motor Vehicles may issue a special motor vehicle license plate to a County Veterans Affairs Officer for a private motor vehicle registered in his name. Only one plate may be issued to a person. The biennial fee for the special license plate is the same as the fee provided in Section 56-3-2020.

HISTORY: 1999 Act No. 63, Section 15.

SECTION 56-3-7010.

Size, design, and contents of license plates; revalidation.

The special plates must be of the same size and general design as a regular motor vehicle license plate. The Department of Motor Vehicles shall imprint the special license plate with the words "County Veterans Affairs Officer" together with numbers the department may determine necessary. The plate must be issued or revalidated biennially for the regular registration and licensing period.

HISTORY: 1999 Act No. 63, Section 15.

ARTICLE 59

United States Air Force Academy Special License Plates

SECTION 56-3-7050.

United States Air Force Academy special license plates.

The Department of Motor Vehicles may issue "United States Air Force Academy" special license plates to owners of private passenger motor vehicles registered in their names. The applicant must be a graduate of the United States Air Force Academy. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray the costs of production and distribution must be distributed to the United States Air Force Academy Alumni Association.

HISTORY: 2006 Act No. 398, Section 8, eff September 7, 2006.

ARTICLE 60

Autistic and Neurodivergent Special License Plates

SECTION 56-3-7100.

Autistic and Neurodivergent special license plates.

Section effective November 20, 2024.

The Department of Motor Vehicles may issue "Autistic and Neurodivergent" special motor vehicle license plates to owners of private passenger-carrying motor vehicles registered in their names who are autistic or neurodivergent or who are parents of children who are autistic or neurodivergent. The application for this special motor vehicle license plate must include an original certificate from a licensed physician that certifies the applicant or his child is autistic or neurodivergent. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5. Each special license plate must be of the same size and general design of regular motor vehicle license plates and contain the "Just Bee" icon as identification for autistic or neurodivergent individuals. The department may issue this special license plate six months following approval of its design. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

HISTORY: 2024 Act No. 178 (H.4674), Section 9, eff November 20, 2024.

ARTICLE 61

Arts Awareness Special License Plates

SECTION 56-3-7200.

Arts Awareness special license plates; deposition of fees.

(A) The department may issue Arts Awareness special license plates to owners of private passenger-carrying motor vehicles registered in their names to establish a special fund to be used by the South Carolina Arts Commission for the purpose of funding activities that support a thriving arts environment in South Carolina. The biennial fee for the special license plates is seventy dollars in addition to the regular motor vehicle license plate fee contained in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates, must be imprinted with artwork to be selected through a process conducted by the South Carolina Arts Commission, and numbers as the department may determine. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the department in producing and administering this special license plate. The remaining funds collected from the special motor vehicle license fee must be deposited in a separate fund for the South Carolina Arts Commission and be used solely to support activities that build a thriving arts environment in South Carolina.

(C) Before the department produces and distributes the Arts Awareness special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for this special license plate, it may not produce additional special license plates in this series. The department shall continue to issue special license plates of this series until the existing inventory is exhausted.

HISTORY: 2005 Act No. 55, Section 1, eff May 9, 2005; 2016 Act No. 275 (S.1258), Section 49, eff July 1, 2016.

ARTICLE 62

Saltwater Fishing Special License Plates

SECTION 56-3-7300.

Saltwater Fishing special license plates.

(A) The Department of Motor Vehicles may issue "Saltwater Fishing" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate

is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of seventy-five dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be deposited in a special account, separate and apart from the general fund, established within and administered by the Department of Natural Resources to manage and conserve the marine resources of the State.

(C) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 352, Section 1; 2003 Act No. 44, Section 1; 2008 Act No. 347, Section 27, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 50, eff July 1, 2016.

ARTICLE 63

Support Our Troops Special License Plates [Repealed]

SECTION 56-3-7310.

Repealed.

HISTORY: Former Section, titled Support Our Troops special license plates, had the following history: 2006 Act No. 398, Section 9, eff September 7, 2006; 2016 Act No. 275 (S.1258), Section 51, eff July 1, 2016. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 64

Emergency Medical Service Special License Plates

SECTION 56-3-7320.

Emergency Medical Service special license plates.

The Department of Motor Vehicles may issue "Emergency Medical Service" special license plates to owners of private passenger motor vehicles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. The Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the department's costs of production and distribution. Any portion of the additional thirty-dollar fee not placed in the State Highway Fund by the Comptroller General must be distributed to the South Carolina Emergency Medical Services Association.

HISTORY: 2006 Act No. 398, Section 10, eff September 7, 2006; 2016 Act No. 275 (S.1258), Section 52, eff July 1, 2016.

ARTICLE 65

"Boy Scouts of America" and "Eagle Scout"

Special License Plates

SECTION 56-3-7330.

Boy Scouts of America and Eagle Scout special license plates.

(A) The Department of Motor Vehicles may issue "Boy Scouts of America" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names. The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the South Carolina Indian Waters Council, Boy Scouts of America, to then be distributed to the other five Boy Scout councils serving counties in South Carolina.

(B)(1) The Department of Motor Vehicles may issue "Eagle Scouts of America" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names who have been awarded the Eagle Scout Award from the Boy Scouts of America. The motor vehicle owner must present the department with official documentation that states that he was awarded the Eagle Scout Award, along with his application for this special license plate. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The special license plate must be imprinted with an emblem, seal, symbol, or design agreed to by all of the Boy Scout councils serving counties in South Carolina.

(2) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the cost of production. That portion of the fees collected pursuant to this section in excess of the cost of production must be distributed to the South Carolina Indian Waters Council, Boy Scouts of America, to then be distributed to the other five Boy Scout councils serving counties in South Carolina.

(3) Section 56-3-8100 requirements met for the production, collection, and distribution of fees for the "Boy Scouts of America" special license plate are deemed to have been met for the "Eagle Scouts of America" special license plate.

HISTORY: 2006 Act No. 398, Section 11, eff September 7, 2006; 2012 Act No. 272, Section 9, eff December 26, 2012; 2016 Act No. 275 (S.1258), Section 53, eff July 1, 2016.

ARTICLE 66

Native American Special License Plates

SECTION 56-3-7340.

Native American special license plates.

Section effective until November 20, 2024. See, also, Section 56-3-7340 effective November 20, 2024.

(A) The Department of Motor Vehicles may issue "Native American" special license plates to owners of private passenger motor vehicles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the Native American Prison Program of South Carolina.

HISTORY: 2006 Act No. 398, Section 12, eff September 7, 2006.

SECTION 56-3-7340.

Native American special license plates.

Section effective November 20, 2024. See, also, Section 56-3-7340 effective until November 20, 2024.

(A) The Department of Motor Vehicles may issue "Native American" special license plates to owners of private passenger motor vehicles or motorcycles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the Native American Prison Program of South Carolina.

HISTORY: 2006 Act No. 398, Section 12, eff September 7, 2006; 2024 Act No. 178 (H.4674), Section 4, eff November 20, 2024.

Effect of Amendment

2024 Act No. 178, Section 4, in (A), in the first sentence, inserted "or motorcycles".

ARTICLE 67

South Carolina Peach Council Special License Plates

SECTION 56-3-7350.

South Carolina Peach Council special license plates.

The Department of Motor Vehicles may issue "South Carolina Peach Council" special license plates to owners of private passenger motor vehicles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the South Carolina Peach Council.

HISTORY: 2006 Act No. 398, Section 13, eff September 7, 2006.

ARTICLE 68

Korean War Veterans Special License Plates [Repealed]

SECTION 56-3-7360.

Repealed.

HISTORY: Former Section, titled Korean War Veterans special license plates, had the following history: 2006 Act No. 398, Section 14, eff September 7, 2006; 2008 Act No. 347, Section 10, eff June 16, 2008; 2012 Act No. 253, Section 5, eff June 18, 2012; 2016 Act No. 275 (S.1258), Section 54, eff July 1, 2016; 2016 Act No. 186 (H.3927), Section 3, eff. May 25, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 69

Cancer Research Centers of the Carolinas Special License Plates

SECTION 56-3-7370.

Cancer Research Centers of the Carolinas special license plates.

The Department of Motor Vehicles may issue "Cancer Research Centers of the Carolinas" special license plates to owners of private passenger motor vehicles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of fifteen dollars. Any portion of the additional fifteen-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the Mary Crowley Medical Cancer Research Foundation to provide funding for the Cancer Research Centers of the Carolinas.

HISTORY: 2006 Act No. 398, Section 15, eff September 7, 2006.

ARTICLE 70

Square Dance Commemorative License Plates

SECTION 56-3-7610.

Authority to issue commemorative Square Dance license plates.

The Department of Motor Vehicles may issue a special commemorative motor vehicle license plate commemorating the Square Dance as the state's official American Folk Dance. The biennial fee for the commemorative license plate is fifty dollars in addition to the regular motor vehicle fee prescribed by Article 5 of this chapter. This license plate must be the same size and general design of regular motor vehicle license plates.

HISTORY: 1996 Act No. 422, Section 3.

ARTICLE 71

Special License Decal; Forest Products Haulers

SECTION 56-3-7650.

Forest product haulers decals.

The Department of Motor Vehicles shall issue a special motor vehicle license decal to identify intrastate unmanufactured forest product haulers. A one-time fee for the issuance of this special plate is thirty dollars.

HISTORY: 1996 Act No. 425, Section 1.

ARTICLE 72

Special Olympics License Plates

SECTION 56-3-7700.

Special Olympics license plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates commemorating the Special Olympics which may have imprinted on the plates an emblem, seal, or other symbol approved by the South Carolina Special Olympics and the department. The fee for this special license plate is fifty dollars every two years in addition to the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title. This special license plate must be the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the cost of production and distribution of this special license plate. The fees collected pursuant to this section in excess of those placed in the State Highway Fund, must be distributed to the South Carolina Special Olympics.

HISTORY: 1996 Act No. 409, Section 1; 2016 Act No. 275 (S.1258), Section 55, eff July 1, 2016.

ARTICLE 73

Fraternity and Sorority License Plates

SECTION 56-3-7750.

Fraternity and sorority license plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names, which may have imprinted on the plate an emblem, a seal, or other symbol the department considers appropriate to a certified service fraternity or sorority. A fraternity or sorority may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate. Before a design is approved, however, the organization must submit to the department written authorization for the use of any copyrighted or registered logo, trademark, or design. A fraternity or sorority also may request a change in the emblem, seal, or other symbol once the existing supply has been exhausted. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section must be distributed to a separate fund for each of the respective fraternities or sororities. Each fund must be administered by the fraternity or sorority and may be used for academic scholarships, or to fund programs that send boys and girls who are at least eight years old and not more than sixteen years old to summer camp, or both. Funds collected for each fraternity or sorority must be deposited in an account designated by the fraternity or sorority. The distribution is forty dollars to the respective fund and thirty dollars placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(C) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive:

(1) four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that

series until the existing inventory is exhausted.

HISTORY: 1999 Act No. 63, Section 11; 2007 Act No. 90, Section 1, eff June 14, 2007; 2008 Act No. 347, Section 28, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 56, eff July 1, 2016.

ARTICLE 74

Vietnam War Veterans Special License Plates [Repealed]

SECTION 56-3-7780.

Repealed.

HISTORY: Former Section, titled Authority to issue special Vietnam War Veterans license plates; fees; minimum number of orders required, had the following history: 2004 Act No. 311, Section 1; 2005 Act No. 158, Section 1, eff June 10, 2005; 2008 Act No. 347, Sections 11, 29, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 57, eff July 1, 2016. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 75

South Carolina Aquarium Special License Plates

SECTION 56-3-7800.

South Carolina Aquarium special license plates.

The Department of Motor Vehicles may issue "South Carolina Aquarium" special license plates to owners of private passenger motor vehicles registered in their names. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of fifty dollars. Any portion of the additional fifty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the South Carolina Aquarium.

HISTORY: 2006 Act No. 398, Section 16, eff September 7, 2006.

ARTICLE 76

Shriners License Plates

SECTION 56-3-7860.

Shriners license plates.

The Department of Motor Vehicles may issue special motor vehicle license plates to members of the Shriners for private motor vehicles and motorcycles registered in their names. The fee for the issuance of this special plate must be the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title which must be deposited in the state general fund and the special fee required by Section 56-3-2020 which the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The department shall assess the cost of production, administration, and issuance of this plate and provide this information to the General Assembly every five years.

HISTORY: 1996 Act No. 425, Section 7; 1997 Act No. 17, Section 1; 2008 Act No. 347, Section 12, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 58, eff July 1, 2016.

ARTICLE 77

Our Farms-Our Future Special License Plates

SECTION 56-3-7890.

Our Farms-Our Future special license plates; distribution of fees.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names which shall have imprinted on the plate "Our Farms-Our Future" and which may have a design representative of agriculture. The South Carolina Farm Bureau Federation shall submit to the department for its approval a design it desires to be used for this special license plate. The South Carolina Farm Bureau Federation may request a change in the design not more than once every five years. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed to the 501(c)(3) nonprofit South Carolina Farm Bureau Federation "Ag in the Classroom" fund.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2009 Act No. 79, Section 1, eff June 16, 2009.

ARTICLE 78

License Plates on Behalf of the H. L. Hunley Submarine

SECTION 56-3-7910.

H. L. Hunley submarine license plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names, which may have imprinted on the plate an emblem, a seal, logo, or other symbol of the "H. L. Hunley" submarine. The Hunley Commission shall submit to the department for its approval the emblem, seal, logo, or other symbol it desires to be used for this special license plate. The Hunley Commission may request a change in the emblem, seal, logo, or other symbol not more than once every five years. The fee for this special license plate is one hundred dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of this title. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be

issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section must be distributed to the Fund to Save the Hunley created by the Hunley Commission or another nonprofit fund designated by the commission for the continued curation of the Hunley submarine. Any such fund must be administered by the Hunley Commission and may be used only for efforts to raise, restore, and preserve the Hunley submarine. Any funds collected must be deposited in an appropriate nonprofit account designated by the Hunley Commission. The distribution of these funds is sixty dollars to the Hunley Commission and forty dollars placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(C) The department shall reserve the first twelve license plates for use by the Hunley Commission.

(D) Before the department produces and distributes a license plate authorized under this section, it must receive at least four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this subsection, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that individual's or organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit.

HISTORY: 1999 Act No. 63, Section 4; 2008 Act No. 347, Section 30, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 59, eff July 1, 2016.

ARTICLE 79

Recycling Special License Plates

SECTION 56-3-7940.

"Reduce, Reuse, Recycle" special license plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names which shall have imprinted on the plate "Reduce, Reuse, Recycle" and the recycling logo. The Carolina Recycling Association shall submit to the department for its approval a design it desires to be used for this special license plate. The Carolina Recycling Association may request a change in the design not more than once every five years. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed to the Carolina Recycling Association to promote the growth of the South Carolina recycling industry.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2009 Act No. 79, Section 4, eff June 16, 2009.

ARTICLE 80

Hunting Island State Park Special License Plates

SECTION 56-3-7950.

Hunting Island State Park special license plate authorized.

(A) The Department of Motor Vehicles may issue Hunting Island State Park special license plates to owners of private passenger-carrying motor vehicles registered in their names. The Friends of Hunting Island State Park, Inc., shall submit to the department for its approval the emblem, seal, or other symbol it desires to be used for this special license plate. The Friends of Hunting Island State Park, Inc., may request a change in the emblem, seal, or other symbol not more than once every five years. The fee for each special license plate is fifty dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the department in producing and administering this special license plate. The remaining funds collected from the special motor vehicle license fee must be distributed to The Friends of Hunting Island State Park, Inc., for use on projects benefiting Hunting Island State Park.

(C) Before the department produces and distributes the Hunting Island State Park special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or four thousand dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for this special license plate, it may not produce additional special license plates in this series. The department shall continue to issue special license plates of this series until the existing inventory is exhausted.

HISTORY: 2006 Act No. 287, Section 1, eff May 23, 2006; 2016 Act No. 275 (S.1258), Section 60, eff July 1, 2016.

ARTICLE 81

Nonprofit Organization License Plates

SECTION 56-3-8000.

Special motor vehicle license plates for nonprofit organizations.

(A) An organization which has obtained certification pursuant to either Section 501(C)(3), 501(C)(6), 501(C)(7), or 501(C)(8) of the federal Internal Revenue Code and maintained this certification for a period of five years may apply to the Department of Motor Vehicles for a special license plate. The department may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630, and motorcycles, as defined in Section 56-3-20, registered in their names.

(B) The department must develop a basic license plate design that will be used for all special organizational license plates. The plate must be the same size and general design of regular motor vehicle license plates but may be imprinted on the plate in an area specified by the department with an emblem, seal, insignia, or other identifying symbol of the sponsoring organization that the department considers appropriate. No text or slogans may be added to the plate design unless they are part of the approved emblem, seal, insignia, or other identifying symbol. The name of the organization may be imprinted across the top of the license plate. The standard plate design must be issued for all organizational license plates newly requested after July 1, 2013. Organizational license plate designs in production as of that date must be changed when the license plate, or license plate class, is replaced.

(C) The license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The biennial fee for this special license plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee to be requested by the individual or organization seeking issuance of the license plate. The initial fee amount requested may be changed only every five years from the first year the license plate is issued. Of the additional fee collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of producing and administering special license plates. Any of the remaining fee not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate.

(D) If the organization seeking issuance of the plate does not request an additional fee above the regular registration fee, the department may collect an additional fee of ten dollars.

(E) Of the additional fee collected pursuant to subsections (A) and (D), the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of producing and administering special license plates.

(F) Any of the remaining additional fee collected pursuant to subsection (D) not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate, or to the general fund, if no additional fee is requested by the organization.

(G) Before the department produces and distributes a plate pursuant to this section, it must receive:

(1) six thousand eight hundred dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(H) The Comptroller General shall place the six thousand eight hundred dollar application fee pursuant to subsection (G)(1) into a restricted account to be used by the department to defray the initial cost of producing the special license plate.

(I) If the department receives less than three hundred biennial applications and renewals for a particular plate authorized under this section, it shall not produce additional plates in that series. The department shall continue to issue license plates of that series until the existing inventory is exhausted.

(J) License plates issued pursuant to this section shall not contain a reference to a private or public college or university in this State or use symbols, designs, or logos of these institutions without the institution's written authorization.

(K) Before a design is approved, the organization must submit to the department written authorization of legal authority for the use of any copyrighted or registered logo, trademark, or design, and the organization's acceptance of legal responsibility for the use.

(L) The department may alter, modify, or refuse to produce any special license plate that it deems offensive or fails to meet community standards. If the department alters, modifies, or refuses to produce a special license plate, the organization or individual applying for the license plate may appeal the department's decision to a special joint legislative committee. This committee shall be comprised of two members from the House Education and Public Works Committee and two members from the Senate Transportation Committee.

Appointments to the joint legislative committee shall be made by the Chairmen of the House Education and Public Works Committee and the Senate Transportation Committee. The department's decision may be reversed by a majority of the joint legislative committee. If the committee reverses the department's decision, the department must issue the license plate pursuant to the committee's decision. However, the provision contained in subsection (G) also must be met. The joint legislative committee may also review all license plates issued by the department and instruct the department to cease issuing or renewing a plate it deems offensive or fails to meet community standards.

(M) Each new classification of special vehicle license plates including, but not limited to, motorcycle license plates, created pursuant to this section must meet the requirements of Articles 81 and 82, Chapter 3, Title 56, as appropriate.

(N) The fee required in subsection (G)(1) must be reviewed by the General Assembly during the 2013 legislative session, and every two years thereafter. The department must provide a detailed, comprehensive justification to increase the fee. Any fee increase must be introduced in a separate bill separate and apart from any other matter.

HISTORY: 1999 Act No. 63, Section 7; 2000 Act No. 286, Section 1; 2002 Act No. 194, Section 1; 2006 Act No. 398, Section 2, eff September 7, 2006; 2008 Act No. 297, Section 5, eff upon approval (became law without the Governor's signature on June 12, 2008); 2008 Act No. 347, Sections 13, 17, 31, eff June 16, 2008; 2008 Act No. 353, Section 7, eff July 1, 2008; 2012 Act No. 272, Section 21, eff December 26, 2012; 2013 Act No. 56, Section 8.A, eff June 12, 2013; 2016 Act No. 275 (S.1258), Section 61, eff

July 1, 2016.

ARTICLE 82

Special License Plates Production and Distribution Guidelines

SECTION 56-3-8100.

Special license plates production and distribution guidelines.

(A) Before the Department of Motor Vehicles produces and distributes a special license plate created by the General Assembly after January 1, 2006, it must receive:

(1) six thousand eight hundred dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(B) The Comptroller General shall place the six thousand eight hundred dollar application fee pursuant to subsection (A)(1) into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(C) The department must develop a basic plate design that will be used for all special license plates authorized by the General Assembly. The license plate must be the same size and general design of regular motor vehicle license plates but may be imprinted on the license plate in an area specified by the department with an emblem, seal, insignia, or other identifying symbol of the sponsoring organization that the department considers appropriate. No text or slogans may be added to the license plate design unless they are part of the approved emblem, seal, insignia, or other identifying symbol. The name of the organization may be imprinted across the top of the license plate. The standard license plate design must be issued for all organizational license plates newly requested after July 1, 2013. License plate designs in production as of that date must be changed when the license plate, or license plate class, is replaced.

(D) The fee for all special license plates created by the General Assembly after January 1, 2006, is the regular biennial registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee to be requested by the individual or organization seeking issuance of the plate, as authorized by law. The initial fee amount requested can only be changed every five years from the first year the plate is issued. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(E) If the individual or organization seeking issuance of the plate does not request an additional fee above the regular registration fee, and no other additional fee is prescribed by law, the department may collect an additional fee of ten dollars.

(F) Of the additional fee collected pursuant to subsections (D) and (E), the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of producing and administering special license plates.

(G) Any of the remaining additional fee collected pursuant to subsections (D) and (E) not placed in the restricted account must be distributed to an organization designated by the individual or organization seeking issuance of the license plate, or to the general fund, if no additional fee is requested by the organization.

(H) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

(I) If the department receives less than three hundred biennial applications and renewals for plates created pursuant to Article 12, Chapter 3, Title 56; Article 14, Chapter 3, Title 56; Article 31, Chapter 3, Title 56; Article 39, Chapter 3, Title 56; Article 40, Chapter 3, Title 56; Article 43, Chapter 3, Title 56; Article 45, Chapter 3, Title 56; Article 49, Chapter 3, Title 56; Article 50, Chapter 3, Title 56; Article 60, Chapter 3, Title 56; Article 70, Chapter 3, Title 56; Article 72, Chapter 3, Title 56; and Article 76, Chapter 3, Title 56 it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

(J) The provisions contained in subsection (A)(1) and (2) do not apply to the production and distribution of the Korean War Veterans Special License Plates contained in Article 68, Chapter 3, Title 56.

(K) For each new classification of special vehicle license plate, including, but not limited to, motorcycle license plates, created pursuant to this section, must meet the requirements of Articles 81 and 82, Chapter 3, Title 56, as appropriate.

(L) The fee required in subsection (A)(1) must be reviewed by the General Assembly during the 2013 legislative session, and every two years thereafter. The department must provide a detailed, comprehensive justification to increase the fee. Any fee increase must be introduced in a separate bill separate and apart from any other matter.

HISTORY: 1999 Act No. 63, Section 8; 2002 Act No. 193, Section 2; 2002 Act No. 194, Section 2; 2002 Act No. 200, Section 9; 2002 Act No. 218, Section 2; 2002 Act No. 264, Section 4; 2002 Act No. 352, Section 2; 2002 Act No. 354, Section 2; 2006 Act No. 398, Section 3, eff September 7, 2006; 2007 Act No. 90, Section 3, eff June 14, 2007; 2008 Act No. 347, Section 18, eff June 16, 2008; 2012 Act No. 272, Section 22, eff December 26, 2012; 2013 Act No. 56, Section 8.B, eff June 12, 2013; 2016 Act No. 275 (S.1258), Sections 62.A, 62.B, eff July 1, 2016.

SECTION 56-3-8110.

Motorcycle special license plates.

Motorcycle special license plates may be issued by the Department of Motor Vehicles for any special license plate under the same terms and conditions as prescribed by law for private passenger motor vehicles.

HISTORY: 2013 Act No. 56, Section 7, eff June 12, 2013.

ARTICLE 83

Rotary International Special License Plates

SECTION 56-3-8200.

Rotary International special license plates.

(A) The Department of Motor Vehicles may issue motor vehicle license plates to members of Rotary International for private passenger motor vehicles registered in their names. The fee for this special license plate must be the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title, and an additional special fee of fifty dollars which must be distributed to the Rotary District in which the purchaser's home club is located in this State. The department must report to the South Carolina Rotary District designee the district chosen as a result of the license plate issuance to which this fee must be distributed. The fee must be deposited in an account designated by each South Carolina Rotary District, and must be distributed properly by each district. Notwithstanding any other provision of law, of the fees collected for the special license plate, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special plate. The license plates issued pursuant to this section must conform to a design agreed to by the department and the chief executive officer of the organization.

(B) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive:

(1) four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(C) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 1999 Act No. 63, Section 12; 2002 Act No. 354, Section 1; 2006 Act No. 398, Section 4, eff September 7, 2006; 2016 Act No. 275 (S.1258), Section 63, eff July 1, 2016.

ARTICLE 84

Marine Corps League Special License Plates [Repealed]

SECTION 56-3-8300.

Repealed.

HISTORY: Former Section, titled Marine Corps League special license plates, had the following history: 1999 Act No. 63, Section 13; 2006 Act No. 398, Section 5, eff September 7, 2006; 2008 Act No. 347, Section 14, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 64, eff July 1, 2016. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 85

Lions Club Special License Plates

SECTION 56-3-8400.

Lions Club special license plates.

(A) The Department of Motor Vehicles may issue "Lions Club" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, and motorcycles, as defined in Section 56-3-20. The fee for this special license plate is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title which must be deposited in the state general fund and the special fee required by Section 56-3-2020 which must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The license plates issued pursuant to this section must conform to a design agreed to by the department and the chief executive officer of the organization.

(B) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive:

(1) four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(C) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 1999 Act No. 63, Section 14; 2016 Act No. 275 (S.1258), Section 65, eff July 1, 2016; 2017 Act No. 65 (H.3256), Section 4, eff May 19, 2017.

Effect of Amendment

2017 Act No. 65, Section 4, amended the section, specifying to whom the Lions Club special license plates may be issued.

ARTICLE 86

Ducks Unlimited Special License Plates

SECTION 56-3-8600.

Authority to issue Ducks unlimited special license plates; fee; number of plates.

(A) The Department of Motor Vehicles may issue "Ducks Unlimited" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names which may have imprinted on them an emblem, seal, or symbol of the South Carolina Ducks Unlimited State Committee. The South Carolina Ducks Unlimited State Committee must submit to the department for its approval the emblem, seal, or symbol it wishes to display on the plates. The South Carolina Ducks Unlimited State Committee must submit to the department written authorization for use of any copyrighted or registered logos, trademarks, or designs. The South Carolina Ducks Unlimited State Committee may request a change in the emblem, seal, or symbol not more than once every five years. The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued. The fee for the plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of fifty dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the department in producing and administering the plates. The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Ducks Unlimited State Committee for wetlands conservation projects in South Carolina. Any remaining funds must be administered by the South Carolina Ducks Unlimited State Committee and deposited in an appropriate nonprofit account designated by the South Carolina Ducks Unlimited State Committee.

(C) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred prepaid applications for the plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of fees is collected for the plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for the plate, it shall not produce additional plates in that series. The department shall continue to issue plates of that series until the existing inventory is exhausted.

HISTORY: 2001 Act No. 104, Section 2; 2004 Act No. 312, Section 1; 2008 Act No. 347, Section 32, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 66, eff July 1, 2016.

ARTICLE 87

NASCAR Special License Plates

SECTION 56-3-8700.

Short title.

This article may be cited as the Denny Woodall Neilson NASCAR Special License Plates Act.

HISTORY: 2001 Act No. 104, Section 1.

SECTION 56-3-8710.

NASCAR special license plates authorized.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names which may have imprinted on the plates an emblem, a seal, or other symbol the department considers appropriate to NASCAR or a NASCAR driver or team. NASCAR or a NASCAR driver or team may submit to the department for approval of the emblem, seal, or other symbol it desires to be used for its respective special license plate. Before a design is approved, NASCAR or the NASCAR driver or team must submit to the department written authorization for the use of a copyrighted or registered logo, trademark, or design. NASCAR or a NASCAR driver or team also may request a change in its respective emblem, seal, or other symbol once the existing supply has been exhausted. The fee for each special license plate is seventy dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The department may also provide, upon request, special NASCAR or NASCAR driver or team collector license plates which shall not be displayed on any vehicle registered or required to be registered in this State. Any person displaying the special NASCAR or NASCAR driver or team collector license plates on any vehicle registered or required to be registered in this State is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or be imprisoned for not more than thirty days. The special NASCAR or NASCAR driver or team collector license plates shall be the same size and general design of the regular NASCAR or NASCAR driver or team special motor vehicle license plates. The fee for issuance of the special NASCAR or NASCAR driver or team collector license plates is twenty-five dollars. The words "collector license plate" shall be imprinted on the special NASCAR or NASCAR driver or team collector license plates.

(C) From the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of producing the special license plates. The remaining funds must be distributed in the following manner:

(1) one-half deposited in a special account, separate and apart from the General Fund, designated the "South Carolina Children's Emergency Shelter Fund" established within and administered for use by the Department of Social Services. The Department of Social Services shall distribute at least one-half of the funds from the special account to the South Carolina Association of Children's Homes and Family Services for the benefit of the South Carolina children's emergency shelters. Funds distributed to the South

Carolina Association of Children's Homes and Family Services may be used only for providing donations to support the South Carolina children's emergency shelters. Funds received by the South Carolina Association of Children's Homes and Family Services pursuant to this section must be deposited in an appropriate nonprofit account designated by the South Carolina Association of Children's Homes and Family Services;

(2) one-fourth deposited in a special account, separate and apart from the General Fund, designated the "South Carolina Sports Development Office Fund" established within and administered for use by the Department of Parks, Recreation and Tourism to promote the South Carolina Sports Development Office; and

(3) one-fourth deposited in a special account, separate and apart from the General Fund designated the "NASCAR License Plate Highway Safety Fund" established within and administered for use by the Department of Public Safety to promote highway safety in conjunction with the Department of Transportation and NASCAR or a NASCAR driver or team.

(D) Before the department produces and distributes NASCAR's or a NASCAR driver's or team's respective special license plate pursuant to this section, it must receive four hundred prepaid applications for NASCAR's or the NASCAR driver's or team's respective special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of NASCAR's or the NASCAR driver's or team's respective license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for the NASCAR or NASCAR driver's or team's respective license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit.

(E) If the department receives less than three hundred biennial applications and renewals for a particular NASCAR or NASCAR driver or team special license plate, it may choose not to produce additional special license plates in that series. However, the department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2001 Act No. 104, Section 1; 2008 Act No. 347, Section 33, eff June 16, 2008; 2009 Act No. 65, Section 1, eff June 2, 2009; 2016 Act No. 275 (S.1258), Section 67, eff July 1, 2016.

ARTICLE 88

World War II Veterans Special License Plates [Repealed]

SECTION 56-3-8800.

Repealed.

HISTORY: Former Section, titled World War II veterans special license plates authorized; handicapped placards, had the following history: 2001 Act No. 104, Section 4; 2005 Act No. 158, Section 2, eff June 10, 2005; 2008 Act No. 347, Section 19, eff June 16, 2008; 2012 Act No. 253, Section 8, eff June 18, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 89

"Choose Life" Special License Plates

SECTION 56-3-8910.

"Choose Life" special license plates authorized.

(A) The Department of Motor Vehicles shall issue special motor vehicle license plates to owners of private passenger carrying motor vehicles or light pickups having an empty weight of seven thousand pounds or less and a gross weight of nine thousand pounds or less registered in their names which shall have imprinted on the plate the words "Choose Life". The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section, after the costs to produce and administer the distribution of this special license plate, must be deposited in a special account, separate and apart from the general fund, designated for use by the Department of Social Services to be used to support local crisis pregnancy programs. Local private nonprofit tax exempt organizations offering crisis pregnancy services may apply for grants from this fund to further their tax exempt purposes. Grants must be awarded not more than once a year, and an applicant must receive as a grant an amount of the total revenues in the fund multiplied by the percentage that the applicant's case load in the preceding calendar year was of the total case load of all applicants in that year. Grants may not be awarded to any agency, institution, or organization that provides, promotes, or refers for abortion.

(C) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive four hundred prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, the department shall retain the deposit.

(D) If the department receives less than three hundred biennial applications and renewals for the "Choose Life" special license plate, it may not produce additional special license plates in that series. However, the department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2001 Act No. 104, Section 6.

ARTICLE 90

Sertoma International Special License Plates

SECTION 56-3-9000.

Sertoma International special license plates authorized.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names, which may have imprinted on the plate an emblem, a seal, or other symbol approved by Sertoma International and the department. Sertoma International may submit to the department for approval of the emblem, seal, or other symbol it desires to be used for its respective special license plate. Before a design is approved, however, Sertoma International must submit to the department written authorization for the use of a copyrighted or registered logo, trademark, or design. Sertoma International also may request a change in the emblem, seal, or other symbol once the existing supply has been exhausted. The fee for each special license plate is seventy dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The fees collected pursuant to this section, after the costs to produce and administer the distribution of the special license plate have been satisfied, must be distributed to the "Camp Sertoma Fund" created by Sertoma International for the continued support of Camp Sertoma. The fund must be administered by Sertoma International and may be used only for Camp Sertoma. Any funds collected must be deposited in an appropriate nonprofit account designated by Sertoma International.

(C) Before the department produces and distributes the Sertoma International special license plate pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department must retain the deposit;

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it may not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2001 Act No. 104, Section 3; 2008 Act No. 347, Section 34, eff June 16, 2008.

ARTICLE 91

South Carolina Technology Alliance Special License Plates

SECTION 56-3-9100.

South Carolina Technology Alliance license plates.

(A) The Department of Motor Vehicles may issue "South Carolina Technology Alliance" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names, which may have imprinted on the plate an emblem, seal, logo, or other symbol that represents the South Carolina Technology Alliance and technology. The South Carolina Technology Alliance must submit to the department for approval the emblem, seal, logo, or other symbol it desires to be used for this special license plate. The South Carolina Technology Alliance may request a change in the emblem, seal, logo, or other symbol not more than once every five years. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of one hundred dollars.

(B) The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Technology Alliance for the continued development of high technology programs across the State and to provide resources for South Carolina Technology Entrepreneurs. The remaining funds must be administered by the South Carolina Technology Alliance, used only for efforts to develop and manage technology entrepreneur programs for South Carolina entrepreneurial high technology businesses, and deposited in an appropriate nonprofit account designated by the South Carolina Technology Alliance.

(C) The department shall reserve the initial fifty license plates in this series for use by the South Carolina Technology Alliance.

(D) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department must retain the deposit; and

(2) a plan to market the sale of the special license plate which must be approved by the department.

(E) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 237, Section 1; 2008 Act No. 347, Section 35, eff June 16, 2008.

ARTICLE 92

In God We Trust Special License Plates

SECTION 56-3-9200.

In God We Trust license plates.

(A) The Department of Motor Vehicles may issue "In God We Trust" special motor vehicle license plates to owners of private

passenger-carrying motor vehicles registered in their names. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Before the department produces and distributes the "In God We Trust" special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit;

(2) a plan to market the sale of these special license plates which must be approved by the department.

(C) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it may not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 236, Section 1.

ARTICLE 93

United We Stand Special License Plates

SECTION 56-3-9300.

United We Stand license plates.

(A) The Department of Motor Vehicles may issue "United We Stand" special motor vehicle license plates to owners of private passenger-carrying motor vehicles and motorcycles registered in their names. The fee for each special license plate is twenty-five dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Twenty-five dollars of the fee collected pursuant to this section must be distributed to the national "Rewards For Justice" fund which was created to establish rewards for the capture of terrorists.

(C) Before the department produces and distributes the "United We Stand" special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit;

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it may not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 236, Section 2; 2008 Act No. 347, Section 15, eff June 16, 2008.

ARTICLE 94

Special Morris Island Lighthouse License Plates

SECTION 56-3-9400.

"Morris Island Lighthouse" license plates; fees; special fund for restoration and preservation of the Morris Island Lighthouse.

(A) The Department of Motor Vehicles may issue "Morris Island Lighthouse" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names, which may have imprinted on the plate an emblem, a seal, or other symbol of the Morris Island Lighthouse. Save the Light, Inc. shall submit to the department for its approval the emblem, seal, or other symbol it desires to be used for this special license plate. Save the Light, Inc. may request a change in the emblem, seal, or other symbol not more than once every five years. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of one hundred dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be distributed to Save the Light, Inc., or another nonprofit fund designated by Save the Light, Inc., for the restoration and preservation of the Morris Island Lighthouse. Any remaining funds must be administered by Save the Light, Inc., used only for efforts to restore and preserve the Morris Island Lighthouse, and deposited in an appropriate nonprofit account designated by Save the Light, Inc.

(C) The department shall reserve the first twelve license plates for use by Save the Light, Inc.

(D) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(E) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 264, Section 2; 2008 Act No. 347, Section 36, eff June 16, 2008; 2016 Act No. 275 (S.1258), Section 68, eff July 1, 2016.

ARTICLE 95

God Bless America Special License Plates

SECTION 56-3-9500.

God Bless America special license plates.

(A) The Department of Motor Vehicles may issue "God Bless America" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 and motorcycles registered in their names. The special license plates must bear the words "God Bless America", the United States Flag, and the silhouette of the State of South Carolina. Before this special license plate is produced, the department must receive written authorization for the use of any copyrighted words, registered logos, trademarks, or designs that appear on this license plate. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle license fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of sixteen dollars.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be designated for use by the South Carolina National Guard for homeland security.

(C) Before the Department of Motor Vehicles produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, then the department must retain the deposit; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 218, Section 1; 2008 Act No. 347, Sections 16, 37, eff June 16, 2008.

ARTICLE 96

"No More Homeless Pets" Special License Plates

SECTION 56-3-9600.

"No More Homeless Pets" license plates; special fund to support local animal spaying and neutering programs; reporting requirements of Agriculture Department; requirements of entities seeking grant reimbursements.

(A) The Department of Motor Vehicles may issue "No More Homeless Pets" special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630 registered in their names, which may have imprinted on the plate "No More Homeless Pets". The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of seventy dollars.

(B)(1) Notwithstanding another provision of law, of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be deposited in a special account, separate and apart from the general fund, designated for use by the South Carolina Department of Agriculture to support local animal spaying and neutering programs. The South Carolina Department of Agriculture may use up to ten percent of the fees deposited in the special account for the administration of the program. Local private nonprofit tax exempt organizations offering animal spaying and neutering programs may apply for grants from this fund to further their tax exempt purposes.

(2) An agency may apply for up to two thousand dollars per grant application at the beginning of each fiscal year and may apply for multiple grants during a fiscal year. Total available grant funds shall be based on the amount of funds collected each previous fiscal year. Grants must specify how many surgeries will be performed and the species and gender of the animals undergoing surgery. Agencies may only apply for one grant at a time. Once a grant is fulfilled, an agency may apply for another grant, provided that funds are available. Grants must be fulfilled within six months of receiving funds. Once grants are completed, agencies must submit

to No More Homeless Pets / South Carolina Animal Care and Control Association (SCACCA) a report identifying each person participating; the basis of eligibility for the program; whether animals are being spayed or neutered; dates of spaying or neutering and of rabies vaccines if applicable; descriptions of animals, including gender; and the appropriate amount charged toward the grant. Any unused funds must be returned. If a copay was charged to participating individuals, then that amount must also be included. The Department of Agriculture shall encourage participation from Tier 3 and Tier 4 counties.

(3) SCACCA or its successor organization, on behalf of the tax exempt organizations, shall coordinate the grant program, make the request for reimbursement from the Department of Agriculture, and distribute the individual grants to the participating tax exempt organizations.

(C) Before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department must refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the license plate, the department must retain the deposit; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

(E) The Department of Agriculture annually shall provide an accounting and summary of this program to the Chairman of the Senate Agriculture and Natural Resources Committee and to the Chairman of the House Agriculture, Natural Resources and Environmental Affairs Committee before September first.

(F) A local private nonprofit animal spaying and neutering program that requests reimbursement for services related to this program shall provide to the SCACCA the name and address of each person who brought the animal to the program. Before the Department of Agriculture may send a reimbursement to the SCACCA, the SCACCA shall provide the Department of Agriculture a list of each individual who brought a pet in for spaying or neutering and the number of animals brought in by that individual for spaying or neutering.

HISTORY: 2002 Act No. 266, Section 1; 2005 Act No. 158, Section 4, eff June 10, 2005; 2008 Act No. 347, Section 38, eff June 16, 2008; 2016 Act No. 274 (S.980), Section 4, eff June 15, 2016; 2016 Act No. 275 (S.1258), Section 69, eff July 1, 2016; 2019 Act No. 43 (S.105), Section 5, eff May 16, 2019.

Editor's Note

2019 Act No. 43, Section 10, provides as follows:

"SECTION 10. The General Assembly finds it is the best practice for a shelter, public or private, to prepare and maintain records documenting the number of animals admitted to the facility and the method by which those animals exit the facility, whether by adoption, fostering, natural death, euthanasia, transfer to another state, or other means of discharge."

Effect of Amendment

2019 Act No. 43, Section 5, in (B), inserted the (1) identifier and deleted the fifth and sixth sentences, which had provided that grants must be awarded not more than once a year, and added (2) and (3).

ARTICLE 97

Heritage Classic Foundation Special License Plates

SECTION 56-3-9710.

"Heritage Classic Foundation" license plates; fees; special fund for Heritage Classic Foundation.

(A) The Department of Motor Vehicles may issue Heritage Classic Foundation special license plates to owners of private passenger-carrying motor vehicles registered in their names. The fee for each special license plate is seventy-five dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Of the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering this special license plate. The remaining funds collected from the special motor vehicle license fee must be distributed to the Heritage Classic Foundation.

(C) Before the department produces and distributes the Heritage Classic Foundation special license plates pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or a deposit of four thousand dollars from the individual or organization seeking issuance of the license plate. If a deposit of four thousand dollars is made by an individual or organization pursuant to this section, the department shall refund the four thousand dollars once an equivalent amount of license plate fees is collected for that organization's license plate. If the equivalent amount is not collected within four years of the first issuance of the respective license plate, the department shall retain the deposit;

(2) a plan to market the sale of the special license plate which must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate, it may

not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2002 Act No. 264, Section 3; 2016 Act No. 275 (S.1258), Section 70, eff July 1, 2016.

ARTICLE 98

Breast Cancer Awareness Special License Plates

SECTION 56-3-9800.

Breast cancer awareness special license plates authorized.

(A) The Department of Motor Vehicles may issue a special commemorative Breast Cancer Awareness motor vehicle license plate to establish a special fund to be used by the Department of Health and Environmental Control for the purpose of expanding the services provided by the Best Chance Network. The special license plates, which must be of the same size and general design of regular motor vehicle license plates, must be imprinted with the nationally recognized breast cancer symbol with numbers as the department may determine. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee as set forth in Article 5, Chapter 3 of this title.

(B) One-half of the seventy dollar biennial fee collected over that required by Article 5, Chapter 3 of this title must be deposited in a separate fund for the Department of Health and Environmental Control and be used solely to expand the services of the Best Chance Network. The remaining one-half of the fee must be distributed to the South Carolina chapter of the American Cancer Society.

(C) Before the department produces and distributes a plate authorized under this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or four thousand dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the special license plate that must be approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2006 Act No. 287, Section 2, eff May 23, 2006.

ARTICLE 99

Gold Star Family Special License Plates [Repealed]

SECTION 56-3-9910.

Repealed.

HISTORY: Former Section, titled Gold Star Family special license plates, had the following history: 2006 Act No. 398, Section 19, eff September 7, 2006; 2008 Act No. 347, Section 39, eff June 16, 2008; 2009 Act No. 79, Section 3, eff June 16, 2009; 2012 Act No. 253, Section 6, eff June 18, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 100

"Parrot Head" Special License Plates

SECTION 56-3-10010.

"Parrot Head" special license plate authorized.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles or light pickups having an empty weight of six thousand pounds or less and a gross weight of nine thousand pounds or less registered in their names that shall have imprinted on the plate an emblem, seal, or other symbol associated with the South Carolina Parrot Head Club Council. The South Carolina Parrot Head Club Council must submit to the department written authorization to use a copyrighted or registered logo, trademark, or design on the special license plate. The South Carolina Parrot Head Club Council may request a change in the emblem, seal, or other symbol not more than once every five years. The fee charged for the special license plate shall be adjusted as necessary to account for any additional expenses associated with a change in design. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) From the fees collected pursuant to this article, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses associated with producing and administering the distribution of the license plate. The remaining funds collected from the special motor vehicle license fee shall be distributed to the South Carolina Parrot Head Club Council, which shall only use the funds to support the Palmetto Chapter of the Alzheimer's Association and the Upstate South Carolina Chapter of the Alzheimer's Association.

(C) Notwithstanding the provisions contained in Section 56-3-8100, before the Department of Motor Vehicles produces and distributes a special license plate pursuant to this section, it must receive:

(1) four hundred or more prepaid applications for the special license plate or four thousand dollars from the individual or organization seeking issuance of the license plate; and

(2) a plan to market the sale of the plate approved by the department.

(D) If the department receives less than three hundred biennial applications and renewals for the special license plate authorized by this article, it may not produce additional special license plates in this series. However, the department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2006 Act No. 286, Section 1, eff May 23, 2006; 2016 Act No. 275 (S.1258), Section 71, eff July 1, 2016.

ARTICLE 101

Operation Desert Storm-Desert Shield Veteran Special License Plates [Repealed]

SECTION 56-3-10110.

Repealed.

HISTORY: Former Section, titled Operation Desert Storm-Desert Shield special license plates, had the following history: 2008 Act No. 297, Section 1, eff upon approval (became law without the Governor's signature on June 12, 2008). Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 102

Operation Enduring Freedom Veteran Special License Plates [Repealed]

SECTION 56-3-10210.

Repealed.

HISTORY: Former Section, titled Operation Enduring Freedom Veteran special license plates, had the following history: 2008 Act No. 297, Section 2, eff upon approval (became law without the Governor's signature on June 12, 2008). Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 103

Operation Iraqi Freedom Veteran Special License Plate [Repealed]

SECTION 56-3-10310.

Repealed.

HISTORY: Former Section, titled Operation Iraqi Freedom Veteran special license plates, had the following history: 2008 Act No. 297, Section 3, eff upon approval (became law without the Governor's signature on June 12, 2008). Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 104

Veteran License Plates [Repealed]

SECTION 56-3-10410.

Repealed.

HISTORY: Former Section, titled Veteran license plates, had the following history: 2008 Act No. 297, Section 4, eff upon approval (became law without the Governor's signature on June 12, 2008); 2012 Act No. 272, Section 17, eff December 26, 2012; 2013 Act No. 56, Section 3, eff June 12, 2013. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 105

"I Believe" Special License Plates

SECTION 56-3-10510.

"I Believe" special license plates.

The Department of Motor Vehicles may issue "I Believe" special motor vehicle license plates to owners of private motor vehicles registered in their names. The plate must contain the words "I Believe" and a cross superimposed on a stained glass window. The biennial fee for this special license plate is the same as the fee provided in Article 5, Chapter 3 of this title. The guidelines for the production of this special license plate must meet the requirements contained in Section 56-3-8100.

HISTORY: 2008 Act No. 297, Section 6, eff upon approval (became law without the Governor's signature on June 12, 2008).

Validity

For validity of this section, see *Summers v. Adams*, 669 F.Supp.2d 637 (D. S.C. 2009).

ARTICLE 106

Silver Star Special License Plates [Repealed]

SECTION 56-3-10610.

Repealed.

HISTORY: Former Section, titled Silver Star special license plate, had the following history: 2008 Act No. 297, Section 7, eff upon approval (became law without the Governor's signature on June 12, 2008); 2016 Act No. 186 (H.3927), Section 4, eff May 25, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 107

Bronze Star Special License Plates [Repealed]

SECTION 56-3-10710.

Repealed.

HISTORY: Former Section, titled Bronze Star special license plate, had the following history: 2008 Act No. 297, Section 8, eff upon approval (became law without the Governor's signature on June 12, 2008); 2016 Act No. 186 (H.3927), Section 5, eff May 25, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 108

South Carolina Tennis Patrons Foundation Special License Plates

SECTION 56-3-10810.

South Carolina Tennis Patrons Foundation special license plates; fees.

(A) The Department of Motor Vehicles may issue "Play Tennis" special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names which shall have imprinted on them an emblem, seal, symbol, or wording relating to the South Carolina Tennis Patrons Foundation. The South Carolina Tennis Patrons Foundation

shall submit to the department for its approval the emblem, seal, symbol, or wording it desires to be used for this special license plate. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed to the South Carolina Tennis Patrons Foundation and must be used to fund kids-at-risk programs throughout the State, need-based grants for junior tennis players, and academic scholarships for high school seniors.

(C) The guidelines for the production of a special license plate pursuant to this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 253, Section 1, eff June 18, 2012.

ARTICLE 109

"Tree My Dog" Special License Plates

SECTION 56-3-10910.

Tree My Dog special license plates; fees.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names which must have imprinted on the plate "Tree My Dog". This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100. The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the South Carolina State Coon Hunters Association Youth Fund.

HISTORY: 2012 Act No. 253, Section 3, eff June 18, 2012.

ARTICLE 110

United States Navy Chief Petty Officer Special License Plates [Repealed]

SECTION 56-3-11010.

Repealed.

HISTORY: Former Section, titled United States Navy Chief Petty Officer special license plates; fees, had the following history: 2012 Act No. 253, Section 4, eff June 18, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 111

United States Marine Corps Special License Plates [Repealed]

SECTION 56-3-11110.

Repealed.

HISTORY: Former Section, titled United States Marine Corps special license plates; fees, had the following history: 2012 Act No. 253, Section 7, eff June 18, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 112

"Distinguished Service Medal" Special License Plates [Repealed]

SECTION 56-3-11210.

Repealed.

HISTORY: Former Section, titled Distinguished Service Medal special license plates, had the following history: 2012 Act No. 272, Section 1, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 113

"Second Amendment" Special License Plates

SECTION 56-3-11310.

Second Amendment special license plates.

(A) The Department of Motor Vehicles may issue "Second Amendment" special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the Criminal Justice Academy.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 2, eff December 26, 2012.

ARTICLE 114

"Historic" Special Motor Vehicle License Plates

SECTION 56-3-11410.

Historic special license plates.

The Department of Motor Vehicles may issue a "Historic" special motor vehicle license plate for use on a private passenger carrying motor vehicle, as defined in Section 56-3-630, or a motorcycle as defined in Section 56-3-20, that is twenty-five years of age or

older at the time of applying for the special plate. The applicant for a "Historic" license plate must be the owner of the motor vehicle or motorcycle and must be a resident of this State.

HISTORY: 2012 Act No. 272, Section 3, eff December 26, 2012.

SECTION 56-3-11420.

Size and design of Historic special license plate; expiration.

The special license plate must be of the same size and general design as a regular motor vehicle or motorcycle license plate. The Department of Motor Vehicles shall imprint the special license plates with the word "Historic", with numbers the department may determine. The license plate must be for a biennial period that expires twenty-four months from the month it is issued.

HISTORY: 2012 Act No. 272, Section 3, eff December 26, 2012.

SECTION 56-3-11430.

Transfer of Historic special license plate.

A license plate issued pursuant to this article may be transferred to another vehicle or motorcycle that meets the requirements of Section 56-3-1240, and is owned by the same person upon application being made and being approved by the Department of Motor Vehicles. It is unlawful for any person to whom the plate has been issued to knowingly permit it to be displayed on any vehicle or motorcycle except the one authorized by the department.

HISTORY: 2012 Act No. 272, Section 3, eff December 26, 2012.

SECTION 56-3-11440.

Exemptions; penalties.

The provisions of this article do not affect the registration and licensing of motor vehicles or motorcycles as required by other provisions of this chapter, but are cumulative to those other provisions. Any person violating the provisions of this article or any person who (a) fraudulently gives false or fictitious information in any application for a special license plate, as authorized in this article, (b) conceals a material fact, or (c) otherwise commits fraud in the application or in the use of any special license plate issued is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both.

HISTORY: 2012 Act No. 272, Section 3, eff December 26, 2012.

SECTION 56-3-11450.

Fees.

The fee for the plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty-five dollars. Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the department in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license fee must be placed in the state's general fund.

HISTORY: 2012 Act No. 272, Section 3, eff December 26, 2012.

SECTION 56-3-11460.

Guidelines.

The guidelines for the production, collection and distribution of fees for a "Historic" special license plate must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 3, eff December 26, 2012.

ARTICLE 115

"Distinguished Service Cross" Special License Plates [Repealed]

SECTION 56-3-11510.

Repealed.

HISTORY: Former Section, titled Distinguished Service Cross special license plates, had the following history: 2012 Act No. 272, Section 4, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 116

"Department of the Navy" Special License Plates [Repealed]

SECTION 56-3-11610.

Repealed.

HISTORY: Former Section, titled Department of the Navy special license plates, had the following history: 2012 Act No. 272, Section 5, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 117

"Parents and Spouses of Active Duty Overseas Veterans"

Special License Plates [Repealed]

SECTION 56-3-11710.

Repealed.

HISTORY: Former Section, titled Parents and Spouses of Active Duty Overseas Veterans special license plates, had the following history: 2012 Act No. 272, Section 6, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 118

"State Flag" Special License Plates

SECTION 56-3-11810.

State Flag special license plates.

(A) The Department of Motor Vehicles may issue special "State Flag" motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names. The fee for this special license plate is twenty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The design of the license plate must replicate the color, layout, and design of the state flag. The blue used for the license plate must be the official state color as established in Section 1-1-710.

(C) The fees collected pursuant to this section above the cost of production must be distributed to the general fund.

(D) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 7, eff December 26, 2012.

ARTICLE 119

"South Carolina Highway Patrol-Retired" License Plates

SECTION 56-3-11910.

South Carolina Highway Patrol-Retired special license plates.

(A) The Department of Motor Vehicles may issue "South Carolina Highway Patrol-Retired" license plates for use on private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in a person's name in this State who served as a South Carolina Highway Patrolman or State Trooper and who honorably retired. An application for this special motor vehicle license plate must include certification from the South Carolina Highway Patrol that the applicant honorably retired.

(B) The requirements for production, collection and distribution of fees for a license plate are those set forth in Section 56-3-8100. The Department of Motor Vehicles shall imprint the special license plates with the insignia of the South Carolina Highway Patrol and the words "South Carolina Highway Patrol-Retired" with numbers the department may determine.

(C) Only one special license plate authorized by this section may be issued to a person. A license plate issued pursuant to this section may be transferred to another vehicle of the same weight class owned by the same person upon application being made and being approved by the Department of Motor Vehicles.

(D) Any person issued a special license plate pursuant to this section who is convicted of any felony, classified misdemeanor, traffic violation requiring a suspension of driving privileges, crime involving dishonesty or moral turpitude, or other crime punishable by imprisonment for one year or more, shall surrender the special license plate to the Department of Motor Vehicles within three days of the date of the conviction.

(E) The provisions of this section do not affect the registration and licensing of motor vehicles required by other provisions of this chapter, but are cumulative to those other provisions.

(F) A person violating the provisions of this section or a person who:

(1) fraudulently gives false or fictitious information in any application for a special license plate authorized by this section;

(2) conceals a material fact or otherwise commits fraud in the application for a special license plate issued pursuant to this section;

(3) permits the special license plate to be displayed on any vehicle except the one authorized by the Department of Motor Vehicles; or

(4) who fails to surrender the special license plate as required by this section, is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days, or both.

HISTORY: 2012 Act No. 272, Section 8, eff December 26, 2012.

ARTICLE 120

"I Support Libraries" Special License Plates

SECTION 56-3-12010.

"I Support Libraries" special license plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names which must have imprinted on the plate "I Support Libraries". This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of producing the license plates must be equally distributed between the South Carolina Association of School Librarians and the South Carolina Library Association.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 10, eff December 26, 2012.

ARTICLE 121

"South Carolina Educator" Special License Plates

SECTION 56-3-12110.

South Carolina Educator special license plates.

(A) The Department of Motor Vehicles may issue special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names which must have imprinted on the plate "South Carolina Educator". The application for this special license plate must include proof that the applicant is a public or private kindergarten through twelfth grade school teacher. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of the production must be distributed to the general fund.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 11, eff December 26, 2012.

ARTICLE 122

"Beach Music" Special License Plates

SECTION 56-3-12210.

Beach Music special license plates.

(A) The Department of Motor Vehicles may issue "Beach Music" special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names which may have imprinted on the plate an emblem, a seal, or other symbol chosen by the department in consultation with the South Carolina Arts Commission reflecting the status of beach music as the official state popular music pursuant to Section 1-1-689. License plate number "one" for the beach music license plate is reserved for the president of the Beach Music Association International or its successor organization if that individual is otherwise eligible to register a qualifying motor vehicle in this State. License plate number "two" for the beach music license plate is reserved for the Chairman of the Board of Trustees of Coastal Carolina University if that individual is otherwise eligible to register a motor vehicle in this State. The special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of twenty dollars.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the general fund.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 12, eff December 26, 2012.

ARTICLE 123

Citadel Alumni Association "Big Red" Special License Plates

SECTION 56-3-12310.

Citadel Alumni Association "Big Red" special license plates.

(A) The Department of Motor Vehicles may issue Citadel Alumni Association "Big Red" special license plates to owners of private passenger carrying motor vehicles as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names. The fee for each special license plate is seventy-five dollars every two years in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3 of this title. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the Citadel Alumni Association.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 13, eff December 26, 2012.

ARTICLE 124

"Largemouth Bass" Special License Plates

SECTION 56-3-12410.

Largemouth Bass special license plates.

(A) The Department of Motor Vehicles may issue "Largemouth Bass" special motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names. The license plate shall have the image of a largemouth bass imprinted on it. The design of the plate and the largemouth bass image utilized must be selected through a public process conducted by the Department of Natural Resources. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) The fees collected pursuant to this section above the cost of production must be distributed to the Department of Natural Resources, which only shall use the funds to promote bass fishing throughout the State.

(C) The guidelines for the production, collection and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 14, eff December 26, 2012.

ARTICLE 125

High School Special License Plates

SECTION 56-3-12510.

High School special license plates.

(A) The Department of Motor Vehicles may issue to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in a person's name, special motor vehicle license plates which may have imprinted on them an emblem, a seal, or other symbol the department considers appropriate of a public or independent high school located in this State. A school may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate. A school also may request a change in the emblem, seal, or other symbol once the existing inventory of the license plate has been exhausted. The fee for this special license plate is seventy dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3 of this title. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(B) The fees collected pursuant to this section must be distributed to a separate fund for each of the respective high schools. Each fund must be administered by the school and may be used only for academic scholarships. Funds collected for state schools must be deposited with the State Treasurer. Funds collected for independent institutions must be deposited in an account designated by the respective school. The distribution is thirty dollars to the department and forty dollars to the school for each special license plate sold for the respective school.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 18, eff December 26, 2012.

ARTICLE 126

"South Carolina Wildlife Federation" Special License Plates

SECTION 56-3-12610.

South Carolina Wildlife Federation special license plates.

(A) The Department of Motor Vehicles may issue "South Carolina Wildlife Federation" or "Palmetto Wild" or both, special motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names which may have imprinted on them an emblem, seal, symbol, or design of the South Carolina Wildlife Federation. The South Carolina Wildlife Federation must submit to the department for its approval the emblem, seal, symbol, or design it wishes to display on the plates. The South Carolina Wildlife Federation must submit to the department written authorization for use of any copyrighted or registered logos, trademarks, or designs. The South Carolina Wildlife Federation may request a change in the emblem, seal, or symbol not more than once every five years. The plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued. The fee for the plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license fee of thirty dollars.

(B) Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the department to defray the expenses of the department in producing and administering the plates. The remaining funds collected from the special motor vehicle license fee must be distributed to the South Carolina Wildlife Federation for conservation programs in South Carolina.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2012 Act No. 272, Section 19, eff December 26, 2012.

ARTICLE 127

"Dr. Mary McLeod Bethune" Special License Plates

SECTION 56-3-12710.

Dr. Mary McLeod Bethune special license plates.

(A) The Department of Motor Vehicles may issue "Dr. Mary McLeod Bethune" special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names which shall have imprinted on burgundy and gold license plates "Dr. Mary McLeod Bethune" and her image, her year of birth, and her year of death. Twin City Outreach Mission shall submit to the department for its approval a design it desires to be used for this special license plate. Twin City Outreach Mission may request a change in the design not more than once every five years. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of the regular motor vehicle registration fee must be distributed in the following manner:

(1) seventy-five percent to Twin City Outreach Mission to:

(a) fund the construction and operation of the Dr. Mary McLeod Bethune Museum and Restaurant;

(b) fund the construction of the Dr. Mary McLeod Bethune Nature Trail;

(c) promote tourism in the Town of Mayesville, Sumter County, South Carolina; and

(d) promote other projects related to Dr. Mary McLeod Bethune, tourism that will impact economic development and job creation for the citizens of Mayesville, Sumter County, and South Carolina; and

(2) twenty-five percent to the Town of Mayesville to be used for operational and program opportunity matching funds.

HISTORY: 2012 Act No. 272, Section 24, eff December 26, 2012.

ARTICLE 128

Gadsden Flag License Plates

SECTION 56-3-12810.

Gadsden Flag special license plates.

(A) The Department of Motor Vehicles may issue "Gadsden Flag" motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630 and motorcycles as defined in Section 56-3-20 registered in their names. The fee for this special license plate is twenty dollars every two years in addition to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and shape of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The design of the license plate must replicate the color, layout, and design of the Gadsden flag and contain the words "Don't Tread on Me" below a coiled rattlesnake.

(C) The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the State Museum. The State Museum must use the fees only to help fund programs and exhibits dedicated to the Revolutionary War and our state's role in the Revolutionary War.

(D) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100.

(E) If the department receives fewer than three hundred biennial applications and renewals for this special license plate, it may not produce additional special license plates in this series. The department shall continue to issue special license plates of this series until the existing inventory is exhausted.

HISTORY: 2012 Act No. 272, Section 25, eff December 26, 2012.

ARTICLE 129

"Active Duty Members of the United States Armed Forces" Special License Plates [Repealed]

SECTION 56-3-12910.

Repealed.

HISTORY: Former Section, titled Active Duty Members of the United States Armed Forces special license plates, had the following history: 2012 Act No. 272, Section 26, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 130

"2010-11 Baseball National Champions" Special License Plates

SECTION 56-3-13010.

2010-11 Baseball National Champions special license plates.

(A) The Department of Motor Vehicles may issue "2010-11 Baseball National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate, provided that the phrase "2010-11 National Baseball Champions" must be utilized on the plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number "1" for the "2010-11 Baseball National Champions" license plate is reserved for the University of South Carolina Head Baseball Coach.

HISTORY: 2012 Act No. 272, Section 27, eff December 26, 2012.

ARTICLE 131

"Combat-Related Disabled Veteran" Special License Plates [Repealed]

SECTION 56-3-13110.

Repealed.

HISTORY: Former Section, titled Combat-Related Disabled Veteran special license plates, had the following history: 2012 Act No. 272, Section 28, eff December 26, 2012. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 132

Special License Plates for Recipients of the Distinguished Flying Cross [Repealed]

SECTION 56-3-13210.

Repealed.

HISTORY: Former Section, titled Recipients of the Distinguished Flying Cross special motor vehicle license plates, had the following history: 2013 Act No. 56, Section 1, eff September 12, 2013. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 133

Motorcycle Awareness Alliance Special License Plates

SECTION 56-3-13310.

"Motorcycle Awareness Alliance" special motor vehicle license plates.

(A) The Department of Motor Vehicles may issue "Motorcycle Awareness Alliance" special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names which may have imprinted on the plate the Motorcycle Awareness Alliance emblem. The Motorcycle Awareness Alliance shall submit to the department for its approval the proposed design it desires to be used for this special license plate. The fee for this special license plate is the regular motor vehicle registration fee contained in Article 5, Chapter 3 of this title and a special motor vehicle license plate fee of thirty dollars. This special license plate must be of the same size and general design of regular motor vehicle license plates. The special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

(B) Notwithstanding any other provision of law, from the fees collected pursuant to this section, the Comptroller General shall place sufficient funds into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license plate fee must be distributed to the Motorcycle Awareness Alliance for the promotion of motorcycle safety, education and awareness programs and deposited into an appropriate nonprofit account designated by the Motorcycle Awareness Alliance.

(C) The guidelines for the production of a special license plate under this section must meet the requirements of Section 56-3-8100.

(D) If the department receives less than three hundred biennial applications and renewals for a particular special license plate authorized under this section, it shall not produce additional special license plates in that series. The department shall continue to issue special license plates of that series until the existing inventory is exhausted.

HISTORY: 2013 Act No. 56, Section 4, eff June 12, 2013.

ARTICLE 134

S.C. Riverkeepers Special License Plates

SECTION 56-3-13410.

S.C. Riverkeepers special license plates.

(A) The Department of Motor Vehicles may issue S.C. Riverkeepers special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names which shall have a blue background and imprinted on them in white "S.C. Riverkeepers", "Keep Our Rivers Clean", a crescent moon, and a palmetto tree. The fee for this special license plate is thirty dollars every two years in addition to the regular motor vehicle registration fee set forth in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The additional fees collected pursuant to this section above the cost of production must be distributed equally to the Congaree Riverkeeper, Charleston Waterkeeper, Waccamaw Riverkeeper, Savannah Riverkeeper, Catawba Riverkeeper, and Santee Riverkeeper organizations.

(C) The guidelines for the production, collection, and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2013 Act No. 56, Section 5, eff December 12, 2013.

ARTICLE 135

Autism Awareness Special License Plates

SECTION 56-3-13510.

Short title.

This article may be cited as the "Savannah Lee Monroe Autism Awareness Special License Plates Act".

HISTORY: 2013 Act No. 56, Section 6, eff June 12, 2013.

SECTION 56-3-13520.

"Autism Awareness" special motor vehicle license plates.

(A) The Department of Motor Vehicles may issue "Autism Awareness" special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100. The fees collected pursuant to this section above the cost of producing the license plates must be distributed to the South Carolina Autism Society.

HISTORY: 2013 Act No. 56, Section 6, eff June 12, 2013.

ARTICLE 136

South Carolina Stands with Israel Special License Plates

SECTION 56-3-13610.

"South Carolina Stands with Israel" special license plates.

(A) The Department of Motor Vehicles may issue "South Carolina Stands with Israel" special motor vehicle license plates to owners

of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names. This special license plate must be of the same size and general design of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100. Any portion of the fees collected pursuant to this article, not set aside by the Comptroller General to defray the expenses associated with producing and administering the distribution of the license plate, must be distributed to Chabad of Charleston, Inc.

HISTORY: 2014 Act No. 202 (H.4383), Section 1, eff June 2, 2014.

ARTICLE 137

American Red Cross Special License Plates

SECTION 56-3-13710.

American Red Cross special motor vehicle license plates.

(A) The Department of Motor Vehicles may issue American Red Cross special motor vehicle license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, and motorcycles, as defined in Section 56-3-20, registered in their names. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) Notwithstanding another provision of law, from the fees collected pursuant to this section, the Comptroller General shall place into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, an amount equal to the expenses of the Department of Motor Vehicles in producing and administering the special license plates. The remaining funds collected from the special motor vehicle license plate fee must be disbursed to the American Red Cross.

(C) Notwithstanding another provision of law, the requirements for production, collection, and distribution of fees for these license plates are those set forth in Section 56-3-8100.

(D) The department shall imprint the special license plates with the distinctive Red Cross emblem approved by the American Red Cross along with the words or text, "Proud Supporter of the American Red Cross" written at the top of the special license plates.

HISTORY: 2015 Act No. 55 (H.3264), Section 1, eff June 3, 2015; 2016 Act No. 275 (S.1258), Section 72, eff July 1, 2016.

ARTICLE 138

Chase Away Childhood Cancer Special License Plates

SECTION 56-3-13810.

Chase Away Childhood Cancer special license plates; fees.

(A) The Department of Motor Vehicles may issue "Chase Away Childhood Cancer" motor vehicle license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630 and motorcycles as defined in Section 56-3-20 registered in their names. The fee for this special license plate is fifty dollars every two years in addition to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. This special license plate must be of the same size and shape of regular motor vehicle license plates. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(B) The fees collected pursuant to this section above the cost of producing the license plates must be distributed to Chase After a Cure.

(C) The requirements for production, collection, and distribution of fees for this license plate are those set forth in Section 56-3-8100.

HISTORY: 2016 Act No. 186 (H.3927), Section 6, eff May 25, 2017.

ARTICLE 139

Special Personalized Motor Vehicle License Plates

SECTION 56-3-13910.

Special personalized motor vehicle license plates; fee; design.

(A) The department may issue special personalized motor vehicle license plates to owners of private passenger motor vehicles as defined in Section 56-3-630, and motorcycles as defined in Section 56-3-20, registered in their names for any special organizational plate authorized pursuant to Section 56-3-8000, Section 56-3-8100, or any other organizational plate authorized by law. In order for a specialized license plate to be personalized, the sponsoring organization, if there is one, must agree to make the license plate available for personalization. The person requesting the special personalized license plate must meet all of the requirements to obtain the specialty license plate.

(B) The fee for all special personalized organizational license plates created pursuant to this section is the regular biennial registration fee set forth in Article 5, Chapter 3 of this title plus an additional biennial personalization fee of thirty dollars, in addition to any special fee associated with the selected plate design. The Comptroller General shall place twenty dollars of the special personalized organizational license plate fee in a special restricted account to be used by the department to defray the expenses of the department. The remaining ten dollars of the personalization fee must be distributed to the sponsoring organization. The department may not refund the fee once the personalized license plate has been manufactured.

(C) The license plate design must be identical to the design approved by the department for the organizational license plate, but the license plate will bear the requested number or letter combination subject to approval by the department. There may be no duplication of registration license plate letter or number combinations. The department, in its discretion, may refuse the issue of letter or number combinations which may carry connotations offensive to good taste and decency.

HISTORY: 2016 Act No. 186 (H.3927), Section 1, eff May 25, 2017.

ARTICLE 140

"Clemson University 2016 and 2018 Football National Champions" Special License Plates

SECTION 56-3-14010.

Clemson University 2016 and 2018 Football National Champions special license plates.

(A)(1) The Department of Motor Vehicles shall issue "Clemson University 2016 Football National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(2) The department shall issue "Clemson University 2018 Football National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) Clemson University may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plates.

(C) The requirements for production, collection, and distribution of fees for the plates are those set forth in Section 56-3-8100. The biennial fee for each plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for Clemson University pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D)(1) License number "1" for the "Clemson University 2016 Football National Champions" license plate is reserved for the Clemson University Head Football Coach.

(2) License number "1" for the "Clemson University 2018 Football National Champions" license plate is reserved for the Clemson University Head Football Coach.

HISTORY: 2017 Act No. 1 (S.263), Section 1, eff March 10, 2017; 2019 Act No. 22 (S.514), Section 1, eff April 26, 2019.

Effect of Amendment

2019 Act No. 22, Section 1, in (A), inserted the (1) identifier and added (2), relating to Clemson University 2018 Football National Champions' special license plates; in (B), substituted "license plates" for "license plate"; in (C), in the first sentence, substituted "plates" for "plate", and in the second sentence, substituted "each plate" for "this plate"; in (D), inserted the (1) identifier and added (2), relating to license number "1" being reserved for the Clemson University Head Football Coach.

ARTICLE 141

"2016 Baseball National Champions" Special License Plates

SECTION 56-3-14110.

2016 Baseball National Champions special license plates.

(A) The Department of Motor Vehicles shall issue "2016 Baseball National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names.

(B) Coastal Carolina University may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate, provided that the phrase "2016 Baseball National Champions" must be utilized on the plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for Coastal Carolina University pursuant to Section 56-3-3710(B), used for the purposes provided in that section.

(D) License number "1" for the "2016 Baseball National Champions" license plate is reserved for the Coastal Carolina University Head Baseball Coach.

HISTORY: 2017 Act No. 5 (S.365), Section 1, eff April 5, 2017.

ARTICLE 142

"University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions" Special License Plates

SECTION 56-3-14210.

University of South Carolina 2017 and 2022 Women's Basketball National Champions special license plates.

Section effective until November 20, 2024. See, also, Section 56-3-14210 effective November 20, 2024.

(A) The Department of Motor Vehicles shall issue "University of South Carolina 2017 and 2022 Women's Basketball National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number "1" for the "University of South Carolina 2017 and 2022 Women's Basketball National Champions" license

plates are reserved for the University of South Carolina Women's Basketball Coach.

(E) The department must issue to registrants who have a license plate commemorating only the 2017 Women's Basketball National Championship the license plate commemorating both the 2017 and 2022 national championship once the 2017 license plate reaches the end of its ten-year lifecycle. This subsection does not apply to registrants who choose to switch to the "2017 and 2022" license plate on their own.

HISTORY: 2017 Act No. 21 (S.617), Section 1, eff May 9, 2017; 2022 Act No. 216 (S.1237), Section 1, eff May 23, 2022.

SECTION 56-3-14210.

University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions special license plates.

Section effective November 20, 2024. See, also, Section 56-3-14210 effective until November 20, 2024.

(A) The Department of Motor Vehicles shall issue "University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions" special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) The University of South Carolina may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for the University of South Carolina pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number "1" for the "University of South Carolina 2017, 2022, and 2024 Women's Basketball National Champions" license plate is reserved for the University of South Carolina Women's Basketball Coach.

(E) The department must issue to registrants who have a license plate commemorating only the 2017 Women's Basketball National Championship or only the 2017 and 2022 Women's Basketball National Championships, the license plate commemorating the 2017, 2022, and 2024 national championships once both the 2017 and the 2017 and 2022 license plates reach the end of their ten-year lifecycles. This subsection does not apply to registrants who choose to switch to the "2017, 2022, and 2024" license plate on their own.

HISTORY: 2017 Act No. 21 (S.617), Section 1, eff May 9, 2017; 2022 Act No. 216 (S.1237), Section 1, eff May 23, 2022; 2024 Act No. 178 (H.4674), Section 8, eff November 20, 2024.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 1, in (A), inserted "and 2022" following "2017"; in (D), inserted "and 2022" following "2017" and substituted "license plates are" for "license plate is"; and added (E).

2024 Act No. 178, Section 8, rewrote the section.

ARTICLE 143

"Palmetto Cross" Special License Plates [Repealed]

Code Commissioner's Note

At the direction of the Code Commissioner, Article 140, as added by 2017 Act No. 65, Section 1, was redesignated as Article 143 to accommodate the addition of Article 140 added by 2017 Act No. 1, Section 1.

SECTIONS 56-3-14310 to 56-3-14340.

Repealed.

HISTORY: Former Section 56-3-14310, titled Palmetto Cross Medal special license plates; fees, had the following history: 2017 Act No. 65 (H.3256), Section 1, eff May 19, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-14320, titled Size of plates; handicapped qualification, had the following history: 2017 Act No. 65 (H.3256), Section 1, eff May 19, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-14330, titled Transfer of special license plate to another vehicles; unauthorized use, had the following history: 2017 Act No. 65 (H.3256), Section 1, eff May 19, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

HISTORY: Former Section 56-3-14340, titled Provisions cumulative to other license provisions; prohibited acts; penalties, had the following history: 2017 Act No. 65 (H.3256), Section 1, eff May 19, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 144

"Legion of Merit" Special License Plates [Repealed]

Code Commissioner's Note

At the direction of the Code Commissioner, Article 141, as added by 2017 Act No. 65, Section 3, was redesignated as Article 144 to accommodate the addition of Article 141 added by 2017 Act No. 5, Section 1.

SECTION 56-3-14410.

Repealed.

HISTORY: Former Section, titled Legion of Merit special license plates, had the following history: 2017 Act No. 65 (H.3256), Section 3, eff May 19, 2017. Repealed by 2021 Act No. 38, Section 2, eff May 6, 2022.

ARTICLE 145

"Virginia Tech" Special License Plates

Code Commissioner's Note

At the direction of the Code Commissioner, Article 142, as added by 2017 Act No. 65, Section 5, was redesignated as Article 145 to accommodate the addition of Article 142 added by 2017 Act No. 21, Section 1.

SECTION 56-3-14510.

Virginia Tech special license plates.

(A) The Department of Motor Vehicles may issue "Virginia Tech" special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, and motorcycles, as defined in Section 56-3-20, registered in their names. The fee for each special license plate is seventy dollars every two years, in addition to the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. Each license plate must be of the same size and general design as regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) The fees collected in excess of the cost of producing the license plates must be distributed to the South Carolina Palmetto Chapter of Virginia Tech.

(C) The guidelines for the production, collection, and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2017 Act No. 65 (H.3256), Section 5, eff May 19, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, Section 56-3-14210, as added by 2017 Act No. 65, Section 5, was redesignated as Section 56-3-14510 to accommodate the addition of Section 56-3-14210 added by 2017 Act No. 21, Section 1.

ARTICLE 146

"Powering the Palmetto State" Special License Plates

Code Commissioner's Note

At the direction of the Code Commissioner, Article 143, as added by 2017 Act No. 65, Section 2, was redesignated as Article 146 to accommodate the redesignation of Article 140 added by 2017 Act No. 65, Section 1.

SECTION 56-3-14610.

Powering the Palmetto State special license plates.

(A) The Department of Motor Vehicles may issue "Powering the Palmetto State" special license plates to owners of private passenger carrying motor vehicles, as defined in Section 56-3-630, and motorcycles, as defined in Section 56-3-20, registered in their names. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. The Electric Cooperatives of South Carolina, Inc., shall submit to the department for its approval the proposed design it desires to be used for this special license plate honoring the work of South Carolina's electrical linemen.

(B) Each special license plate must be of the same size and general design as regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(C) The guidelines for the production, collection, and distribution of fees for a special license plate under this section must meet the requirements of Section 56-3-8100.

HISTORY: 2017 Act No. 65 (H.3256), Section 2, eff May 19, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, Section 56-3-14310, as added by 2017 Act No. 65, Section 2, was redesignated as Section 56-3-14610 to accommodate the redesignation of Section 56-3-14310 added by 2017 Act No. 65, Section 1.

ARTICLE 147

"Drivers For a Cure" Special License Plates

SECTION 56-3-14710.

Drivers For a Cure special license plates.

(A) The Department of Motor Vehicles may issue "Drivers For a Cure" special license plates to owners of private passenger-carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) This special license plate must be the same size and general design as regular motor vehicle license plates.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for each special license plate is thirty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. Any portion of the thirty-dollar fee in excess of the costs of production and distribution of the license plates must be distributed evenly between the Medical University of South Carolina Hollings Cancer Center and the Duke Cancer Institute.

HISTORY: 2021 Act No. 5 (S.242), Section 1, eff March 15, 2021.

ARTICLE 148

Two Hundred Fifty Year Anniversary Revolutionary War Commemorative Special License Plates

SECTION 56-3-14810.

Two Hundred Fifty Year Anniversary Revolutionary War special commemorative special license plates.

(A) The Department of Motor Vehicles may issue special commemorative motor vehicle license plates commemorating the two hundred fiftieth anniversary of the American Revolution to owners of private passenger carrying motor vehicles or motorcycles registered in their names. The biennial fee for this commemorative license plate is the same as the fee provided in Article 5, Chapter 3 of this title.

(B) The South Carolina Revolutionary War Sestercentennial Commission shall submit to the department for approval the design, emblem, seal, logo, or other symbols it desires to be used for this special license plate.

(C) This special license plate is exempt from the provisions contained in Section 56-3-8100.

(D) The production of this special license plate will cease January 1, 2033.

HISTORY: 2021 Act No. 11 (H.3501), Section 1, eff January 1, 2022.

ARTICLE 149

Military Special License Plates

SECTION 56-3-14910.

Special license plates reflective of valorous awards.

Text of (A) effective until November 20, 2024

(A) The department may issue the following special license plates reflective of valorous awards for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

- (1) Medal of Honor- Army
- (2) Medal of Honor- Navy
- (3) Medal of Honor- Air Force
- (4) Distinguished Service Cross- Army
- (5) Distinguished Service Cross- Navy
- (6) Distinguished Service Cross- Air Force
- (7) South Carolina Medal of Valor
- (8) Silver Star
- (9) Bronze Star (with valor)
- (10) Soldier's Medal.

Text of (A) effective November 20, 2024

(A) The department may issue the following special license plates reflective of valorous awards for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

- (1) Medal of Honor- Army
- (2) Medal of Honor- Navy
- (3) Medal of Honor- Air Force
- (4) Distinguished Service Cross- Army
- (5) Distinguished Service Cross- Navy
- (6) Distinguished Service Cross- Air Force
- (7) South Carolina Medal of Valor
- (8) Silver Star
- (9) Bronze Star (with valor)
- (10) Soldier's Medal
- (11) Navy and Marine Corps Medal.

(B) The qualifying active or prior service members must be one of the registrants of the vehicle. No more than three license plates per award type may be issued to the award recipient. License plates for awards specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) A person issued a license plate under the provisions of subsection (A) may park in metered or timed parking places without being subject to parking fees or fines. This section has no application to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate issued by the department for vehicles registered to recipients of an award specified in subsection (A).

(E) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2024 Act No. 178 (H.4674), Section 11, eff November 20, 2024.

Effect of Amendment

2024 Act No. 178, Section 11, in (A), inserted (11), and made a nonsubstantive change.

SECTION 56-3-14920.

Special license plates reflective of distinguished service awards.

(A) The department may issue the following special license plates reflective of distinguished service awards for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

- (1) Distinguished Service Medal- Army
- (2) Distinguished Service Medal- Navy
- (3) Distinguished Service Medal- Air Force
- (4) Distinguished Service Medal- Marine Corps
- (5) Distinguished Service Medal- Coast Guard
- (6) Distinguished Flying Cross
- (7) Legion of Merit
- (8) Palmetto Cross.

(B) The qualifying active or prior service member must be one of the registrants of the vehicle. No more than three license plates per award type may be issued to the award recipient. License plates for awards specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. This special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month it is issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) A person issued a license plate under the provisions of subsection (A) may park in metered or timed parking places without being subject to parking fees or fines. This section has no application to areas or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate which is issued by the department for vehicles registered to recipients of an award specified in subsection (A).

(E) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022.

SECTION 56-3-14930.

Special license plates reflective of exemplary service awards.

(A) The department may issue the following special license plates reflective of exemplary service awards for private passenger vehicles and motorcycles to the individuals specified by the following license plate categories:

- (1) Gold Star Family: available to immediate family members (spouse, parent, children, or siblings)
- (2) Gold Star Family Personalized: available to immediate family members (spouse, parent, children, or siblings)
- (3) Prisoner of War: available to the award recipient and spouse
- (4) Purple Heart: available to the award recipient
- (5) Purple Heart Wheelchair: available to the award recipient.

(B) The qualifying registrants are specified above in subsection (A). No more than three license plates per award type may be issued to the award recipient or qualifying family members. License plates for awards specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) A person issued a license plate under the provisions of subsection (A) may park in metered or timed parking places without being subject to parking fees or fines. This section has no application to those areas or during those times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. As a condition to this privilege, a vehicle must display a distinguishing license plate issued by the department for vehicles registered to recipients of an award specified in subsection (A).

(E) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022.

SECTION 56-3-14940.

Special license plates reflective of a service-connected disability.

(A) The department may issue the following special license plates reflective of a service-connected disability for passenger vehicles and motorcycles registered to qualifying veterans:

- (1) Disabled Veteran-the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation.
- (2) Disabled Veteran (wheelchair)-the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation. The applicant also must qualify for handicapped parking privileges as specified in Section 56-3-1910 and follow the application process prescribed by Section 56-3-1910.
- (3) Disabled Female Veteran-the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation.
- (4) Disabled Female Veteran (wheelchair)-the applicant must be considered totally and permanently disabled due to a service-connected disability as evidenced by official military documentation. The applicant also must qualify for handicapped parking privileges as specified in Section 56-3-1910 and follow the application process prescribed by Section 56-3-1910.

(B) The qualifying service member or veteran must be one of the registrants of the vehicle. No more than three license plates may be

issued to the award recipient. License plates for medals specified in subsection (A) are exempt from the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued. Any registration fees collected pursuant to this section from May 6, 2022, to the effective date of this act shall be refunded by the Department of Motor Vehicles.

(C) The application for a special license plate must include a letter indicating the appropriate disability rating from the Department of Veterans Affairs.

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 3, eff May 6, 2022.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 3, in (B), in the third sentence, substituted "exempt from" for "subject to" and deleted "but no additional specialty plate fee" following "Title 56", and added the fifth sentence.

SECTION 56-3-14950.

Special license plates reflective of campaign medals.

(A) The department may issue the following special license plates reflective of campaign medals for private passenger vehicles and motorcycles to active service members or prior service members who participated in the following military campaigns:

- (1) World War II Veteran
- (2) Pearl Harbor Survivor
- (3) Normandy Invasion Survivor
- (4) Korean War
- (5) Vietnam War
- (6) Operation Desert Shield/Desert Storm
- (7) Operation Iraqi Freedom
- (8) Operation Enduring Freedom.

(B) The qualifying service member or veteran must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for medals specified in subsection (A), except for Korean War license plates pursuant to subsection (A)(4), are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56. License plates for medals specified in subsection (A) are not subject to an additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant was a participant in a campaign specified in subsection (A).

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022.

SECTION 56-3-14960.

Special license plates reflective of meritorious service.

(A) The department may issue the following special license plates reflective of meritorious service for private passenger vehicles and motorcycles to active or prior service members who received the following awards:

- (1) Air Medal
- (2) Bronze Star (service)
- (3) Meritorious Service Medal.

(B) The qualifying active or prior service member must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for medals specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 but no additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate must include official military documentation (a DD-214, NGB Form 22, or official orders) demonstrating the applicant is the recipient of an award specified in subsection (A).

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 4, eff May 6, 2022.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 4, in (A), made a nonsubstantive change in (2) and added (3).

SECTION 56-3-14970.

Special license plates reflective of military service.

(A) The department may issue the following special license plates reflective of military service for private passenger vehicles and

motorcycles to active or prior service members associated with the following military components or designations:

- (1) Veteran or Veteran wheelchair if the registrant qualifies for handicapped parking pursuant to Section 56-3-1910(H)
- (2) Female Veteran or Female Veteran wheelchair if the registrant qualifies for handicapped parking pursuant to Section 56-3-1910(H)
- (3) Combat-Related Disabled Veteran-the registrant must have a combat-related disability as evidenced by a letter from the U.S. Department of Veterans Affairs defining a combat and operations-related disability
- (4) Army
- (5) Marine Corps
- (6) Navy
- (7) Air Force
- (8) Coast Guard
- (9) US Space Force
- (10) National Guard- Army
- (11) National Guard- Air
- (12) National Guard- Retired
- (13) US Military Reserve- Army
- (14) US Military Reserve- Marine Corps
- (15) US Military Reserve- Navy
- (16) US Military Reserve- Air Force
- (17) US Military Reserve- Coast Guard
- (18) US Armed Forces Retired
- (19) State Guard.

(B) The qualifying active or prior service member must be one of the registrants of the vehicle. No more than three license plates may be issued to the award recipient. License plates for designation specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 but no additional specialty plate fee. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) The application for a special license plate reflective of a branch of service must include official military documentation (a DD-214, NGB Form 22, or official orders) that the registrant is an active or prior service member of that branch of service pursuant to the requirements in Section 56-1-140(B)(1-3). The application for a special license plate reflective of a veteran's designation also must meet the specifications in Section 56-1-140(B)(1-3).

(D) License plates authorized under subsection (A) are exempt from the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 2, eff May 6, 2022.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 2, in (A), inserted (9) and redesignated former (9) to (18) as (10) to (19).

SECTION 56-3-14980.

Special license plates showing support for military-related private organizations.

(A) The department may issue the following types of special license plates showing support for military-related private organizations for private passenger vehicles and motorcycles to members of the general public that will financially benefit the following organizations:

- (1) Blue Star Family
- (2) Veterans of Foreign Wars
- (3) American Legion
- (4) Disabled American Veterans
- (5) American Veterans
- (6) Marine Corps League
- (7) Chief Petty Officer
- (8) Support Our Troops.

(B) License plates for the organizations specified in subsection (A) are subject to the regular motor vehicle registration fee contained in Article 5, Chapter 3, Title 56 and a special motor vehicle license plate fee set by the sponsoring organization. These special license plates must be issued or revalidated for a biennial period which expires twenty-four months from the month they are issued.

(C) License plates authorized under subsection (A) are subject to the provisions contained in Section 56-3-8100.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 5, eff May 6, 2022.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 5, in (A), made a nonsubstantive change in (7) and added (8).

SECTION 56-3-14990.

Surviving spouse may apply for license plate or transfer of license plate.

Section effective until November 20, 2024. See, also, Section 56-3-14990 effective November 20, 2024.

Upon the death of an award recipient, a surviving spouse may apply to the department for a license plate issued under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3). The surviving spouse may apply to the department to transfer a license plate previously issued to the award recipient under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving spouse military benefits.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 6, eff May 6, 2022.

SECTION 56-3-14990.

Surviving spouse may apply for license plate or transfer of license plate.

Section effective November 20, 2024. See, also, Section 56-3-14990 effective until November 20, 2024.

(A) Upon the death of an award recipient, a surviving spouse may apply to the department for a license plate issued under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3). The surviving spouse may apply to the department to transfer a license plate previously issued to the award recipient under the provisions of Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving spouse military benefits.

(B) Upon the death of a member of the National Guard, a surviving spouse may apply to the department for a license plate issued under the provisions of Section 56-3-14970(A) (10), (11), or (12). The surviving spouse may apply to the department to transfer a license plate previously issued to a member of the National Guard under the provisions of Section 56-3-14970(A)(10), (11), or (12) pursuant to Section 56-3-210(G). The surviving spouse must turn the plate into the department when the surviving spouse is no longer eligible for surviving spouse National Guard benefits.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 6, eff May 6, 2022; 2024 Act No. 178 (H.4674), Section 12, eff November 20, 2024.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 6, in the first sentence, substituted "Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3)" for "Sections 56-3-14710, 56-3-14720, or 56-3-14730(A)(3)", and in the second sentence, substituted "Section 56-3-14910, 56-3-14920, or 56-3-14930(A)(3)" for "Section 56-3-14710, 56-3-14720, or 56-3-14730(A)(3)".

2024 Act No. 178, Section 12, inserted the (A) designator, and added (B).

SECTION 56-3-15000.

License plates issued under previous award criteria not subject to revised documentation requirements.

License plates first issued to registrants under previous requirements are not subject to the revised requirements that a person must meet to apply for a plate specified in this article.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022; 2022 Act No. 216 (S.1237), Section 7, eff May 6, 2022.

Editor's Note

2022 Act No. 216, Section 9, provides as follows:

"SECTION 9. SECTION 1 of this act takes effect upon approval by the Governor. SECTIONS 2, 3, 4, 5, 6, 7, and 8 of this act take effect May 6, 2022."

Effect of Amendment

2022 Act No. 216, Section 7, substituted "requirements" for "award criteria" and "requirements that a person must meet to apply" for "award documentation requirements that a person must provide the department upon applying".

SECTION 56-3-15010.

Requirement for additional military special license plates added to this article.

Additional military special license plates added to this article must be listed in the most fitting category based on the definition of the award, conflict, service, or private organization.

HISTORY: 2021 Act No. 38 (H.3805), Section 1, eff May 6, 2022.

ARTICLE 150

South Carolina Equine Industry Special License Plates

SECTION 56-3-16000.

South Carolina Equine Industry special license plates.

Section effective November 20, 2024.

(A) The Department of Motor Vehicles may issue "South Carolina Equine Industry" special license plates to owners of private passenger-carrying motor vehicles or motorcycles registered in their names. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) This special license plate must be the same size and general design as regular motor vehicle license plates. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for each special license plate is thirty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. Any portion of the thirty-dollar fee in excess of the costs of production and distribution of the license plates must be distributed to the Department of Agriculture for the purpose of promoting the equine industry in the State.

HISTORY: 2024 Act No. 178 (H.4674), Section 3, eff November 20, 2024.

ARTICLE 151

Catawba Nation Special License Plates

SECTION 56-3-16010.

Catawba Nation special license plates.

Section effective November 20, 2024.

(A) The Department of Motor Vehicles may issue "Catawba Nation" special license plates. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) The Catawba Nation shall submit to the department for approval the design, emblem, seal, logo, or other symbols it desires to be used for this special license plate. The department may issue this special license plate six months following approval of its design.

(C) This special license plate is exempt from the provisions contained in Section 56-3-8100.

(D) The biennial fee for each special license plate is forty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. The forty-dollar fee must be distributed to the Catawba Nation.

HISTORY: 2024 Act No. 178 (H.4674), Section 5, eff November 20, 2024.

ARTICLE 152

Cherokee Indian Nation Special License Plates

SECTION 56-3-16110.

Cherokee Indian Nation special license plates.

Section effective November 20, 2024.

The Department of Motor Vehicles may issue "Cherokee Indian Nation" special license plates to owners of private passenger motor vehicles or motorcycles registered in their names. Only members of the Cherokee Indian Nation are eligible to receive a license plate produced pursuant to this section. A member of the Cherokee Indian Nation applying for the license plate must produce with the license plate application an official document from the Cherokee Indian Nation verifying membership. The requirements for production and distribution of the plate are those set forth in Section 56-3-8100. The department may issue this special license plate six months following approval of its design. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of thirty dollars. Any portion of the additional thirty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution must be distributed to the to the Museum of the Cherokee in Oconee County.

HISTORY: 2024 Act No. 178 (H.4674), Section 6, eff November 20, 2024.

ARTICLE 153

South Carolina Beekeepers Association Special License Plates

SECTION 56-3-16210.

South Carolina Beekeepers Association special license plates.

Section effective November 20, 2024.

(A) The Department of Motor Vehicles may issue "South Carolina Beekeepers Association" special license plates to owners of private passenger-carrying motor vehicles, as defined in Section 56-3-630, or motorcycles registered in their names. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) This special license plate must be the same size and general design as regular motor vehicle license plates. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for each special license plate is forty dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. Any portion of the forty-dollar fee not set aside by the Comptroller General to defray costs of production and distribution of the license plates must be distributed to the South Carolina Beekeepers Association to be used for research and education.

HISTORY: 2024 Act No. 178 (H.4674), Section 7, eff November 20, 2024.

ARTICLE 154

South Carolina Association for Pupil Transportation Special License Plates

SECTION 56-3-16310.

South Carolina Association for Pupil Transportation special license plates.

Section effective November 20, 2024.

(A) The Department of Motor Vehicles may issue "South Carolina Association for Pupil Transportation" special license plates. Each special license plate must be issued or revalidated for a biennial period that expires twenty-four months from the month the special license plate is issued.

(B) The South Carolina Association for Pupil Transportation shall submit to the department for approval the design, emblem, seal,

logo, or other symbols it desires to be used for this special license plate. The department may issue this special license plate six months following approval of its design.

(C) The requirements for production, collection, and distribution of fees for a special license plate under this section must meet the requirements in Section 56-3-8100.

(D) The biennial fee for each special license plate is twenty-five dollars plus the regular motor vehicle license fee set forth in Article 5, Chapter 3, Title 56. The twenty-five-dollar fee must be distributed to the South Carolina Association for Pupil Transportation.

HISTORY: 2024 Act No. 178 (H.4674), Section 10, eff November 20, 2024.

ARTICLE 155

Hearing Impaired Special License Plates

SECTION 56-3-16410.

Hearing Impaired special license plates.

Section effective November 20, 2024.

The Department of Motor Vehicles may issue "Hearing Impaired" special motor vehicle license plates to owners of private passenger-carrying motor vehicles or motorcycles registered in their names who are hearing impaired. The application for this special motor vehicle license plate must include an original certificate from a licensed physician, as defined in Section 40-75-5, that certifies that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears. The fee for each special license plate is the regular motor vehicle license fee set forth in Article 5. The department may issue this special license plate six months following approval of its design. Each special license plate must be of the same size and general design of regular motor vehicle license plates. Each special license plate must be issued or revalidated for a biennial period which expires twenty-four months from the month the special license plate is issued.

HISTORY: 2024 Act No. 178 (H.4674), Section 2, eff November 20, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, 2024 Act No. 178, Section 2, was designated as Article 155, Chapter 3, of Title 56, and Section 56-3-15020 was recodified as Section 56-3-16410.

Title 56 - Motor Vehicles

CHAPTER 5

Uniform Act Regulating Traffic on Highways

ARTICLE 1

General Provisions

SECTION 56-5-10.

Short title.

This chapter may be cited as the "Uniform Act Regulating Traffic on Highways."

HISTORY: 1962 Code Section 46-681; 1952 Code Section 46-681; 1949 (46) 466.

SECTION 56-5-20.

Applicability of chapter to vehicles operated upon highways; exceptions.

The provision of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways, except:

(1) When a different place is specifically referred to in a given section; and

(2) That the provisions of Articles 9 and 23 shall apply upon highways and elsewhere throughout the State.

HISTORY: 1962 Code Section 46-288; 1952 Code Section 46-288; 1949 (46) 466.

SECTION 56-5-30.

Chapter applicable and uniform throughout State; local regulations.

The provisions of this chapter shall be applicable and uniform throughout this State and in all political subdivisions and municipalities therein, and no local authority shall enact or enforce any ordinance, rule or regulation in conflict with the provisions of this chapter unless expressly authorized herein. Local authorities may, however, subject to the limitations prescribed in Section 56-5-930, adopt additional traffic regulations which are not in conflict with the provisions of this chapter.

HISTORY: 1962 Code Section 46-281; 1952 Code Section 46-281; 1949 (46) 466.

SECTION 56-5-40.

Applicability of chapter to roads on Atomic Energy Commission lands in Aiken, Allendale, and Barnwell counties.

All the provisions of this chapter, except Articles 27, 33, 37, and 39 and Section 56-5-910, apply to all roads within the confines of lands in Aiken, Allendale, and Barnwell counties acquired or to be acquired by the United States Government for use of the Department of Energy.

HISTORY: 1962 Code Section 46-281.1; 1956 (49) 1581; 1990 Act No. 598, Section 7.

SECTION 56-5-50.

Applicability of chapter to operation of mopeds.

With the exception of Articles 35 and 37, the provisions of Chapter 5 of Title 56 govern the operation of mopeds on the public highways and streets of this State.

HISTORY: 1986 Act No. 528, Section 5; 1991 Act No. 94, Section 2.

SECTION 56-5-60.

Requirements for envelope containing certain notices.

The envelope in which a notice required by law to be mailed by the Department of Motor Vehicles is mailed, other than by registered or certified mail, must have printed on it in bold letters "Please Forward".

HISTORY: 1988 Act No. 613; 1993 Act No. 181, Section 1398; 1996 Act No. 459, Section 179.

SECTION 56-5-70.

Certain vehicle requirements suspended during state of emergency; declarations of emergency triggering federal relief under 49 C.F.R. 390.23.

(A)(1) Notwithstanding any provision of this chapter or any other provision of law, during a state of emergency declared by the Governor and in the course of responding to the state of emergency:

(a) requirements relating to registration, permitting, length, width, weight, and load are suspended for commercial and utility vehicles traveling on noninterstate routes for up to one hundred twenty days, provided the vehicles do not exceed a gross weight of ninety thousand pounds and do not exceed a width of twelve feet;

(b) requirements relating to time of service suspensions for commercial and utility vehicles traveling on interstate and noninterstate routes are suspended for up to thirty days, unless extended for additional periods in accordance with 49 C.F.R. 390-399.

(2) All vehicles operated upon the public highways of this State under the authority of this section must:

(a) be operated in a safe manner;

(b) maintain required limits of insurance; and

(c) be clearly identified as a utility vehicle or provide appropriate documentation indicating it is a commercial vehicle responding to the emergency.

(B) When an emergency is declared which triggers relief from regulations pursuant to 49 C.F.R. 390.23 in North Carolina or Georgia, an emergency, as referenced in the regional emergency provision of 49 C.F.R. 390.23(a)(1)(A), must be declared in this State by the Governor.

(C) A declaration of emergency in this State, as described in subsection (B), must not be terminated prior to the termination of the declarations of emergencies in North Carolina and Georgia or the thirtieth day after the initial declaration of emergency in this State, whichever is less.

(D) A declaration of emergency in this State that triggers relief from regulations pursuant to 49 C.F.R. 390.23 must be effective for no less than fourteen days prior to its termination. Unless the initial declaration of emergency contains a termination date, the order may not be terminated until the passage of seven days after notification of the date of termination is issued or the passage of thirty days after the initial declaration of the emergency, whichever is less. If termination of the declaration of emergency is to occur prior to the passage of thirty days after the initial declaration of emergency, the declaration of emergency must be terminated at 11:59 p.m. on a Friday.

(E) Citations for violating a local ordinance or the traffic laws relating to speeding or disregarding traffic control devices based in whole or in part on photographic evidence, whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence, only may be issued for violations that occur while relief from regulations pursuant to 49 C.F.R. 390.23 has been granted due to an emergency. A person who receives a citation for violating traffic laws relating to speeding or disregarding traffic control devices based in whole or in part on photographic evidence must be served in person with notice of the violation within one hour of the occurrence of the violation unless a collision occurred and fault cannot be determined immediately or the party who caused the collision is not immediately accessible due to medical treatment. The provisions of this subsection do not apply to toll collection enforcement.

HISTORY: 2001 Act No. 79, Section 1; 2010 Act No. 250, Section 1, eff June 11, 2010; 2011 Act No. 65, Section 3, eff June 17, 2011; 2015 Act No. 9 (S.358), Section 1, eff May 7, 2015.

SECTION 56-5-90.

Driving limitations for intrastate motor carrier driver.

(A) For motor carriers subject to this title, an intrastate motor carrier driver may not drive:

- (1) more than twelve hours following eight consecutive hours off duty;
- (2) for any period after having been on duty sixteen hours following eight consecutive hours off duty;
- (3) after having been on duty seventy hours in seven consecutive days;
- (4) more than eighty hours in eight consecutive days.

(B) An intrastate driver is determined by his previous seven days of operation.

HISTORY: 1994 Act No. 417, Section 3; 1995 Act No. 36, Section 1.

ARTICLE 3

Definitions

In General

SECTION 56-5-110.

Generally.

For the purposes of this chapter the words, phrases and terms defined in this article shall have the meanings thereby attributed to them.

HISTORY: 1962 Code Section 46-201; 1952 Code Section 46-201; 1949 (46) 466.

Subarticle I

Vehicles and Equipment

SECTIONS 56-5-120 to 56-5-140.

Reserved.

HISTORY: Former Section 56-5-120, titled Vehicle defined, had the following history: 1962 Code Section 46-211; 1952 Code Section 46-211; 1949 (46) 466. Reserved by 2017 Act No. 89, Section 17, eff November 19, 2018.

HISTORY: Former Section 56-5-130, titled Motor vehicle defined, had the following history: 1962 Code Section 46-212; 1952 Code Section 46-212; 1949 (46) 466; 1986 Act No. 528, Section 6. Reserved by 2017 Act No. 89, Section 18, eff November 19, 2018.

HISTORY: Former Section 56-5-140, titled Motorcycle defined, had the following history: 1962 Code Section 46-213; 1952 Code Section 46-213; 1949 (46) 466; 1992 Act No. 486, Section 8; 2000 Act No. 375, Section 7. Reserved by 2017 Act No. 89, Section 19, eff November 19, 2018.

SECTION 56-5-145.

Repealed.

HISTORY: Former Section, titled Automotive three-wheel vehicle defined, had the following history: 1992 Act No. 486, Section 1; 2000 Act No. 375, Section 8. Repealed by 2017 Act No. 34, Section 8, eff November 10, 2017.

SECTION 56-5-150.

Reserved.

HISTORY: Former Section, titled Motor-driven cycle defined, had the following history: 1962 Code Section 46-214; 1952 Code Section 46-214; 1949 (46) 466; 1986 Act No. 528, Section 5. Reserved by 2017 Act No. 89, Section 20, eff November 19, 2018.

SECTION 56-5-155.

Repealed.

HISTORY: Former Section, titled Motorcycle three-wheel vehicle defined, had the following history: 2000 Act No. 375, Section 9. Repealed by 2017 Act No. 34, Section 8, eff November 10, 2017.

SECTION 56-5-160.

Bicycle defined.

A bicycle is a device propelled solely by pedals, operated by one or more persons, and having two or more wheels, except children's tricycles.

HISTORY: 1962 Code Section 46-215; 1952 Code Section 46-215; 1949 (46) 466; 1973 (58) 348; 1974 (58) 2117; 1986 Act No. 528, Section 8; 2008 Act No. 317, Section 1, eff June 10, 2008.

SECTION 56-5-165.

Reserved.

HISTORY: Former Section, titled Moped defined, had the following history: 1986 Act No. 528, Section 9; 1991 Act No. 94, Section 3. Reserved by 2017 Act No. 89, Section 22, eff November 19, 2018.

SECTION 56-5-170.

Authorized emergency vehicles defined.

(A) Authorized emergency vehicles for purposes of this section include the following:

- (1) fire department vehicles;
 - (2) police vehicles;
 - (3) ambulances and rescue squad vehicles which are publicly owned;
 - (4) vehicles of coroners and deputy coroners of the forty-six counties as designated by the coroners;
 - (5) emergency vehicles designated by the fire department or the chief of police of a municipality;
 - (6) county government litter enforcement vehicles used by certified law enforcement Class 3 litter control officers;
 - (7) Department of Natural Resources vehicles, federal natural resources vehicles, and forestry commission vehicles when being used in the performance of law enforcement duties;
 - (8) public and private vehicles while transporting individuals actually engaged in emergency activities because one or more occupants belong to a fire department, volunteer fire department, police department, sheriff's office, authorized county government litter enforcement office, rescue squad, or volunteer rescue squad;
 - (9) county or municipal government jail or corrections vehicles used by certified jail or corrections officers, and emergency vehicles designated by the Director of the South Carolina Department of Corrections;
 - (10) vehicles designated by the Commissioner of the Department of Health and Environmental Control when being used in the performance of law enforcement or emergency response duties.
 - (11) federal law enforcement, military, and emergency vehicles; and
 - (12) organ procurement organization vehicles, which means vehicles operated by organizations that perform or coordinate the procurement, preservation, and transport of organs and maintain systems for locating prospective recipients for available organs.
- (B) Only authorized emergency vehicles and private security patrol vehicles regulated by the State Law Enforcement Division are allowed use or display of any blue lights or red lights. This includes light bars and smaller lights such as dash, deck, or visor lights. To "display" means to be seen, whether activated or not.
- (C) A vehicle shall not display the word 'police' unless it is an authorized emergency vehicle for use only by sworn police or other officers who are approved and certified by the South Carolina Criminal Justice Academy.
- (D) The provisions of this section do not apply to automobile dealerships, to police equipment suppliers that sell, deliver, or equip police vehicles to or for a law enforcement agency, to vehicles owned solely as collector's items and used only for participation in club activities, exhibits, tours, parades, and similar uses, or to persons designated by an agency owning such a vehicle to drive the vehicle or drive an auxiliary vehicle transporting such a vehicle.

HISTORY: 1962 Code Section 46-216; 1952 Code Section 46-216; 1949 (46) 466; 1975 (59) 76; 1978 Act No. 461 Section 1; 2004 Act No. 285, Section 1; 2018 Act No. 196 (S.874), Section 1, eff May 17, 2018.

Effect of Amendment

2018 Act No. 196, Section 1, in (A), added (12), relating to organ procurement organization vehicles.

SECTION 56-5-180.

Bus defined.

Every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation is a "bus."

HISTORY: 1962 Code Section 46-217; 1952 Code Section 46-217; 1949 (46) 466.

SECTION 56-5-190.

School bus defined.

Every motor vehicle that complies with the color and identification requirements set forth in Section 59-67-30 and State Board of Education Regulations and Specifications Pertaining to School Buses which is used to transport children to or from public school or in connection with school activities, but not including buses operated by common carriers not exclusively engaged in the transportation of school students and vehicles having school bus markings temporarily removed or covered, is a "school bus".

HISTORY: 1962 Code Section 46-218; 1952 Code Section 46-218; 1949 (46) 466; 1978 Act No. 422 Section 1.

SECTION 56-5-195.

School bus safety standards.

(A) Effective July 1, 2000, any entity transporting preprimary, primary, or secondary school students to or from school, school-related activities, or child care, and utilizing a vehicle defined as a "school bus" under 49 U.S.C. Section 30125, as defined on April 5, 2000, must transport these students in a vehicle meeting federal school bus safety standards, as contained in 49 U.S.C. Section 30101, et seq., or any successor statutes, and all applicable federal regulations. Nothing in this section prohibits the

transportation of children to or from child care in nonconforming vehicles by a State of South Carolina human service provider or public transportation authority as long as each child is accompanied by a parent or legal guardian whose transportation is in connection with his work, education, or training.

(B) Notwithstanding subsection (A) of this section, any vehicle that is purchased before July 1, 2000, and is utilized to transport preprimary, primary, or secondary students to or from school, school-related activities, or child care is not subject to the requirements contained in subsection (A) of this section until July 1, 2006. A vehicle that is purchased on or after July 1, 2000, and is utilized to transport preprimary, primary, or secondary students to or from school, school-related activities, or child care is subject to the requirements contained in subsection (A) of this section once the vehicle is utilized for those purposes.

(C) Before July 1, 2006, nothing in this section may be construed to create a duty or other obligation to cease utilizing nonconforming vehicles purchased before the effective date of this act.

(D) To facilitate compliance with the provisions contained in this section, any entity contained in this section may purchase conforming vehicles under the State of South Carolina contracts for purchase of these vehicles.

(E) Nothing in the section prohibits the transportation of students by common carriers that are not exclusively engaged in the transportation of school students or by the entities subject to this section which own or operate these vehicles. However, the motor carriage used by the common carrier or entity to transport students must be designed to carry thirty or more passengers.

HISTORY: 2000 Act No. 301, Section 1.

SECTION 56-5-196.

Designation of daycare center as origin or destination for school transportation.

The parents or legal guardians of a student who is eligible to receive public school bus transportation must have the option of designating a child daycare center or other before or after school program as the student's origin or destination for school transportation.

HISTORY: 2000 Act No. 301, Section 2.

SECTION 56-5-200.

Truck defined.

Every motor vehicle designed, used or maintained primarily for the transportation of property is a "truck."

HISTORY: 1962 Code Section 46-219; 1952 Code Section 46-219; 1949 (46) 466.

SECTION 56-5-210.

Truck tractor defined.

Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and the load so drawn is a "truck tractor."

HISTORY: 1962 Code Section 46-220; 1952 Code Section 46-220; 1949 (46) 466.

SECTION 56-5-220.

Farm tractor defined.

Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry is a "farm tractor."

HISTORY: 1962 Code Section 46-221; 1952 Code Section 46-221; 1949 (46) 466.

SECTION 56-5-225.

Farm truck defined.

"Farm truck" is defined as a truck used exclusively by the owner for agricultural, horticultural, dairying, livestock, and poultry operations and includes transporting farm processed horticultural products, including soil amendments and mulches owned by the truck's owner or another person, including first market. However, farm trucks with an empty weight of less than twenty-six thousand and one pounds may be used for ordinary domestic purposes and general transportation, but must not be used to transport persons or property for hire. No part of this definition may be interpreted to exempt any commercial motor vehicle less than 26,001 pounds GVW/GVWR/GCW/GCWR from all or part of state laws or regulations applicable to intrastate commerce if the vehicle:

(1) transports hazardous materials requiring a placard; or

(2) is designed or used to transport sixteen or more people, including the driver.

HISTORY: 2012 Act No. 180, Section 1, eff May 25, 2012.

SECTION 56-5-230.

Road tractor defined.

Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn is a "road tractor."

HISTORY: 1962 Code Section 46-222; 1952 Code Section 46-222; 1949 (46) 466.

SECTION 56-5-240.

Trailer defined.

Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle is a "trailer."

HISTORY: 1962 Code Section 46-223; 1952 Code Section 46-223; 1949 (46) 466.

SECTION 56-5-250.

Semitrailer defined.

Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being

drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle is a "semitrailer."

HISTORY: 1962 Code Section 46-224; 1952 Code Section 46-224; 1949 (46) 466.

SECTION 56-5-260.

Pole trailer defined.

Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections is a "pole trailer."

HISTORY: 1962 Code Section 46-225; 1952 Code Section 46-225; 1949 (46) 466.

SECTION 56-5-270.

Railroad defined.

A "railroad" is a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

HISTORY: 1962 Code Section 46-226; 1952 Code Section 46-226; 1949 (46) 466.

SECTION 56-5-280.

Railroad train defined.

A "railroad train" is a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, other than a streetcar.

HISTORY: 1962 Code Section 46-227; 1952 Code Section 46-227; 1949 (46) 466.

SECTION 56-5-290.

Streetcar defined.

A "streetcar" is a car other than a railroad train for transporting persons or property and operated upon rails principally within a municipality.

HISTORY: 1962 Code Section 46-228; 1952 Code Section 46-228; 1949 (46) 466.

SECTION 56-5-300.

Pneumatic tire defined.

Every tire in which compressed air is designed to support the load is a "pneumatic tire."

HISTORY: 1962 Code Section 46-229; 1952 Code Section 46-229; 1949 (46) 466.

SECTION 56-5-310.

Solid tire defined.

Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load is a "solid tire."

HISTORY: 1962 Code Section 46-230; 1952 Code Section 46-230; 1949 (46) 466.

SECTION 56-5-320.

Metal tire defined.

Every tire the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material is a "metal tire."

HISTORY: 1962 Code Section 46-231; 1952 Code Section 46-231; 1949 (46) 466.

SECTION 56-5-330.

Safety glass defined.

"Safety glass" shall mean any product composed of glass, so manufactured, fabricated or treated as substantially to prevent shattering and flying of the glass when struck or broken or such other or similar product as may be approved by the Department of Public Safety.

HISTORY: 1962 Code Section 46-232; 1952 Code Section 46-232; 1949 (46) 466.

SECTION 56-5-340.

Explosive defined.

An "explosive" is any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

HISTORY: 1962 Code Section 46-233; 1952 Code Section 46-233; 1949 (46) 466.

SECTION 56-5-350.

Flammable liquid defined.

Any liquid which has a flash point of 70°F., or less, as determined by a Tagliabue or equivalent closed-cup test device, is a "flammable liquid."

HISTORY: 1962 Code Section 46-234; 1952 Code Section 46-234; 1949 (46) 466.

SECTION 56-5-360.

Gross weight defined.

"Gross weight" is the weight of a vehicle without load plus the weight of any load thereon.

HISTORY: 1962 Code Section 46-235; 1952 Code Section 46-235; 1949 (46) 466.

SECTION 56-5-361.

Passenger car defined.

Every motor vehicle except motorcycles and mopeds, designed for carrying ten passengers or less and used for the transportation of persons is a "passenger car".

HISTORY: 1978 Act No. 461 Section 2; 2017 Act No. 89 (H.3247), Section 23, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 23, substituted "mopeds" for "motor-driven cycles".

SECTION 56-5-362.

Truck-camper defined.

Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space is a "truck-camper".

HISTORY: 1978 Act no. 461 Section 3.

Subarticle II

Governmental Agencies, Pedestrians, Police Officers and Other Persons

SECTION 56-5-380.

Local authority defined.

Every county and municipality in this State and any other local board or body having authority to maintain any public highways or to regulate the traffic thereon, but not including the Department of Public Safety, is a "local authority."

HISTORY: 1962 Code Section 46-242; 1952 Code Section 46-242; 1949 (46) 466.

SECTION 56-5-390.

Pedestrian defined.

Any person afoot is a "pedestrian."

HISTORY: 1962 Code Section 46-243; 1952 Code Section 46-243; 1949 (46) 466.

SECTION 56-5-400.

Driver defined.

Every person who drives or is in actual physical control of a vehicle is a "driver."

HISTORY: 1962 Code Section 46-244; 1952 Code Section 46-244; 1949 (46) 466.

SECTION 56-5-410.

Reserved.

HISTORY: Former Section, titled Owner defined, had the following history: 1962 Code Section 46-245; 1952 Code Section 46-245; 1949 (46) 466; 1978 Act No. 461 Section 4. Reserved by 2017 Act No. 89, Section 24, eff November 19, 2018.

SECTION 56-5-420.

Police officer defined.

Every officer authorized to direct or regulate traffic or to make arrests for violations of vehicular and traffic laws is a "police officer."

HISTORY: 1962 Code Section 46-246; 1952 Code Section 46-246; 1949 (46) 466.

Subarticle III

Highways, Districts, Signals and the Like

SECTION 56-5-430.

Street defined; highway defined.

The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel is a "street" or "highway."

HISTORY: 1962 Code Section 46-251; 1952 Code Section 46-251; 1949 (46) 466.

SECTION 56-5-440.

Through highway defined.

Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such through highway in obedience to a stop sign, yield sign or other official traffic-control device, when such signs or devices are erected as provided in this chapter is a "through highway".

HISTORY: 1962 Code Section 46-252; 152 Code Section 46-252; 1949 (46) 466; 1978 Act No. 461 Section 5.

SECTION 56-5-450.

Private road defined; driveway defined.

Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons is a "private road" or "driveway."

HISTORY: 1962 Code Section 46-253; 1952 Code Section 46-253; 1949 (46) 466.

SECTION 56-5-460.

Roadway defined.

A "roadway" is that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the shoulder or berm. In the event a highway includes two or more separate roadways, the term "roadway" as used in this chapter shall refer to any

such roadway separately but not to all such roadways collectively.

HISTORY: 1962 Code Section 46-254; 1952 Code Section 46-254; 1949 (46) 466.

SECTION 56-5-470.

Laned roadway defined.

A "laned roadway" is a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

HISTORY: 1962 Code Section 46-255; 1952 Code Section 46-255; 1949 (46) 466.

SECTION 56-5-480.

Sidewalk defined.

A "sidewalk" is that portion of a street between the curb lines, or the lateral lines, of a roadway and the adjacent property lines, intended for the use of pedestrians.

HISTORY: 1962 Code Section 46-256; 1952 Code Section 46-256; 1949 (46) 466.

SECTION 56-5-490.

Intersection defined.

An "intersection" is the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in contact.

When a highway includes two roadways thirty feet or more apart, every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, every crossing of two roadways of such highways shall be regarded as a separate intersection.

HISTORY: 1962 Code Section 46-257; 1952 Code Section 46-257; 1949 (46) 466.

SECTION 56-5-500.

Crosswalk defined.

A "crosswalk" is:

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs from the edges of the traversable roadway; or

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

HISTORY: 1962 Code Section 46-258; 1952 Code Section 46-258; 1949 (46) 466.

SECTION 56-5-510.

Safety zone defined.

A "safety zone" is an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

HISTORY: 1962 Code Section 46-259; 1952 Code Section 46-259; 1949 (46) 466.

SECTION 56-5-520.

Business district defined.

A "business district" is the territory contiguous to and including a roadway when within any six hundred feet along such roadway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, office buildings, railroad stations and public buildings, which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the roadway.

HISTORY: 1962 Code Section 46-260; 1952 Code Section 46-260; 1949 (46) 466.

SECTION 56-5-530.

Residence district defined.

A "residence district" is the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

HISTORY: 1962 Code Section 46-261; 1952 Code Section 46-261; 1949 (46) 466.

SECTION 56-5-540.

Official traffic-control devices defined.

All signs, signals, markings and devices, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic are "official traffic-control devices."

HISTORY: 1962 Code Section 46-262; 1952 Code Section 46-262; 1949 (46) 466.

SECTION 56-5-550.

Traffic-control signal defined.

Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed is a "traffic-control signal."

HISTORY: 1962 Code Section 46-263; 1952 Code Section 46-263; 1949 (46) 466.

SECTION 56-5-560.

Railroad sign or signal defined.

Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train is a "railroad sign or signal."

HISTORY: 1962 Code Section 46-264; 1952 Code Section 46-264; 1949 (46) 466.

SECTION 56-5-570.

Traffic defined.

Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel are "traffic."

HISTORY: 1962 Code Section 46-265; 1952 Code Section 46-265; 1949 (46) 466.

SECTION 56-5-580.

Right-of-way defined.

"Right-of-way" is the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

HISTORY: 1962 Code Section 46-266; 1952 Code Section 46-266; 1949 (46) 466; 1978 Act No. 461 Section 6.

SECTION 56-5-590.

Stop defined.

"Stop," when required, means complete cessation from movement.

HISTORY: 1962 Code Section 46-267; 1952 Code Section 46-267; 1949 (46) 466.

SECTION 56-5-600.

Stop, stopping, or standing defined.

"Stop," "stopping" or "standing," when prohibited, means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

HISTORY: 1962 Code Section 46-268; 1952 Code Section 46-268; 1949 (46) 466.

SECTION 56-5-610.

Park defined.

To "park," when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

HISTORY: 1962 Code Section 46-269; 1952 Code Section 46-269; 1949 (46) 466.

SECTION 56-5-611.

Alley defined.

A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic is an "alley".

HISTORY: 1978 Act No. 461 Section 7.

SECTION 56-5-612.

Arterial street defined.

Any United States- or State-numbered route, controlled-access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways is an "arterial street".

HISTORY: 1978 Act No. 461 Section 8.

SECTION 56-5-613.

Controlled-access highway defined.

Every highway, street or roadway to which owners or occupants of abutting lands and other persons have no legal right of access to or from except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway is a "controlled-access highway".

HISTORY: 1978 Act No. 461 Section 9.

SECTION 56-5-614.

Divided highway defined.

A highway divided into two or more roadways by leaving an intervening space or divided by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic is a "divided highway".

HISTORY: 1978 Act No. 461 Section 10.

SECTION 56-5-615.

Freeway defined.

A "freeway" is a multilane divided highway with full control of access, and grade separated interchanges, of the type comprising the National System of Interstate and Defense Highways, or other highways built essentially in conformance to the standards of them.

HISTORY: 1993 Act No. 98, Section 1.

SECTION 56-5-616.

Interstate system defined.

The interstate system consists of the segments of highways in South Carolina in the officially designated national system of interstate and defense highways.

HISTORY: 1999 Act No. 17, Section 4.

ARTICLE 5

Obedience to and Effect of Traffic Laws

SECTION 56-5-710.

Powers of local authorities.

(A) Subject to the limitations prescribed in Section 56-5-930, the provisions of this chapter shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

- (1) regulating the standing or parking of vehicles;
- (2) regulating traffic by means of police officers or traffic control signals;
- (3) regulating or prohibiting processions or assemblages on the highways;
- (4) designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one specific direction;
- (5) regulating the speed of vehicles in public parks;
- (6) designating any highway as a through highway and requiring that all vehicles stop before entering or crossing it or designating any intersection as a stop intersection and requiring all vehicles to stop at one or more entrances at such intersection;
- (7) restricting the use of highways as authorized in Sections 56-5-4210 and 56-5-4220;
- (8) regulating the operation of bicycles and requiring the registration and licensing of them, including the requirement of a registration fee;
- (9) regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;
- (10) altering the prima facie speed limits as authorized herein; or
- (11) adopting such other traffic regulations as are specifically authorized by this chapter.

(B) Nothing in subsection (A) may be construed to permit a local authority to issue a uniform traffic citation for violating a local ordinance or the traffic laws relating to speeding or disregarding traffic control devices based in whole or in part upon photographic evidence whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence.

HISTORY: 1962 Code Section 46-282; 1952 Code Section 46-282; 1949 (46) 466; 2011 Act No. 65, Section 2, eff June 17, 2011.

SECTION 56-5-715.

Liability for municipal parking or traffic violations.

The registered owner of any motor vehicle leased or rented to another is not liable for any municipal traffic or parking violation occurring while the leased or rented vehicle was not in his possession or control, if upon notice of the violation the registered owner notifies the clerk, city recorder, or other appropriate municipal official of the court in which the case is pending of the name, address, and driver's license number of the lessee of the vehicle on the date the violation occurred. This notice must be notarized. If the registered owner fails to submit the notice within seven working days of receipt of the violation, the court in which the case is heard may take such action as the interest of justice requires, including finding the registered owner of the motor vehicle liable for the violation.

HISTORY: 1984 Act No. 371, Section 7.

SECTION 56-5-720.

Notice of local regulations required.

No ordinances or regulations enacted under items (4), (5), (6), (7), (9) or (10) of Section 56-5-710 shall be effective until signs giving notice of such local traffic regulations are posted upon or at the entrances to the highway or part thereof affected as may be most appropriate.

HISTORY: 1962 Code Section 46-284; 1952 Code Section 46-284; 1949 (46) 466.

SECTION 56-5-730.

Required obedience to traffic laws.

It is unlawful and, unless otherwise declared in this chapter with respect to particular offenses, it is a misdemeanor for any person to do any act forbidden or to fail to perform any act required in this chapter.

HISTORY: 1962 Code Section 46-286; 1952 Code Section 46-286; 1949 (46) 466.

SECTION 56-5-740.

Obedience to authorized persons directing traffic.

No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer, fireman or uniformed adult school crossing guard invested by law with authority to direct, control or regulate traffic.

HISTORY: 1962 Code Section 46-287; 1952 Code Section 46-287; 1949 (46) 466; 1977 Act No. 149 Section 1.

SECTION 56-5-750.

Failure to stop motor vehicle when signaled by law-enforcement vehicle.

(A) In the absence of mitigating circumstances, it is unlawful for a motor vehicle driver, while driving on a road, street, or highway of the State, to fail to stop when signaled by a law enforcement vehicle by means of a siren or flashing light. An attempt to increase the speed of a vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or flashing light is prima facie evidence of a violation of this section. Failure to see the flashing light or hear the siren does not excuse a failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle.

(B) A person who violates the provisions of subsection (A):

- (1) for a first offense where no great bodily injury or death resulted from the violation, is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars or imprisoned for not less than ninety days nor more than three years.

The Department of Motor Vehicles must suspend the person's driver's license for at least thirty days; or

(2) for a second or subsequent offense where no great bodily injury or death resulted from the violation, is guilty of a felony and, upon conviction, must be imprisoned for not more than five years. The person's driver's license must be suspended by the department for a period of one year from the date of the conviction.

(C) A person who violates the provisions of subsection (A) and when driving performs an act forbidden by law or neglects a duty imposed by law in the driving of the vehicle:

(1) where great bodily injury resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years; or

(2) where death resulted, is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty-five years.

(D) The department must revoke the driver's license of any person who is convicted pursuant to subsection (C)(1) or (C)(2) for a period to include any term of imprisonment, suspended sentence, parole, or probation, plus three years.

(E) "Great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss of or impairment of the function of a bodily member or organ.

(F) After a conviction pursuant to subsection (B)(1) for a first offense, the person may, after three years from the date of completion of all terms and conditions of his sentence for the first offense, apply, or cause someone acting on his behalf to apply, to the court for an order expunging the records of the arrest and conviction. This provision does not apply to any crime classified as a felony. If the person has had no other conviction during the three-year period following the completion of the terms and conditions of the sentence, the court shall issue an order expunging the records. No person has any rights under this section more than one time. After the expungement, the South Carolina Law Enforcement Division and the Department of Motor Vehicles are required to keep a nonpublic record of the offense and the date of its expungement to ensure that no person takes advantage of the rights permitted by this subsection more than once. This nonpublic record is not subject to release under the Freedom of Information Act or any other provision of law except to those authorized law or court officials who need to know this information in order to prevent the rights afforded by this subsection from being taken advantage of more than once.

(G)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to subsection (B) of this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-359; 1968 (55) 2497; 1988 Act No. 532, Section 14; 1993 Act No. 184, Section 251; 1995 Act No. 65, Section 1; 1996 Act No. 459, Section 180; 1999 Act No. 115, Section 6; 2001 Act No. 79, Section 2.H; 2016 Act No. 275 (S.1258), Section 73, eff July 1, 2016.

SECTION 56-5-760.

Operation of authorized emergency vehicles.

(A) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions of this section.

(B) The driver of an authorized emergency vehicle may:

(1) park or stand, notwithstanding any other provision of this chapter;

(2) proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation;

(3) exceed the maximum speed limit if he does not endanger life or property;

(4) disregard regulations governing direction of movement or turning in specified directions.

(C) The exemptions in this section granted to an authorized emergency vehicle apply only when the vehicle is making use of an audible signal meeting the requirements of Section 56-5-4970 and visual signals meeting the requirements of Section 56-5-4700 of this chapter, except that an authorized emergency vehicle operated as a police vehicle need not use an audible signal nor display a visual signal when the vehicle is being used to:

(1) obtain evidence of a speeding violation;

(2) respond to a suspected crime in progress when use of an audible or visual signal, or both, could reasonably result in the destruction of evidence or escape of a suspect; or

(3) surveil another vehicle or its occupants who are suspected of involvement in a crime.

(D) The provisions of this section do not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.

(E) The Criminal Justice Academy shall promulgate regulations pursuant to the Administrative Procedures Act so as to provide

uniform guidelines and training programs for law enforcement agencies which use emergency vehicles. Law enforcement agencies authorized to use emergency vehicles shall use the regulations developed by the Criminal Justice Academy to provide written guidelines and to provide training programs for its officers and employees regarding the operation of emergency vehicles.

HISTORY: 1962 Code Section 46-291; 1952 Code Section 46-291; 1949 (46) 466; 1977 Act No. 149 Section 3; 1990 Act No. 580, Section 1.

SECTION 56-5-765.

Investigations of traffic collisions involving a motor vehicle or motorcycle of a law enforcement agency.

(A) When a motor vehicle or motorcycle of a law enforcement agency, except a motor vehicle or motorcycle of the Department of Public Safety, is involved in a traffic collision that: (1) results in an injury or a death, or (2) involves a privately-owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved, the State Highway Patrol must investigate the collision and must file a report with findings on whether the agency motor vehicle or motorcycle was operated properly within the guidelines of appropriate statutes and regulations.

(B) When a motor vehicle or motorcycle of the Department of Public Safety is involved in a traffic collision that: (1) results in an injury or a death, or (2) involves a privately-owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved, the sheriff of the county in which the collision occurred must investigate the collision, regardless of whether the collision occurred within an incorporated jurisdiction, and must file a report with findings on whether the Department of Public Safety's motor vehicle or motorcycle was operated properly within the guidelines of appropriate statutes and regulations.

(C) A law enforcement department or agency must not investigate a traffic collision in which a motor vehicle, a motorcycle, or an employee of that department or agency is involved that: (1) results in an injury or a death, or (2) involves a privately-owned motor vehicle or motorcycle, regardless of whether another motor vehicle or motorcycle is involved.

(D) A law enforcement agency that has primary responsibility for an investigation involving a motor vehicle, a motorcycle, or an employee of another department or agency, but lacks the expertise to conduct a proper investigation, may request assistance from another agency that has the appropriate expertise, as long as the assisting agency or an employee of the assisting agency is not a subject of the investigation. A request made pursuant to this subsection shall result in a joint investigation conducted by both agencies.

(E) A person who knowingly and wilfully violates the provisions of subsection (C) is subject to punishment as provided for in Section 8-1-80, even if the person's authority extends beyond a single election or judicial district.

(F) An investigation of a traffic collision involving a motor vehicle, a motorcycle, or an employee of a law enforcement agency or department must include a field investigation to identify possible witnesses, including possible witnesses not involved in the traffic collision, but who may have witnessed the traffic collision from a vantage point other than the collision site.

(G) For purposes of this section, "involved in a traffic collision" includes a law enforcement motor vehicle or motorcycle engaged in a pursuit when a traffic collision occurs.

HISTORY: 1994 Act No. 439, Section 1; 1995 Act No. 138, Section 5; 1996 Act No. 425, Section 3; 1996 Act No. 459, Section 181; 2002 Act No. 277, Section 1; 2004 Act No. 269, Section 1; 2004 Act No. 286, Section 5.

SECTION 56-5-790.

Application to persons riding animals, driving animal-drawn vehicles or pushing pushcarts.

Every person riding an animal or driving any animal-drawn vehicle or pushing a pushcart upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except those provisions of this chapter which by their very nature can have no application.

HISTORY: 1962 Code Section 46-289; 1952 Code Section 46-289; 1949 (46) 466.

SECTION 56-5-800.

Persons working on highways; exceptions.

Unless specifically made applicable, the provisions of this chapter except those contained in Articles 3, 9 and 23 and Sections 56-5-1590 to 56-5-1620 shall not apply to persons, motor vehicles and other equipment while actually engaged in work upon a highway but shall apply to such persons and vehicles when traveling to or from such work.

HISTORY: 1962 Code Section 46-290; 1952 Code Section 46-290; 1949 (46) 466; 1977 Act No. 149 Section 2.

SECTION 56-5-810.

Rights of owner who permits traffic on his property.

Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, from requiring other or different or additional conditions than those specified in this chapter or from otherwise regulating such use as may seem best to such owner.

HISTORY: 1962 Code Section 46-294; 1952 Code Section 46-294; 1949 (46) 466.

SECTION 56-5-820.

Violations of low speed vehicle laws; penalty.

(A) A person operating a low speed vehicle on a highway must comply with all statutes regarding low speed vehicles in this title.

(B) Each violation of low speed vehicle laws constitutes a separate offense.

(C) The penalty for a violation of this section is contained in Section 56-5-6190.

HISTORY: 2005 Act No. 170, Section 4, eff 6 months after approval by the Governor (approved June 7, 2005).

ARTICLE 7

Traffic Signs, Signals, and Markings

SECTION 56-5-910.

Approval by Department of Transportation of stop signs or traffic-control signals placed by local authorities.

No local authority shall erect or maintain any stop sign or traffic-control signal at any location so as to require the traffic on any state highway to stop before entering or crossing any intersecting highway unless approval in writing has first been obtained from the Department of Transportation.

HISTORY: 1962 Code Section 46-283; 1952 Code Section 46-283; 1949 (46) 466; 1993 Act No. 181, Section 1400.

SECTION 56-5-920.

Adoption of uniform system of traffic-control devices.

The Department of Transportation may adopt a manual of standards and specifications for a uniform system of traffic-control devices, consistent with the provisions of this chapter, for use upon highways and streets within this State.

HISTORY: 1962 Code Section 46-301; 1952 Code Section 46-301; 1949 (46) 466; 1993 Act No. 181, Section 1401.

SECTION 56-5-930.

Placing and maintaining traffic-control devices on state highways.

The Department of Transportation may place and maintain such traffic-control devices, conforming to its manual and specifications, upon all state highways as it shall deem necessary to indicate and to carry out the provisions of this chapter or to regulate, warn or guide traffic. No local authority shall place or maintain any traffic-control devices upon any state highway without having first obtained the written approval of the Department of Transportation.

HISTORY: 1962 Code Section 46-302; 1952 Code Section 46-302; 1949 (46) 466; 1993 Act No. 181, Section 1402.

SECTION 56-5-935.

Traffic control devices in Aiken, Allendale, and Barnwell counties on federal land; control by U.S. Department of Energy.

The United States Department of Energy is authorized to place and maintain traffic control devices upon roads within the confines of the lands in Aiken, Allendale, and Barnwell counties acquired or to be acquired by the United States Government. The Department of Energy is not required to obtain written approval of the Department of Transportation as provided in Sections 56-5-910 and 56-5-930.

The driver of a vehicle must obey the instruction of any traffic control device or sign placed as provided in this section unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

HISTORY: 1990 Act No. 598, Section 4; 1993 Act No. 181, Section 1403.

SECTION 56-5-940.

Local traffic-control devices.

Subject to the limitations prescribed in Section 56-5-930, local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn or guide traffic. All such traffic-control devices so erected by such local authorities shall conform to the State manual and specifications.

HISTORY: 1962 Code Section 46-303; 1952 Code Section 46-303; 1949 (46) 466.

SECTION 56-5-950.

Obedience to and required traffic-control devices.

(a) The driver of any vehicle shall obey the instructions of any official traffic-control device, applicable thereto placed or held in accordance with the provisions of this chapter, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(b) No provision of this chapter for which official traffic-control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic-control devices are placed or held in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed or held by the official act or direction of lawful authority unless the contrary shall be established by competent evidence.

(d) Any official traffic-control device placed or held pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirement of this chapter, unless the contrary shall be established by competent evidence.

HISTORY: 1962 Code Section 46-304; 1952 Code Section 46-304; 1949 (46) 466; 1977 Act No. 147 Section 4.

SECTION 56-5-970.

Traffic-control signal legend.

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, only the colors, green, red, and yellow, shall be used except for special pedestrian signals carrying a word legend. Such lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(A) Green indication:

(1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(3) Unless otherwise directed by a pedestrian-control signal, as provided in Section 56-5-990, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(B) Steady yellow indication:

(1) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

(2) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in Section 56-5-990, are advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(C) Steady red indication:

(1) Vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in item (3).

(2) Vehicular traffic facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow, and unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication permitting the movement indicated by such arrow is shown except as provided in items (3) and (5).

(3) Except when a sign is in place prohibiting a turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right or to turn left from a one-way street into a one-way street after stopping as required by item (1) or (2). Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(4) Unless otherwise directed by a pedestrian-control signal as provided in Section 56-5-3110, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

(5) Notwithstanding any other provision of law, if a driver of a motorcycle or moped, or a bicycle rider, approaches an intersection that is controlled by a traffic-control device, the driver may proceed through the intersection on a steady red light only if the driver or rider, as the case may be:

(a) comes to a full and complete stop at the intersection for one hundred twenty seconds; and

(b) exercises due care as provided by law, otherwise treats the traffic control device as a stop sign, and determines it is safe to proceed.

HISTORY: 1962 Code Section 46-306; 1952 Code Section 46-306; 1949 (46) 466; 1975 (59) 76; 1977 Act No. 11; 1977 Act No. 149 Section 5; 2008 Act No. 240, Section 1, eff May 27, 2008.

SECTION 56-5-990.

Pedestrian "walk" and "wait" signals.

Whenever special pedestrian control signals exhibiting the words "Walk" or "Wait" are in place such signals shall indicate as follows:

(1) "Walk" indicates that a pedestrian facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles; and

(2) "Wait" indicates that no pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing.

HISTORY: 1962 Code Section 46-308; 1952 Code Section 46-308; 1949 (46) 466.

SECTION 56-5-1000.

Flashing signals.

(a) Whenever an illuminated flashing red or yellow light is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:

1. Flashing red (stop signal). When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2. Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(b) This section shall not apply at railroad grade crossings. Conduct of drivers approaching grade crossings shall be governed by the rules set forth in Section 56-5-2710 of this chapter.

HISTORY: 1962 Code Section 46-309; 1952 Code Section 46-309; 1949 (46) 466; 1977 Act No. 149 Section 6.

SECTION 56-5-1010.

Railroad signs at grade crossings.

All railroad companies operating railroads in the State shall place and maintain at every crossing of a highway and railroad at grade

standard cross-buck signs in accordance with the requirements of the manual of standards and specifications for uniform traffic-control devices referred to in Section 56-5-920.

HISTORY: 1962 Code Section 46-310; 1952 Code Section 46-310; 1949 (46) 466.

SECTION 56-5-1015.

Lane use control signals.

When lane use control signals are placed over individual lanes the signals shall indicate and apply to drivers of vehicles as follows:

- (a) Green indication. Vehicular traffic may travel in any lane over which a green signal is shown.
- (b) Steady yellow indication. Vehicular traffic is thereby warned that a lane control change is being made.
- (c) Steady red indication. Vehicular traffic shall not enter or travel in any lane over which a red signal is shown.
- (d) Flashing yellow indication. Vehicular traffic may use the lane only for the purpose of approaching and making a left turn.

HISTORY: 1962 Code Section 46-310.1; 1977 Act No. 149 Section 7.

SECTION 56-5-1020.

Unauthorized signs, signals, or devices prohibited; exception; removal.

No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which

(a) purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, (b) attempts to direct the movement of traffic or (c) hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit upon any highway any traffic sign, signal or control device bearing thereon any commercial advertisement. This provision shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs. Every such prohibited sign, signal or marking is hereby declared to be a public nuisance, and the authority having jurisdiction over the highway may remove it or cause it to be removed without notice.

HISTORY: 1962 Code Section 46-311; 1952 Code Section 46-311; 1949 (46) 466.

SECTION 56-5-1030.

Interference with traffic-control devices or railroad signs or signals prohibited.

(A) No person shall wilfully without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove an official traffic-control device or a railroad sign or signal or its inscriptions, shields, or insignia.

(B) A person violating the provisions of this section is guilty of a felony and, upon conviction, must be:

- (1) fined not less than one thousand dollars or imprisoned not more than five years, or both. The driver's license of a person convicted under this section must be revoked for not less than five years. In any case where a license has not been issued, the person is not eligible to obtain a license for five years from the date of conviction;
- (2) fined not less than one thousand dollars or imprisoned not more than ten years if injury results;
- (3) imprisoned not more than thirty years if death results.

HISTORY: 1962 Code Section 46-312; 1952 Code Section 46-312; 1949 (46) 466; 1969 (56) 698; 1993 Act No. 184, Section 82.

ARTICLE 9

Accidents and Reports

SECTION 56-5-1210.

Duties of drivers involved in accident resulting in death or personal injury; moving or removing vehicles.

(A) The driver of a vehicle involved in an accident resulting in injury to or the death of a person immediately shall stop the vehicle at the scene of the accident or as close to it as possible. He then shall return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 56-5-1230. However, he may temporarily leave the scene to report the accident to the proper authorities. The stop must be made without obstructing traffic more than is necessary. A person who fails to stop or to comply with the requirements of this section is guilty of:

- (1) a misdemeanor and, upon conviction, must be imprisoned not less than thirty days nor more than one year or fined not less than one hundred dollars nor more than five thousand dollars, or both, when injury results but great bodily injury or death does not result;
- (2) a felony and, upon conviction, must be imprisoned not less than thirty days nor more than ten years and fined not less than five thousand dollars nor more than ten thousand dollars when great bodily injury results; or
- (3) a felony and, upon conviction, must be imprisoned not less than one year nor more than twenty-five years and fined not less than ten thousand dollars nor more than twenty-five thousand dollars when death results.

(B) Law enforcement officers or authorized employees of the Department of Transportation may move or have removed from the traveled way all disabled vehicles and vehicles involved in an accident and any debris caused by motor vehicle traffic collisions where it can be accomplished safely and may result in the improved safety or traffic flow upon the road; however, where a vehicle has been involved in an accident resulting in great bodily injury or death to a person, the vehicle shall not be moved until it is authorized by the investigating law enforcement officer. The State, its political subdivisions, and its officers and employees are not liable for any damages to vehicles that result from the removal unless the removal was carried out in a reckless or grossly negligent manner. The vehicle owner and any driver, or the owner's, driver's, or the at-fault party's insurance company, of a vehicle removed under this subsection, or the owner's, driver's, or the at-fault party's insurance company, shall bear all reasonable costs of removal. Nothing in this section shall bar recovery from an at-fault party when the accident was caused by the actions of that party.

(C) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(D) The Department of Motor Vehicles shall revoke the driver's license of the person convicted pursuant to this section.

HISTORY: 1962 Code Section 46-321; 1952 Code Section 46-321; 1949 (46) 466; 1996 Act No. 398, Section 1; 2004 Act No. 286, Section 1.

SECTION 56-5-1220.

Duties of driver involved in accident resulting in damage to attended vehicles.

(A) The driver of a vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by a person immediately shall stop the vehicle at the scene of the accident or as close to it as possible, but shall return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 56-5-1230. However, he may temporarily leave the scene to report the accident to the proper authorities. A person who fails to stop or comply with the requirements of this subsection is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than one year or fined not less than one hundred dollars nor more than five thousand dollars, or both.

(B) If a disabled vehicle or a vehicle involved in an accident resulting only in damage to a vehicle is obstructing traffic, the driver of the vehicle shall make every reasonable effort to move any vehicle that is capable of being driven safely off the roadway as defined by Section 56-5-460 so as not to block the flow of traffic. The driver or any other person who has moved a motor vehicle to facilitate the flow of traffic as provided in this subsection before the arrival of a law enforcement officer shall not be considered liable or at fault regarding the cause of the accident solely by reason of moving the vehicle pursuant to this section.

(C) State and local authorities may erect signs along highways and streets that instruct the public that the driver of a disabled vehicle or a vehicle involved in an accident resulting only in damage to vehicles shall make every reasonable effort to move any vehicle that is capable of being driven off the roadway.

HISTORY: 1962 Code Section 46-322; 1952 Code Section 46-322; 1949 (46) 466; 1996 Act No. 398, Section 2; 2004 Act No. 286, Section 2.

SECTION 56-5-1230.

Duty to give information and render aid.

The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his name, address and the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and shall render to any person injured in such accident reasonable assistance, including the carrying or making arrangements for the carrying of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

HISTORY: 1962 Code Section 46-323; 1952 Code Section 46-323; 1949 (46) 466.

SECTION 56-5-1240.

Duties of driver involved in accident involving unattended vehicle.

The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof.

HISTORY: 1962 Code Section 46-324; 1952 Code Section 46-324; 1949 (46) 466.

SECTION 56-5-1250.

Duties of driver striking fixtures upon or adjacent to highway.

The driver of any vehicle involved in an accident resulting only in damage to fixtures legally upon or adjacent to a highway shall take reasonable steps to locate and notify the owner or person in charge of such property of such fact and of his name and address and of the registration number of the vehicle he is driving and shall upon request and if available exhibit his driver's license and shall make report of such accident when and as required in Section 56-5-1270.

HISTORY: 1962 Code Section 46-325; 1952 Code Section 46-325; 1949 (46) 466.

SECTION 56-5-1260.

Immediate report of accidents resulting in personal injury or death.

The driver of a vehicle involved in an accident resulting in injury to or death of any person shall immediately by the quickest means of communication, whether oral or written, give notice of such accident to the local police department if such accident occurs within a municipality, otherwise to the office of the county sheriff or the nearest office of the South Carolina Highway Patrol.

HISTORY: 1962 Code Section 46-326; 1952 Code Section 46-326; 1949 (46) 466.

SECTION 56-5-1270.

Operators, owners, and law enforcement officers shall make written reports of certain accidents and investigations.

The operator or owner of a motor vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of one thousand dollars or more which was not investigated by a law enforcement officer, within fifteen days after the accident, shall forward a written report and verification of liability insurance coverage of the accident to the Department of Motor Vehicles, the proof and report to be in a manner prescribed by the Department of Motor Vehicles and the Department of Public Safety. The completed and verified form must be returned by the operator or owner to the Department of Motor Vehicles within fifteen days from the accident date. Failure to forward the accident report verified in the proper manner in respect to liability insurance coverage for the operation of the vehicle involved in the accident is prima facie evidence that the vehicle was uninsured.

Every law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident that results in injury to or

death of any person or total property damage to an apparent extent of one thousand dollars or more either at the time of and at the scene of the accident or after the accident by interviewing participants or witnesses, within twenty-four hours after completing the investigation, must forward a written report of the accident to the Department of Motor Vehicles including the names of interviewed participants and witnesses. If a two-wheeled motorized vehicle is involved in the accident and the operator or a passenger of the vehicle suffers a head injury, the injury must be indicated on the report.

HISTORY: 1962 Code Section 46-327; 1952 Code Section 46-327; 1949 (46) 466; 1968 (55) 2591; 1971 (57) 297; 1977 Act No. 195 Section 1; 1988 Act No. 665, Section 1; 1996 Act No. 459, Section 182.

SECTION 56-5-1275.

Requests for accident investigation reports; dissemination of reports.

With respect to a motor vehicle accident, no employee of any law enforcement agency shall allow any person to examine or obtain a copy of any accident report or related investigative report when the employee knows or should reasonably know that the request for access to the report is for commercial solicitation purposes. No person shall request any law enforcement agency to permit examination or to furnish a copy of any such report for commercial solicitation purposes. All persons, except law enforcement personnel and persons named in the report, shall be required to submit a separate written request to the law enforcement agency for each report. A written request under this section must state the requestor's name, address, and the intended use of the report in sufficient detail that the law enforcement agency may ascertain that the intended use is not for commercial solicitation purposes. A person who knowingly makes any false statement in any written request under this section shall be subject to the provisions of Section 56-3-2520.

HISTORY: 1991 Act No. 155, Section 2.

SECTION 56-5-1280.

When driver unable to report, other occupant or owner shall report.

Whenever the driver of a vehicle is physically incapable of making an immediate or a written report of an accident as required in Section 56-5-1260 and there was another occupant in the vehicle at the time of the accident capable of making a report, such occupant shall make or cause to be made such report not made by the driver. Whenever the driver is so physically incapable of making a written report as required in Section 56-5-1270 and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five days after learning of the accident make such report not made by the driver.

HISTORY: 1962 Code Section 46-328; 1952 Code Section 46-328; 1949 (46) 466.

SECTION 56-5-1290.

Evidentiary use of reports.

None of the reports required by Sections 56-5-1260 to 56-5-1280 may be evidence of the negligence or due care of either party at the trial of any action at law to recover damages. However, law enforcement officers may refer to these reports when testifying in order to refresh their recollection of events.

HISTORY: 1962 Code Section 46-328.1; 1952 (47) 1853; 1998 Act No. 350, Section 1.

SECTION 56-5-1300.

Accident report forms.

The Department of Public Safety shall prepare and upon request supply to police departments, coroners, sheriffs, garages and other suitable agencies or individuals forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by persons involved in accidents and by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing and the persons and vehicles involved. Every accident report required to be made in writing shall be made on the appropriate form approved by the Department and shall contain all of the information required therein unless not available.

HISTORY: 1962 Code Section 46-329; 1952 Code Section 46-329; 1949 (46) 466.

SECTION 56-5-1320.

Coroners shall report traffic deaths.

Every coroner or other official performing like functions shall on or before the tenth day of each month report in writing to the Department of Public Safety the death of any person within his jurisdiction during the preceding calendar month as the result of a traffic accident, giving the time and place of the accident and the circumstances relating thereto.

HISTORY: 1962 Code Section 46-331; 1952 Code Section 46-331; 1949 (46) 466.

SECTION 56-5-1330.

Garages or repair shops shall report accidents or bullet damages.

The person in charge of any garage or repair shop to which is brought any motor vehicle which shows evidence of having been involved in an accident of which report must be made as provided in Section 56-5-1270 or struck by any bullet shall report to the Department of Public Safety within twenty-four hours after such motor vehicle is received, giving the engine number, registration number and the name and address of the owner or operator of such vehicle.

HISTORY: 1962 Code Section 46-332; 1952 Code Section 46-332; 1949 (46) 466.

SECTION 56-5-1340.

Accident reports without prejudice and confidential; use; permissible disclosures.

All accident reports made by persons involved in accidents shall be without prejudice to the individual so reporting and shall be for the confidential use of the Department of Motor Vehicles, Department of Public Safety, or other State agencies having use for the records for accident prevention purposes. The Department of Motor Vehicles may disclose the identity of a person involved in an

accident when such identity is not otherwise known or when such person denies his presence at such accident and may upon request disclose to any person who has suffered injury to his person or property any information contained on any report regarding the existence of insurance. No such report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the Department of Motor Vehicles shall furnish, upon demand of any person who has, or claims to have, made such a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the Department of Motor Vehicles solely to prove a compliance or a failure to comply with the requirement that such a report be made to the Department of Motor Vehicles.

HISTORY: 1962 Code Section 46-333; 1952 Code Section 46-333; 1949 (46) 466; 1959 (51) 567; 1977 Act No. 195 Section 2. SECTION 56-5-1350.

Tabulation and analysis of reports; publication of statistical information.

The Department of Public Safety must tabulate and may analyze all accident reports as required in Section 56-5-1270 and shall publish annually or at more frequent intervals statistical information based thereon as to the number and circumstances of traffic accidents.

HISTORY: 1962 Code Section 46-334; 1952 Code Section 46-334; 1949 (46) 466; 1996 Act No. 459, Section 183. SECTION 56-5-1360.

Municipality may require accident reports; use.

Any incorporated city or town may by ordinance require that the driver of a vehicle involved in an accident shall also file with a designated city department a report of such accident or a copy of any report herein required to be filed with the Department of Motor Vehicles. All such reports shall be for the confidential use of the city department and subject to the provisions of Section 56-5-1340.

HISTORY: 1962 Code Section 46-335; 1952 Code Section 46-335; 1949 (46) 466.

ARTICLE 11

Restrictions on Speed; Racing

SECTION 56-5-1520.

General rules as to maximum speed limits; lower speeds may be required.

(A) A person shall not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. Speed must be so controlled to avoid colliding with a person, vehicle, or other conveyance on or entering the highway in compliance with legal requirements and the duty of a person to use care.

(B) Except when a special hazard exists that requires lower speed for compliance with subsection (A), the limits specified in this section or established as hereinafter authorized are maximum lawful speeds, and a person shall not drive a vehicle on a highway at a speed in excess of these maximum limits:

(1) seventy miles an hour on the interstate highway system and other freeways where official signs giving notice of this speed are posted;

(2) sixty miles an hour on multilane divided primary highways where official signs giving notice of this speed limit are posted;

(3) fifty-five miles an hour in other locations or on other sections of highways and unpaved roads are limited to the speed of forty miles an hour; and

(4) manufactured, modular, or mobile homes must not be transported at a speed in excess of ten miles below the maximum posted speed limit when the maximum posted speed limit is in excess of forty-five miles an hour, and never in excess of fifty-five miles an hour.

(C) Thirty miles an hour is the maximum speed in an urban district. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more.

(D) A local authority on the basis of an engineering and traffic investigation may determine that the maximum speed limit permitted under this article is less than thirty miles an hour in an urban district. If this determination is made, the maximum speed limit for the urban district is enforceable by all law enforcement officers authorized to enforce the traffic laws in the urban district. However, this subsection does not apply to highways within the state highway system contained in Section 56-5-1530.

(E) The maximum speed limits set forth in this section may be altered pursuant to Sections 56-5-1530 and 56-5-1540.

(F) The driver of a vehicle shall drive, consistent with the requirements of subsection (A), at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, approaching a hillcrest, when traveling upon any narrow bridge, narrow or winding roadway, and when special hazard exists with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(G) A person violating the speed limits established by this section is guilty of a misdemeanor and, upon conviction for a first offense, must be fined or imprisoned as follows:

(1) in excess of the above posted limit but not in excess of ten miles an hour by a fine of not less than fifteen dollars nor more than twenty-five dollars;

(2) in excess of ten miles an hour but less than fifteen miles an hour above the posted limit by a fine of not less than twenty-five dollars nor more than fifty dollars;

(3) in excess of fifteen miles an hour but less than twenty-five miles an hour above the posted limit by a fine of not less than fifty dollars nor more than seventy-five dollars; and

(4) in excess of twenty-five miles an hour above the posted limit by a fine of not less than seventy-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

(H) A citation for violating the speed limits issued by any authorized officer must note on it the rate of speed for which the citation is issued.

(I) In expending the funds credited to the state general fund from fines generated under subsection (G), the Department of Public Safety first shall consider the need for additional highway patrolmen.

HISTORY: 1993 Act No. 181, Section 1404; 1994 Act No. 497, Part II, Section 36R; 1999 Act No. 17, Section 1.

SECTION 56-5-1530.

Alteration of speed limits on state highway system by Department of Transportation; signs.

(a) Establishing speed zones. Whenever the Department of Transportation shall determine upon the basis of an engineering and traffic investigation that any maximum speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the state highway system, the Department of Transportation may determine and declare a reasonable and safe maximum limit thereat, which shall be effective when appropriate signs giving notice thereof are erected. Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon such signs; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs.

(b) Setting maximum limits in state highway extensions in urban districts. The Department of Transportation shall determine the proper maximum speed for all state primary highway extensions into and through urban districts and shall declare a reasonable and safe maximum speed limit thereon which may be greater or less than the maximum speed otherwise permitted under this article for an urban district and such maximum speed limits shall be effective at all times during hours of darkness and at other times as may be determined when appropriate official signs giving notice thereof are erected upon such street or highway.

HISTORY: 1962 Code Section 46-362; 1952 Code Sections 46-367, 46-369; 1949 (46) 466; 1966 (54) 2244; 1993 Act No. 181, Section 1405.

SECTION 56-5-1535.

Endangerment of a highway worker; penalties; definitions.

(A) 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)(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) 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.

HISTORY: 1994 Act No. 409, Section 1; 1999 Act No. 17, Section 2; 2017 Act No. 81 (H.4033), Section 1, eff May 19, 2017.

Effect of Amendment

2017 Act No. 81, Section 1, rewrote the section, deleting the provision relating to speeding in work zones, creating the offense of "endangerment of a highway worker", and providing a penalty for this offense.

SECTION 56-5-1536.

Repealed.

HISTORY: Former Section, titled Driving in a temporary work zone; penalty, had the following history: 2004 Act No. 286, Section 4; 2011 Act No. 49, Section 1, eff June 14, 2011. Repealed by 2017 Act No. 81, Section 3, eff May 19, 2017.

SECTION 56-5-1538.

Emergency scene management; definitions

(A) An emergency scene is a location designated by the potential need to provide emergency medical care and is identified by emergency vehicles with flashing lights, rescue equipment, or emergency personnel on the scene.

(B) An emergency scene is a special hazard.

(C) An emergency scene is under the authority of the first arriving emergency personnel, which includes emergency medical services personnel, until the arrival of the fire or law enforcement officials having jurisdiction. All motor vehicles passing through an emergency scene and pedestrians observing an emergency scene must obey and not interfere with the duties of emergency personnel. Motor vehicles and bystanders may not block access to or exit from an emergency scene.

(D) The management authority of emergency medical services is limited to managing patient care and preventing further injury to the patients and on-scene personnel. This authority may be delegated by emergency personnel to provide an adequate level of safety.

(E) A paid or volunteer worker at an emergency scene has proper authority to be at and control the scene in a manner consistent with his training.

(F) The driver of a vehicle shall ensure that the vehicle is kept under control when approaching or passing an emergency scene or authorized emergency vehicle stopped on or near the right-of-way of a street or highway with emergency lights flashing. The exercise of control required for a driver to comply with this section is that control possible and necessary by the driver to prevent a collision, to prevent injury to persons or property, and to avoid interference with the performance of emergency duties by emergency personnel, or interfering with the operation of an authorized emergency vehicle.

(G) A person driving a vehicle approaching a stationary authorized emergency vehicle that is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights, or amber or yellow warning lights shall proceed with due caution, significantly reduce the speed of the vehicle, and:

(1) yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four lanes with not less than two lanes proceeding in the same direction as the approaching vehicle; or

(2) maintain a safe speed for road conditions, if changing lanes is impossible or unsafe.

(H) A person who violates the provisions of this section is guilty of the misdemeanor of endangering emergency services personnel or operators of authorized emergency vehicles and, upon conviction, must be fined not less than three hundred dollars nor more than five hundred dollars.

(I) For purposes of this section:

(1) "Authorized emergency vehicle" means any ambulance, police, fire, rescue, recovery, or towing vehicle authorized by this State, county, or municipality to respond to a traffic incident.

(2) "Emergency services personnel" means fire, police, or emergency medical services personnel (EMS) responding to an emergency incident.

HISTORY: 1996 Act No. 256, Section 1; 2002 Act No. 348, Section 8; 2024 Act No. 174 (H.4436), Section 1, eff May 20, 2024.

Effect of Amendment

2024 Act No. 174, Section 1, in (F), in the second sentence, added ", or interfering with the operation of an authorized emergency vehicle" at the end; and in (H), inserted "or operators of authorized emergency vehicles" following "emergency services personnel".

SECTION 56-5-1540.

Alteration of speed limits by local authorities; signs; approval by Department of Transportation.

(a) Establishing speed zones. Whenever local authorities in their respective jurisdictions determine on the basis of an engineering and traffic investigation that the maximum speed permitted under this article is greater or less than is reasonable and safe under the

conditions found to exist upon a highway or part of a highway, the local authority may determine and declare a reasonable and safe maximum limit thereon which:

(1) decreases the limit at intersections; or

(2) increases the limit within an urban district but not to more than seventy miles an hour; or

(3) decreases the limit outside an urban district, but not to less than thirty-five miles an hour.

(b) Setting maximum limits on arterial streets. Local authorities in their respective jurisdictions shall determine by an engineering and traffic investigation the proper maximum speed for all arterial streets and shall declare a reasonable and safe maximum limit thereon which may be greater or less than the maximum speed permitted under this article for an urban district.

(c) Signs. Any altered limit established as hereinabove authorized is effective at all times or during hours of darkness or at other times as may be determined when appropriate signs giving notice thereof are erected upon the street or highway.

(d) Approval of altered limits by Department of Transportation. Any alteration of maximum limits on state highways or extensions thereof in a municipality by local authorities is not effective until the alteration has been approved by the Department of Transportation.

(e) Limitations on alterations. Not more than six such alterations as authorized above may be made for each mile along a street or highway, except in the case of reduced limits at intersections, and the difference between adjacent limits must not be more than ten miles an hour.

HISTORY: 1962 Code Section 46-363; 1952 Code Sections 46-368, 46-370, 46-371; 1949 (46) 466; 1966 (54) 2244; 1987 Act No. 189 Section 3; 1993 Act No. 181, Section 1406; 1999 Act No. 17, Section 3.

SECTIONS 56-5-1550 to 56-5-1555.

Reserved.

HISTORY: Former Section 56-5-1550, titled Speed limitation on motor-driven cycles, had the following history: 1962 Code Section 46-364; 1952 Code Section 46-364; 1949 (46) 466; 1966 (54) 2244. Reserved by 2017 Act No. 89, Section 25, eff November 19, 2018.

HISTORY: Former Section 56-5-1555, titled Speed limitation on mopeds, had the following history: 1986 Act No. 528, Section 10; 1991 Act No. 94, Section 4. Reserved by 2017 Act No. 89, Section 26, eff November 19, 2018.

SECTION 56-5-1560.

Minimum speed limits.

(a) Impeding traffic by slow speed prohibited. -No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(b) Establishing minimum speed zones; signs. Whenever the Department of Transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow speeds on any part of a highway consistently impede the normal and reasonable movement of traffic, the Department of Transportation or local authority may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, when appropriate signs giving notice thereof are erected along the part of the highway for which a minimum speed limit is established. Also any minimum speed limit adopted by a municipality for a section of the state highway within the municipality shall not be effective until such minimum speed has been approved by the Department of Transportation.

HISTORY: 1962 Code Section 46-365; 1952 Code Section 46-372; 1949 (46) 466; 1956 (49) 1648; 1966 (54) 2244; 1993 Act No. 181, Section 1407.

SECTION 56-5-1570.

Special speed limitations for certain vehicles and places.

(a) Vehicles towing house trailers. -No person shall drive a vehicle which is towing a house trailer at a speed greater than a maximum of forty-five miles per hour.

(b) Vehicles with solid rubber or cushion tires. -No person shall drive any vehicle equipped with solid rubber or cushion tires at a speed greater than a maximum of ten miles per hour.

(c) On elevated structures; safe speed not to be exceeded. -No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.

(d) Same; establishing safe maximum limit. The Department of Transportation upon request from any local authority shall, or upon its own initiative may, conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it finds that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this chapter, the Department of Transportation shall determine and declare the maximum speed of vehicles which such structure can safely withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained before each end of such structure.

(e) Same; proof of limit and signs conclusive evidence of safe speed. Upon the trial of any person charged with a violation of this section, proof of determination of the maximum speed by the Department of Transportation and the existence of such signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.

HISTORY: 1962 Code Section 46-366; 1952 Code Sections 46-365, 46-366; 1949 (46) 466; 1966 (54) 2244; 1993 Act No. 181, Section 1408.

SECTION 56-5-1580.

Contents of complaint and summons or notice to appear charging speeding.

In every charge of violation of any speed regulation in this article, the complaint and summons or notice to appear shall specify the speed at which the defendant is alleged to have driven and the maximum speed applicable within the district or at the location.

HISTORY: 1962 Code Section 46-367; 1966 (54) 2244.

SECTION 56-5-1590.

Unlawful to race or assist in racing on public roads.

It shall be unlawful to engage in a motor vehicle race or contest for speed on any public road, street or highway in this State or to aid, abet or assist in any manner whatsoever in any such race or contest. Altering, changing, tampering with or "souping up" a motor vehicle for the purpose of racing or speeding on any public road, street or highway in this State shall be considered as aiding, abetting or assisting for the purposes of Sections 56-5-1590 to 56-5-1620.

HISTORY: 1962 Code Section 46-356; 1957 (50) 133.

SECTION 56-5-1600.

Unlawful to acquiesce in or permit use of car in race.

It shall also be unlawful for any owner of a motor vehicle to acquiesce in or permit his car to be used by another in any motor vehicle race or contest for speed on any public road, street or highway in this State.

HISTORY: 1962 Code Section 46-357; 1957 (50) 133.

SECTION 56-5-1610.

"Acquiescence" defined.

For the purpose of Sections 56-5-1590 to 56-5-1620, the word "acquiescence" shall mean actual knowledge that the car was to be used for the purpose of racing on a public road, street or highway.

HISTORY: 1962 Code Section 46-355; 1957 (50) 133.

SECTION 56-5-1620.

Penalties for racing; revocation or suspension of drivers' licenses and registrations.

Any person violating the provisions of Sections 56-5-1590 to 56-5-1620 by driving a motor vehicle shall, upon conviction, be fined not less than two hundred dollars nor more than six hundred dollars or imprisoned for not less than two months nor more than six months, or both, in the discretion of the trial judge. In addition to such penalty the driver of any vehicle who violates the provisions of Sections 56-5-1590 to 56-5-1620 shall upon conviction, entry of a plea of guilty or forfeiture of bail have his driver's license revoked for a period of one year. Any person violating the provisions of Sections 56-5-1590 to 56-5-1620 by acquiescing in or permitting the driving of his car shall, upon conviction, be fined not to exceed one hundred dollars or imprisoned for a period not to exceed thirty days, or both, in the discretion of the court and, in addition thereto, shall have his driver's license and the registration of his vehicle suspended for a period of three months.

HISTORY: 1962 Code Section 46-358; 1957 (50) 133.

ARTICLE 13

Driving on Right Side of Roadway; Overtaking and Passing; Following

SECTION 56-5-1810.

Drive on the right side of roadways; exceptions.

(a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway except as follows:

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.
2. When an obstruction exists making it necessary to drive to the left of the center of the highway. Any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance so as not to constitute an immediate hazard.
3. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon.
4. Upon a roadway restricted to one-way traffic.

(b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under item 2 of subsection (a). This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

HISTORY: 1962 Code Section 46-381; 1952 Code Section 46-381; 1949 (46) 466; 1977 Act No. 143 Section 1.

SECTION 56-5-1830.

Passing vehicles proceeding in opposite directions.

Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one half of the main-traveled portion of the roadway, as nearly as possible.

HISTORY: 1962 Code Section 46-383; 1952 Code Section 46-383; 1949 (46) 466.

SECTION 56-5-1840.

Overtaking and passing vehicles proceeding in same direction.

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

- (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and
- (2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

HISTORY: 1962 Code Section 46-384; 1952 Code Section 46-384; 1949 (46) 466.

SECTION 56-5-1850.

When passing on the right is permitted.

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn.
2. Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being travelled by the overtaking vehicle.

- (b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway.

HISTORY: 1962 Code Section 46-385; 1952 Code Section 46-385; 1949 (46) 466; 1977 Act No. 143 Section 2.

SECTION 56-5-1860.

Limitations on overtaking on the left.

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.

HISTORY: 1962 Code Section 46-386; 1952 Code Section 46-386; 1949 (46) 466; 1977 Act No. 143 Section 3.

SECTION 56-5-1880.

Further limitations on driving to left of center of roadway.

- (a) No vehicle shall be driven on the left side of the roadway under the following conditions:

1. When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction.
2. When approaching within one hundred feet of or traversing any intersection.
3. When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct or tunnel.

- (b) The foregoing limitations shall not apply upon a one-way roadway, nor under the conditions described in item 2, subsection (a) of Section 56-5-1810 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

HISTORY: 1962 Code Section 46-388; 1952 Code Section 46-388; 1949 (46) 466; 1977 Act No. 143 Section 4; 1992 Act No. 399, Section 6.

SECTION 56-5-1885.

Overtaking and passing another vehicle in the farthest left-hand lane.

- (A) A vehicle may not be driven in the farthest left-hand lane of a controlled access highway except when overtaking and passing another vehicle.

(B) Subsection (A) of this section does not apply:

- (1) when no other vehicle is directly behind the vehicle in the left lane;
- (2) when traffic conditions and congestion make it impractical to drive in the right lane;
- (3) when snow and other inclement weather conditions make it safer to drive in the left lane;
- (4) when obstructions or hazards exist in the right lane;
- (5) when, because of highway design, a vehicle must be driven in the left lane when preparing to exit;
- (6) to law enforcement vehicles, ambulances, or other emergency vehicles engaged in official duties and vehicles engaged in highway maintenance and construction operations;
- (7) when a driver of a tractor-trailer commercial motor vehicle combination is unable to move into the right lane safely due to another vehicle overtaking or passing his vehicle to the right; or
- (8) when a driver of a vehicle requiring a commercial motor vehicle license to operate is unable to move into the right lane safely due to a highway grade or another vehicle overtaking or passing his vehicle on the right.

(C) Nothing in this section shall limit the Department of Transportation's ability to establish and delineate lane restrictions for certain types of vehicles.

(D) The Department of Transportation must place signs along interstate highways directing slower traffic to move to the right. The signs must be placed at intervals of no more than thirty-five miles.

(E)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued

for a failure to appear in court when summoned or for a failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this section must not be:

(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles;

(b) included in the criminal records maintained by SLED; or

(c) reported to the offender's motor vehicle insurer.

(2) A violation of this section is not negligence per se, or contributory negligence, and is not admissible as evidence in a civil action.

(3) A law enforcement officer must not search, and may not request consent to search, a vehicle, or the driver or occupant of the vehicle, solely because of a violation of this section.

(4) A person charged with a violation of this section may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person violated the provisions of this section, then the penalty is a civil fine pursuant to item (1) of this subsection. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person violated the provisions of this section, then no penalty shall be assessed.

(5) A person found to be in violation of this section may bring an appeal to the court of common pleas.

HISTORY: 2021 Act No. 64 (H.3011), Section 1, eff August 15, 2021.

Editor's Note

2021 Act No. 64, Section 2, provides as follows:

"SECTION 2. This act takes effect ninety days after approval by the Governor. For a period of ninety days after the effective date of this act, only warning tickets may be issued for a violation of the provisions of this act."

SECTION 56-5-1890.

No-passing zones.

(a) The Department of Transportation and local authorities may determine those portions of any highway under their respective jurisdictions where overtaking and passing or driving on the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones and when such signs or markings are in place and clearly visible to an ordinarily observant person every driver of a vehicle shall obey the directions thereof.

(b) Where signs or markings are in place to define a no-passing zone as set forth in subsection (a) no driver shall at any time drive on the left side of the roadway within such or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(c) This section shall not apply under the conditions described in item 2, subsection (a) of Section 56-5-1810 nor to the driver of a vehicle turning left into or from an alley, private road or driveway.

HISTORY: 1962 Code Section 46-389; 1952 Code Section 46-389; 1949 (46) 466; 1977 Act No. 143 Section 5; 1993 Act No. 181, Section 1409.

SECTION 56-5-1895.

Passing prohibited in highway work zones; penalties.

No vehicle may be driven so as to overtake and pass another vehicle in a highway work zone where road maintenance or construction work is underway and passing would be hazardous to the highway worker. A person who violates the provisions of this section must be punished as provided in Section 56-5-6190.

HISTORY: 1994 Act No. 409, Section 2, eff May 25, 1994.

SECTION 56-5-1900.

Driving on roadways laned for traffic.

Whenever any roadway has been divided into two or more clearly marked lanes for traffic the following rules in addition to all others consistent herewith shall apply:

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that such movement can be made with safety.

(b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when the center lane is clear of traffic within a safe distance or in preparation for making a left turn or where the center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

(c) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.

(d) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of such devices.

HISTORY: 1962 Code Section 46-390; 1952 Code Section 46-390; 1949 (46) 466; 1977 Act No. 143 Section 6.

SECTION 56-5-1910.

One-way roadways and rotary traffic islands.

(a) The Department of Transportation and local authorities with respect to highways under their respective jurisdictions may designate any highway, roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one direction at all or such times as shall be indicated by official traffic-control devices.

(b) Upon a roadway so designated for one-way traffic, a vehicle shall be driven only in the direction designated at all or such times

as shall be indicated by official traffic-control devices.

(c) A vehicle passing around a rotary traffic island shall be driven only to the right of such island.

HISTORY: 1962 Code Section 46-391; 1952 Code Section 46-391; 1949 (46) 466; 1977 Act No. 143 Section 7; 1993 Act No. 181, Section 1410.

SECTION 56-5-1920.

Driving on divided highways.

Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across or within any such dividing space, barrier or section except through an opening in such physical barrier or dividing section or space or at a crossover or intersection as established, unless specifically prohibited by public authority. For clarification, a left turn across a painted median is authorized unless prohibited by an official traffic-control device.

HISTORY: 1962 Code Section 46-392; 1952 Code Section 46-392; 1949 (46) 466; 1956 (49) 1594; 1977 Act No. 143 Section 8.

SECTION 56-5-1930.

Following too closely.

(A) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

(B) The operator of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.

(C) Motor vehicles being operated upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

(D) This section does not apply to the operator of any nonleading commercial motor vehicle subject to Federal Motor Carrier Safety Regulations and traveling in a series of commercial vehicles using cooperative adaptive cruise control or any other automated driving technology.

HISTORY: 1962 Code Section 46-393; 1952 Code Section 46-393; 1949 (46) 466; 1977 Act No. 143 Section 9; 2017 Act No. 66 (H.3289), Section 1, eff May 19, 2017.

Effect of Amendment

2017 Act No. 66, Section 1, in (A) and (B), substituted "The operator" for "The driver"; in (C), substituted "being operated" for "being driven"; added (D), relating to the applicability of the section; and made nonsubstantive changes.

SECTION 56-5-1960.

Following fire apparatus prohibited.

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to an emergency closer than five hundred feet or stop such vehicle within five hundred feet of any fire apparatus stopped in answer to an emergency.

HISTORY: 1962 Code Section 46-496; 1952 Code Section 46-496; 1949 (46) 466; 1976 Act No. 534; 1978 Act No. 451 Section 5; 1998 Act No. 392, Section 2.

SECTION 56-5-1970.

Restricted access.

No person shall drive a vehicle onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

HISTORY: 1962 Code Section 46-397; 1977 Act No. 143 Section 10.

SECTION 56-5-1980.

Restrictions on use of controlled-access roadway.

(a) The Commission of the Department of Transportation by resolution or order entered in its minutes, and local authorities by ordinance, may regulate or prohibit the use of any controlled-access roadway or highway within their respective jurisdictions by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic.

(b) The commission or local authority adopting any such prohibition shall erect and maintain official traffic-control devices on the controlled-access highway on which such prohibitions are applicable and when in place no person shall disobey the restrictions stated on such devices.

HISTORY: 1962 Code Section 46-398; 1977 Act No. 143 Section 11; 1993 Act No. 181, Section 1411.

ARTICLE 15

Starting and Turning; Signaling

SECTION 56-5-2110.

Starting of a vehicle.

No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety.

HISTORY: 1962 Code Section 46-401; 1952 Code Section 46-401; 1949 (46) 466.

SECTION 56-5-2120.

Required position and method of turning.

The driver of a vehicle intending to turn shall do so as follows:

(a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(b) Left turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as the vehicle on the roadway being entered.

(c) The Department of Transportation and local authorities in their respective jurisdictions may cause official traffic-control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles and when such devices are so placed no driver shall turn a vehicle other than as directed and required by such devices.

(d) Two-way left turn lanes. Where a special lane for making left turns by drivers proceeding in the opposite directions has been indicated by official traffic-control devices:

1. A left turn shall not be made from any other lane.

2. A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U turn when otherwise permitted by law.

HISTORY: 1962 Code Section 46-402; 1952 Code Section 46-402; 1949 (46) 466; 1977 Act No. 144 Section 1; 1993 Act No. 181, Section 1412.

SECTION 56-5-2140.

Limitations on turning around.

(a) The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.

(b) No vehicle shall be turned so as to proceed in the opposite direction upon any curve or upon the approach to or near the crest of a grade where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

HISTORY: 1962 Code Section 46-404; 1952 Code Section 46-404; 1949 (46) 466; 1953 (48) 313; 1977 Act No. 144 Section 2.

SECTION 56-5-2150.

Turning movements and required signals.

(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) 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) 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) The signals required on vehicles by subsection (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."

HISTORY: 1962 Code Section 46-405; 1952 Code Section 46-405; 1949 (46) 466; 1977 Act No. 144 Section 3; 2017 Act No. 81 (H.4033), Section 5.B, eff May 19, 2017.

Effect of Amendment

2017 Act No. 81, Section 5.B, added (E), providing a penalty for a violation of the section, and made nonsubstantive changes.

SECTION 56-5-2170.

Method of giving hand and arm signals.

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

(1) Left turn, hand and arm extended horizontally;

(2) Right turn, hand and arm extended upward; and

(3) Stop or decrease speed, hand and arm extended downward.

HISTORY: 1962 Code Section 46-407; 1952 Code Section 46-407; 1949 (46) 466.

SECTION 56-5-2180.

Signals given by hand and arm or signal lamps.

(a) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps except as otherwise provided in subsection (b).

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof

exceeds fourteen feet. The latter measurement shall apply to any single vehicle or to any combination of vehicles.

HISTORY: 1962 Code Section 46-408; 1952 Code Section 46-408; 1949 (46) 466; 1977 Act No. 144 Section 4.

ARTICLE 17

Right-of-Way

SECTION 56-5-2310.

Vehicles approaching or entering intersection.

(a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.

(b) The right-of-way rule in subsection (a) is modified at through highways and as otherwise provided in this chapter.

HISTORY: 1962 Code Section 46-421; 1952 Code Section 46-421; 1949 (46) 466; 1977 Act No. 144 Section 5.

SECTION 56-5-2320.

Vehicle turning left.

The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

HISTORY: 1962 Code Section 46-422; 1952 Code Section 46-422; 1949 (46) 466; 1977 Act No. 144 Section 6.

SECTION 56-5-2330.

Stop signs and yield signs.

(a) Preferential right-of-way may be indicated by stop signs or yield signs as authorized by the Department of Transportation or local authorities.

(b) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways.

(c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting road before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. If such driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be deemed prima facie evidence of his failure to yield right-of-way.

HISTORY: 1962 Code Section 46-423; 1952 Code Section 46-423; 1949 (46) 466; 1977 Act No. 144 Section 7; 1993 Act No. 181, Section 1413.

SECTION 56-5-2350.

Vehicle entering roadway.

The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed.

HISTORY: 1962 Code Section 46-424; 1952 Code Section 46-424; 1949 (46) 466; 1977 Act No. 144 Section 8.

SECTION 56-5-2360.

Operation of vehicles on approach of authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of Section 56-5-4970 and visual signals meeting the requirements of Section 56-5-4700, or of a police vehicle properly and lawfully making use of an audible signal or visual signal, the driver of every other vehicle traveling along a two-lane roadway shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible, to the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in that position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. A driver of a vehicle traveling along a multilane roadway shall yield the right-of-way and shall remain in, or move to a location that allows the emergency vehicle or police vehicle to pass safely, except as otherwise directed by a police officer.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

HISTORY: 1962 Code Section 46-425; 1952 Code Section 46-425; 1949 (46) 466; 1977 Act No. 144 Section 9; 2002 Act No. 348, Section 5.

SECTION 56-5-2370.

Highway construction and maintenance.

(a) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway traffic construction or maintenance area indicated by official traffic-control devices.

(b) The driver of a vehicle shall yield the right-of-way to any authorized vehicle obviously and actually engaged in work upon a

highway whenever such vehicle displays flashing lights meeting the requirements of Section 56-5-4650.

HISTORY: 1962 Code Section 46-426; 1977 Act No. 144 Section 10.

ARTICLE 19

Stopping, Standing and Parking

SECTION 56-5-2510.

Stopping, standing, or parking outside of business or residential district.

(A) No person shall stop, park, or leave standing a vehicle, whether attended or unattended, upon the roadway outside a business or residential district when it is practicable to stop, park, or leave the vehicle off the roadway. An unobstructed width of the highway opposite a standing vehicle must be left for the free passage of other vehicles and a clear view of the stopped vehicle must be available from a distance of two hundred feet in each direction upon the highway.

(B) This section and Sections 56-5-2530 and 56-5-2560 do not apply to the driver of a vehicle which is disabled making it impossible to avoid stopping and temporarily leaving the vehicle in the roadway.

(C) Notwithstanding another provision of law, a vehicle used solely for the purpose of collecting municipal solid waste as defined in Section 44-96-40(46) or recovered materials as defined in Section 44-96-40(34) may stop or stand on the road, street, or highway for the purpose of collecting solid waste or recovered materials. The vehicle shall maintain flashing hazard lights when engaged in stopping or standing to collect solid waste or recovered materials.

HISTORY: 1962 Code Section 46-481; 1952 Code Section 46-481; 1949 (46) 466; 1979 Act No. 105 Section 1; 1996 Act No. 298, Section 1.

SECTION 56-5-2520.

Officers authorized to remove vehicles.

(a) Whenever any police officer finds a vehicle in violation of any of the provisions of Section 56-5-2510 he may move the vehicle or require the driver or other person in charge of the vehicle to move it to a position off the roadway.

(b) Any police officer may remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway or in any tunnel in such position or under such circumstances as to obstruct the normal movement of traffic.

(c) Any police officer may remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(1) A report has been made that the vehicle has been stolen or taken without the consent of its owner.

(2) The person in charge of the vehicle is unable to provide for its custody or removal.

(3) The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take such person before a magistrate or other judicial official without unnecessary delay.

HISTORY: 1962 Code Section 46-482; 1952 Code Section 46-482; 1949 (46) 466; 1979 Act No. 105 Section 2.

SECTION 56-5-2525.

Notice to authorities of towing and storing of motor vehicle without person's knowledge; exceptions; return of vehicle.

(A) For purposes of this section, " vehicle" means a motor vehicle, trailer, mobile home, watercraft, or any other item that is subject to towing and storage, and applies to any vehicle in custody at the time of the enactment of this section. "Vehicle" includes:

(1) items that are towed and left in the possession of a towing, storage, garage, or repair facility;

(2) contents contained in the vehicle; and

(3) personal property affixed to the vehicle.

(B) A towing company which tows and stores a person's vehicle without the person's knowledge must immediately notify the police department of the municipality where the vehicle was parked, or the sheriff of the county, if the vehicle was parked outside the limits of a municipality, of the location from which the vehicle was towed, the name of the company which towed the vehicle and the place where the vehicle is stored.

(C) A towing company failing to give this notice within one hour of the time the vehicle was towed is not entitled to any compensation for the towing and storing operations. The provisions of this section must be posted in a conspicuous place in all public areas on the premises of the towing company. The law enforcement agency that receives this notice must draft a towing report and furnish the towing company with the report's document number within a reasonable time. Notification to the law enforcement agency is not required when the towing is performed at the direction of a law enforcement officer.

(D) A towing company that tows away a person's vehicle without his knowledge and stores it is not required to return the vehicle to the person after the company's normal business hours.

HISTORY: 1981 Act No. 73, Section 1; 2004 Act No. 269, Section 2.

SECTION 56-5-2530.

Stopping, standing, or parking prohibited in specified places; exceptions.

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

(1) Stop, stand or park a vehicle:

(a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(b) On a sidewalk.

(c) Within an intersection.

(d) On a crosswalk.

- (e) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
 - (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 - (h) On any railroad tracks.
 - (i) On any controlled-access highway.
 - (j) In the area between roadways of a divided highway, including crossovers.
 - (k) At any place where official traffic-control devices prohibit stopping.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge passengers:
- (a) In front of a public or private driveway.
 - (b) Within fifteen feet of a fire hydrant.
 - (c) Within twenty feet of a crosswalk at an intersection.
 - (d) Within thirty feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a roadway.
 - (e) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite to any fire station within seventy-five feet of the entrance when properly signposted.
 - (f) At any place where official traffic-control devices prohibit standing.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:
- (a) Within fifty feet of the nearest rail of a railroad crossing.
 - (b) At any place where official traffic-control devices prohibit parking.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
- (C) This section does not prohibit a federal postal service carrier from stopping, standing, or parking along a rural roadway for frequent short intervals during delivery of mail, parcels, or packages. As used in this section, "rural" means an area outside the incorporated areas of the county.

HISTORY: 1962 Code Section 46-483; 1952 Code Section 46-483; 1949 (46) 466; 1979 Act No. 105 Section 3; 1994 Act No. 511, Section 1.

SECTION 56-5-2540.

Stopping, standing, or parking may be prohibited on state highways.

The Department of Transportation with respect to state highways may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any highway where, in its judgment, such stopping, standing or parking is deemed by the Department of Transportation to be hazardous to those using the highway or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic thereon. Such signs shall be official signs and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

HISTORY: 1962 Code Section 46-486; 1952 Code Section 46-486; 1949 (46) 466; 1993 Act No. 181, Section 1414.

SECTION 56-5-2550.

Left curb and angle parking may be permitted.

The Department of Transportation with respect to state highways and local authorities with respect to highways under their jurisdiction may permit parking of vehicles with the left-hand wheels adjacent to and within eighteen inches of the left-hand curb on one-way roadways and may permit angle parking on any roadway of sufficient width to permit angle parking without interfering with the free movement of traffic. But local authorities shall not permit such left-hand parking on one-way roadways nor angle parking on state highways except upon written approval of the Department of Transportation.

HISTORY: 1962 Code Section 46-485; 1952 Code Section 46-485; 1949 (46) 466; 1993 Act No. 181, Section 1415.

SECTION 56-5-2560.

Parking at right-hand curb not more than 18 inches from curb.

Except as otherwise provided in Sections 56-5-2540 and 56-5-2550, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen inches of the right-hand curb.

HISTORY: 1962 Code Section 46-484; 1952 Code Section 46-484; 1949 (46) 466.

SECTION 56-5-2570.

Parking of unattended motor vehicle.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

HISTORY: 1962 Code Section 46-491; 1952 Code Section 46-491; 1949 (46) 466.

SECTION 56-5-2580.

Certain jurors exempt from municipal parking meters and time regulations; exceptions.

Jurors subpoenaed and in attendance at federal court or subpoenaed and in attendance at circuit or county court in this State in a municipality which has parking meters or parking regulations from the standpoint of continuous time of parking are allowed to use

parking spaces without depositing coins in the meters and are not subject to these parking regulations; however, if parking is provided otherwise for jurors, this exemption does not apply.

In order to avail himself of the privilege conferred by this section, the juror shall place in or about his vehicle, so that it can be easily seen and read, the subpoena requiring his attendance or some statement in writing signed by the officer issuing it, or some agent of his thereunto authorized, to the effect that the juror has been subpoenaed and is attendant upon such court.

The privilege granted shall be effective only during the particular week in which the court is being held, unless for some reason the attendance of the juror under special circumstances is continued into the succeeding week, and only during the days on which the court is in session and at which the attendance of the juror is required. In determining the duration of the privilege conferred by this section, a part of a day shall be construed as a whole day.

HISTORY: 1962 Code Section 46-487; 1956 (49) 1812; 1992 Act No. 341, Section 1.

SECTION 56-5-2585.

Disabled veterans and Purple Heart recipients exempt from parking meter fees.

Disabled veterans and recipients of the Purple Heart are exempt from the payment of municipal parking meter fees when their vehicles bear a disabled veteran's or Purple Heart license plate issued by the Department of Motor Vehicles.

HISTORY: 1976 Act No. 564; 1993 Act No. 181, Section 1416; 1996 Act No. 459, Section 184; 2000 Act No. 242, Section 1.

SECTION 56-5-2590.

Unlawful for certain cities to place meters or time limit on streets abutting county property.

It shall be unlawful for any municipality of this State, having a population of between six thousand three hundred and fifty and six thousand eight hundred inhabitants according to the last official United States census, to require any person to pay a fee of any kind for parking an automobile or other vehicle on the abutting side of any street abutting and adjacent to property owned by the county in which such municipality is situate or located and used in connection with the county courthouse or county office building or on the abutting side of any street abutting or adjacent to any sidewalk which is adjacent to or abutting on such property owned by such county by the use of any device known as a parking meter or otherwise or to place a time limit on parking in such areas except such as may be authorized by the governing body of the county.

HISTORY: 1962 Code Section 46-488; 1955 (49) 598.

SECTION 56-5-2600.

Parking violations; grace period.

A local governing authority that has issued a citation to a person who violates a provision that regulates the parking of vehicles shall allow the person thirty days to pay the original fine assessed before the local governing authority may increase the fine by any amount.

HISTORY: 2008 Act No. 283, Section 4, eff June 11, 2008.

ARTICLE 21

Required Stops

SECTION 56-5-2710.

Obedience to signal indicating approach of train or other on-track equipment.

(a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section the driver of the vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and shall not proceed until he can do so safely. The foregoing requirements shall apply when:

(1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment.

(2) A crossing gate is lowered or when a flagman gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment.

(3) A railroad train or other on-track equipment approaching within approximately one thousand, five hundred feet of the highway crossing emits a signal audible from such distance and the train, by reason of its speed or nearness to the crossing, is an immediate hazard.

(4) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing.

(b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed.

HISTORY: 1962 Code Section 46-471; 1952 Code Section 46-471; 1949 (46) 466; 1976 Act No. 579; 1979 Act No. 105 Section 4; 2022 Act No. 132 (H.3730), Section 1, eff April 11, 2022.

Effect of Amendment

2022 Act No. 132, Section 1, in (a), substituted "railroad train or other on-track equipment" for "railroad train" in four places.

SECTION 56-5-2715.

Stop required at designated railroad grade crossings.

The Department of Transportation, and local authorities with the approval of the Department of Transportation, may designate particularly dangerous highway grade crossings of railroads and erect stop signs thereat. When such signs are erected, the driver of any vehicle shall stop within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and shall proceed only upon exercising due care.

HISTORY: 1979 Act No. 105 Section 5; 1993 Act No. 181, Section 1417.

SECTION 56-5-2720.

Vehicles required to stop at railroad grade crossings; exceptions.

(A) Except as provided in subsection (B), the driver or operator of every bus transporting passengers, or a vehicle permitted by the Department of Health and Environmental Control to carry hazardous waste, or any vehicle required by 49 C.F.R. Section 392.10 to stop at a railroad grade crossing, before crossing at grade any tracks of a railroad, shall stop the vehicle within fifty feet, but not less than fifteen feet, from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train and shall not proceed until he can do so safely. After stopping and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in the gear of the vehicle that there is no necessity for manually changing gears while traversing the crossing and the driver shall not manually shift gears while crossing the tracks.

(B) The provisions of this section do not apply at:

- (1) a streetcar crossing, or railroad tracks used exclusively for industrial switching purposes, within a business district;
- (2) a railroad grade crossing when a police officer or crossing flagman directs traffic to proceed;
- (3) a railroad grade crossing controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits the commercial motor vehicle to proceed across the railroad tracks without slowing or stopping;
- (4) an abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned; and
- (5) an industrial or spur line railroad grade crossing marked with a sign reading "Exempt". "Exempt" signs shall be erected only by or with the consent of the appropriate state or local authority.

(C) For purposes of the section, "business district" means the territory contiguous to and including a highway when within any six hundred feet along a highway where there are buildings in use for business or industrial purposes including, but not limited to, hotels, banks, or office buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

(D) For purposes of this section, a "bus" means:

- (1) a motor vehicle designed or used to transport more than eight passengers, including the driver, for compensation; or
- (2) a motor vehicle designed or used to transport more than fifteen passengers, including the driver, and is not used to transport passengers for compensation.

(E) The provisions of Section 59-67-230 apply to school buses as defined in Section 56-5-190.

HISTORY: 1962 Code Section 46-472; 1952 Code Section 46-472; 1949 (46) 466; 1979 Act No. 105 Section 6; 1981 Act No. 183; 1992 Act No. 399, Section 2; 2022 Act No. 134 (H.4618), Section 1, eff April 11, 2022.

Effect of Amendment

2022 Act No. 134, Section 1, rewrote the section.

SECTION 56-5-2725.

Moving heavy equipment at railroad grade crossings.

(a) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.

(b) Notice of such intended crossing shall be given to a station agent of the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.

(c) Before making any such crossing, the person operating or moving the vehicle or equipment shall first stop not less than fifteen feet nor more than fifty feet from the nearest rail of the railroad and while stopped shall listen and look in both directions along the track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(d) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

HISTORY: 1979 Act No. 105 Section 7.

SECTION 56-5-2730.

Through highways; stop signs at entrances and at intersections.

The Department of Transportation with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs at specified entrances thereto or may designate any intersection as a stop intersection and erect like signs at one or more entrances to such intersection. Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as close as practicable to the nearest line of the roadway.

HISTORY: 1962 Code Section 46-473; 1952 Code Section 46-473; 1949 (46) 466; 1993 Act No. 181, Section 1418.

SECTION 56-5-2735.

Obstructing intersection or grade crossing; passing near grade crossing; traffic lines when stopped at railroad crossing; vehicles in tow.

(A) Notwithstanding the indication of a traffic signal to proceed, no driver shall enter an intersection or a marked crosswalk or drive onto a railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk, or railroad grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians, or

railroad trains.

(B) No vehicle shall be driven on the left side of the roadway while attempting to pass another vehicle within one hundred feet of a railroad grade crossing.

(C) When stopping as required at a railroad crossing, the driver shall keep as far to the right of the highway as possible and shall not form two lanes of traffic unless the roadway is marked for two or more lanes of traffic on the driver's side of the center line of the highway.

(D) A vehicle may not be driven or towed through or over a railroad grade crossing until its driver has determined that the vehicle has sufficient under carriage clearance to negotiate the railroad grade crossing.

HISTORY: 1992 Act No. 399, Section 1; 2005 Act No. 42, Section 10, eff May 3, 2005.

SECTION 56-5-2740.

Place where drivers shall stop for stop signs.

Every driver of a vehicle approaching a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line but, if none, then at the point nearest the intersecting highway where the driver has a view of approaching traffic on the intersecting highway before entering the intersection except when directed to proceed by a police officer or traffic-control signal.

HISTORY: 1962 Code Section 43-474; 1952 Code Section 46-474; 1949 (46) 466.

SECTION 56-5-2745.

Emerging from alley, driveway, or building.

The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residential district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway or, in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic.

HISTORY: 1979 Act No. 105 Section 8.

SECTION 56-5-2760.

Stops at drawbridges.

The driver of a vehicle approaching the draw or swing span of a bridge opening for water navigation shall stop as indicated by gates, barriers, semaphores, lights or bell and shall not proceed beyond the stop limit or gates, barriers or semaphores until the indication or signal to proceed is exhibited.

HISTORY: 1962 Code Section 46-476; 1952 Code Section 46-476; 1949 (46) 466.

SECTION 56-5-2770.

Signals and markings on school buses; meeting, overtaking and passing school bus; loading passengers along multi-lane highways.

(A) The driver of a vehicle meeting or overtaking from either direction a school bus stopped on a highway or private road must stop before reaching the bus where there are in operation on the bus flashing red lights specified in State Department of Education Regulations and Specifications Pertaining to School Buses, and the driver must not proceed until the bus resumes motion or the flashing red lights are no longer actuated.

(B) The driver of a vehicle need not stop upon meeting a stopped school bus when traveling in the opposite direction on a multi-lane highway or multi-lane private road.

(C) The driver of a vehicle must not overtake a school bus which has amber visual signals actuated.

(D)(1) A school bus must be equipped with red and amber visual signals meeting the requirements of State Department of Education Regulations and Specifications Pertaining to School Buses, which must be actuated by the driver whenever the bus is stopped or preparing to stop on the highway for the purpose of receiving or discharging school children. A driver must not actuate the special visual signals when the bus is in designated school bus loading or off-loading areas if the bus is off the roadway entirely.

(2) A school bus may be equipped with a digital video recording device mounted on the school bus with a clear view of vehicles passing the bus on either side and showing the date and time the recording was made and an electronic symbol showing the activation of amber lights, flashing red lights, stop arms, and brakes. Digital video recording devices mounted on school buses must be procured in compliance with Chapter 11, Title 35 or a procurement code adopted by the political subdivision procuring the digital video recording device in compliance with Section 11-35-5320.

(E) A school bus must bear upon its front and rear plainly visible signs containing the words "SCHOOL BUS" in black letters not less than eight inches in height.

(F) A school bus route that requires passengers to be loaded or off-loaded along a multi-lane highway or multi-lane private road must be designed to ensure that a student is not required to cross a multi-lane highway or multi-lane private road.

(G) For the purposes of this section a multi-lane highway or multi-lane private road is a highway or private road that consists of four or more traffic lanes, having at least two traffic lanes traveling in each direction.

HISTORY: 1962 Code Section 46-477; 1952 Code Section 46-477; 1949 (46) 466; 1950 (46) 2379; 1978 Act No. 422 Section 2; 2003 Act No. 62, Section 1; 2014 Act No. 274 (H.5014), Section 2, eff June 9, 2014.

SECTION 56-5-2773.

Violation of Section 56-5-2770; digital images admissible in evidence.

(A) A uniform traffic citation alleging the violation of Section 56-5-2770 may be issued based in whole or in part upon images obtained from a digital video recording device mounted on a school bus. A copy of the citation must be given directly to the alleged offender by the law enforcement officer issuing the citation.

(B) Digital images obtained from a digital video recording device mounted on a school bus pursuant to Section 56-5-2770(D) may be used as evidence at any hearing related to a violation of Section 56-5-2770 to corroborate testimony by the school bus driver or any other person who witnessed the offense.

HISTORY: 2014 Act No. 274 (H.5014), Section 3, eff June 9, 2014.

SECTION 56-5-2775.

Violation of Section 56-5-2735 as misdemeanor; penalty.

The driver of a vehicle violating the provisions of Section 56-5-2735 is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars or more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1988 Act No. 532, Section 25; 1992 Act No. 399, Section 4; 1995 Act No. 138, Section 7.

SECTION 56-5-2780.

Penalties for unlawfully passing a stopped school bus.

(A) A driver of a vehicle violating Section 56-5-2770 (A) or (C) is guilty of a misdemeanor and, upon conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bail for a first offense must be fined not less than five hundred dollars or imprisoned not more than thirty days. In lieu of imprisonment, the court may require that the individual complete an appropriate term of community service of not fewer than ten days upon terms and conditions the court considers proper. Notwithstanding any other provision of law, a first offense for a violation of Section 56-5-2770 (A) or (C) may be tried in magistrate's court. Upon conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bail for a second or subsequent violation of Section 56-5-2770 (A) or (C), a person is guilty of a misdemeanor and must be fined not less than two thousand dollars or more than five thousand dollars or imprisoned for not fewer than thirty days and not more than sixty days.

(B) If a driver of a vehicle violates Section 56-5-2770 (A) or (C), and the violation proximately causes great bodily injury or death to a pedestrian, the person is guilty of a felony and, upon conviction, entry of a plea of guilty or nolo contendere, or forfeiture of bond, the person must be:

(1) fined not less than five thousand dollars or more than ten thousand dollars and imprisoned for not less than sixty days or more than one year when great bodily injury results;

(2) fined not less than ten thousand dollars or more than twenty-five thousand dollars and imprisoned for not less than one year or more than five years when death results.

As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted or who receives a sentence upon a plea of guilty or nolo contendere pursuant to this subsection for the term of imprisonment plus one year.

HISTORY: 1995 Act No. 138, Section 6; 2002 Act No. 296, Section 4; 2002 Act No. 348, Section 12; 2003 Act No. 62, Section 2.

ARTICLE 23

Reckless Homicide; Reckless Driving; Driving While Under the Influence of Intoxicating Liquor, Drugs or Narcotics

SECTION 56-5-2910.

Reckless vehicular homicide; penalties; revocation of driver's license; reinstatement of license; conditions; consequences for subsequent violations.

(A) When the death of a person ensues within three years as a proximate result of injury received by the driving of a vehicle in reckless disregard of the safety of others, the person operating the vehicle is guilty of reckless vehicular homicide. A person who is convicted of, pleads guilty to, or pleads nolo contendere to reckless vehicular homicide is guilty of a felony, and must be fined not less than one thousand dollars nor more than five thousand dollars or imprisoned not more than ten years, or both. The Department of Motor Vehicles shall revoke for five years the driver's license of a person convicted of reckless vehicular homicide.

(B) After one year from the date of revocation, the person may petition the circuit court in the county of the person's residence for reinstatement of the person's driver's license. The person shall serve a copy of the petition upon the solicitor of the county. The solicitor shall notify the representative of the victim of the reckless vehicular homicide of the person's intent to seek reinstatement of the person's driver's license. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person's driver's license upon the following conditions:

(1) intoxicating alcohol, beer, wine, drugs, or narcotics were not involved in the vehicular accident which resulted in the reckless homicide conviction or plea;

(2) the petitioner has served the term of imprisonment or paid the fine, assessment, and restitution in full, or both; and

(3) the person's overall driving record, attitude, habits, character, and driving ability would make it safe to reinstate the privilege of operating a motor vehicle.

The circuit court may order the reinstatement of the driver's license before the completion of the full five-year revocation period, or the judge may order the granting of a route restricted license for the remainder of the five-year period to allow the person to drive to and from employment or school, or the judge may place other restrictions on the driver's license reinstatement. The order of the judge must be transmitted to the Department of Motor Vehicles within ten days.

(C) If the person's privilege to operate a motor vehicle is reinstated, a subsequent violation of the motor vehicle laws for any moving violation requires the automatic cancellation of the person's driver's license and imposition of the full period of revocation for the

reckless vehicular homicide violation.

HISTORY: 1962 Code Section 46-341; 1952 Code Section 46-341; 1949 (46) 466; 1994 Act No. 509, Section 1; 1998 Act No. 379, Section 2; 2001 Act No. 97, Section 3; 2012 Act No. 226, Section 1, eff December 18, 2012.

SECTION 56-5-2920.

Reckless driving; penalties; suspension of driver's license for second or subsequent offense.

Any person who drives any vehicle in such a manner as to indicate either a wilful or wanton disregard for the safety of persons or property is guilty of reckless driving. The Department of Motor Vehicles, upon receiving satisfactory evidence of the conviction, of the entry of a plea of guilty or the forfeiture of bail of any person charged with a second and subsequent offense for the violation of this section shall forthwith suspend the driver's license of any such person for a period of three months. Only those offenses which occurred within a period of five years including and immediately preceding the date of the last offense shall constitute prior offenses within the meaning of this section. Any person violating the provisions of this section shall, upon conviction, entry of a plea of guilty or forfeiture of bail, be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars or by imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 46-342; 1952 Code Section 46-342; 1949 (46) 466; 1958 (50) 1686; 1981 Act No. 76, Section 9.

SECTION 56-5-2930.

Operating motor vehicle while under influence of alcohol or drugs; penalties; enrollment in Alcohol and Drug Safety Action Program; prosecution.

(A) It is unlawful for a person to drive a motor vehicle within this State while under the influence of alcohol to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired, under the influence of any other drug or a combination of other drugs or substances which cause impairment to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired, or under the combined influence of alcohol and any other drug or drugs or substances which cause impairment to the extent that the person's faculties to drive a motor vehicle are materially and appreciably impaired. A person who violates the provisions of this section is guilty of the offense of driving under the influence and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows:

(1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty-eight hours nor more than thirty days. However, in lieu of the forty-eight hour minimum imprisonment, the court may provide for forty-eight hours of public service employment. The minimum forty-eight hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum forty-eight hour sentence. If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of five hundred dollars or imprisonment for not less than seventy-two hours nor more than thirty days. However, in lieu of the seventy-two hour minimum imprisonment, the court may provide for seventy-two hours of public service employment. The minimum seventy-two hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum sentence. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days. However, in lieu of the thirty-day minimum imprisonment, the court may provide for thirty days of public service employment. The minimum thirty days imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment instead of the thirty-day minimum sentence. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, a first offense charged for this item may be tried in magistrates court;

(2) for a second offense, by a fine of not less than two thousand one hundred dollars nor more than five thousand one hundred dollars, and imprisonment for not less than five days nor more than one year. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of not less than two thousand five hundred dollars nor more than five thousand five hundred dollars and imprisonment for not less than thirty days nor more than two years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of not less than three thousand five hundred dollars nor more than six thousand five hundred dollars and imprisonment for not less than ninety days nor more than three years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars;

(3) for a third offense, by a fine of not less than three thousand eight hundred dollars nor more than six thousand three hundred dollars, and imprisonment for not less than sixty days nor more than three years. If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of not less than five thousand dollars nor more than seven thousand five hundred dollars and imprisonment for not less than ninety days nor more than four years. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of not less than seven thousand five hundred dollars nor more than ten thousand dollars and imprisonment for not less than six months nor more than five years; or

(4) for a fourth or subsequent offense, by imprisonment for not less than one year nor more than five years. If the person's alcohol

concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by imprisonment for not less than two years nor more than six years. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by imprisonment for not less than three years nor more than seven years.

(B) No part of the minimum sentences provided in this section may be suspended. Instead of public service employment the court may invoke another sentence provided in this section. For a second or subsequent offense of this section, the service of the minimum sentence is mandatory. However, the judge may provide for the sentence to be served upon terms and conditions as he considers proper including, but not limited to, weekend service or nighttime service in any fashion he considers necessary.

(C) The fine for a first offense must not be suspended. The court is prohibited from suspending a monetary fine below that of the next preceding minimum monetary fine.

(D) For the purposes of this section, a conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail for the violation of a law or ordinance of this or another state or a municipality of this or another state that prohibits a person from driving a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, including, but not limited to, this section, or prohibits a person from driving a motor vehicle with an unlawful alcohol concentration, including, but not limited to, Section 56-5-2933, constitutes a prior offense of this section. Only those violations which occurred within a period of ten years including and immediately preceding the date of the last violation constitute prior violations within the meaning of this section.

(E) Upon imposition of a sentence of public service, the defendant may apply to the court to be allowed to perform his public service in his county of residence if he has been sentenced to public service in a county where he does not reside.

(F) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.

(G) Two hundred dollars of the fine imposed pursuant to subsection (A)(3) must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

(H) A person convicted of violating this section, whether for a first offense or subsequent offense, must enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services. An assessment of the extent and nature of the alcohol and drug abuse problem of the applicant must be prepared and a plan of education or treatment, or both, must be developed for the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant successfully has completed the services. The applicant must attend the first Alcohol and Drug Safety Action Program available after the date of enrollment. The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. An applicant may not be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant has successfully completed services. An applicant who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the applicant successfully has completed services. The court must be notified whether an offender failed to enroll in a certified program within thirty days or failed to participate in the plan of education or treatment. The court may hold the individual in contempt of court if the individual cannot show cause as to why no enrollment occurred within the mandated thirty days or why no progress has been made on the plan of education or treatment.

(I) A person charged for a violation of this section may be prosecuted pursuant to Section 56-5-2933 if the original testing of the person's breath or collection of other bodily fluids was performed within two hours of the time of arrest and reasonable suspicion existed to justify the traffic stop. A person may not be prosecuted for both a violation of this section and a violation of Section 56-5-2933 for the same incident. A person who violates the provisions of this section is entitled to a jury trial and is afforded the right to challenge certain factors including the following:

(1) whether or not the person was lawfully arrested or detained;

(2) the period of time between arrest and testing;

(3) whether or not the person was given a written copy of and verbally informed of the rights enumerated in Section 56-5-2950;

(4) whether the person consented to taking a test pursuant to Section 56-5-2950, and whether the:

(a) reported alcohol concentration at the time of testing was eight one-hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950;

(c) tests administered and samples obtained were conducted pursuant to Section 56-5-2950 and regulations adopted pursuant to Section 56-5-2951(O) and Section 56-5-2953(F); and

(d) machine was working properly.

(J) Nothing contained in this section prohibits the introduction of:

(1) the results of any additional tests of the person's breath or other bodily fluids;

(2) any evidence that may corroborate or question the validity of the breath or bodily fluid test result including, but not limited to:

(a) evidence of field sobriety tests;

(b) evidence of the amount of alcohol consumed by the person; and

(c) evidence of the person's driving;

(3) a video recording of the person's conduct at the incident site and breath testing site taken pursuant to Section 56-5-2953 which is

subject to redaction under the South Carolina Rules of Evidence; or

(4) any other evidence of the state of a person's faculties to drive a motor vehicle which would call into question the results of a breath or bodily fluid test.

At trial, a person charged with a violation of this section is allowed to present evidence relating to the factors enumerated above and the totality of the evidence produced at trial may be used by the jury to determine guilt or innocence. A person charged with a violation of this section must be given notice of intent to prosecute under the provisions of this section at least thirty calendar days before his trial date.

(K) For the purpose of this section, any offense carrying a penalty of imprisonment of ninety days or less may be tried in magistrates court.

(L) In cases in which enhanced penalties for higher levels of alcohol concentration may be applicable, upon the determination of guilt, the finder of fact shall determine the alcohol concentration and the judge shall apply the appropriate penalty. In cases involving jury trials, upon the return of a guilty verdict by the jury, the judge shall instruct the jury to make a finding of fact as to the following: "We the jury find the alcohol concentration of the defendant to be (1) at least eight one-hundredths of one percent but less than ten one-hundredths of one percent; (2) at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent; or (3) sixteen one hundredths of one percent or more." Based on the jury's finding of fact, the judge shall apply the appropriate penalty. If the jury cannot reach a unanimous verdict as to the finding of fact, then the judge shall sentence the defendant based on the nonenhanced penalties.

HISTORY: 1962 Code Section 46-343; 1952 Code Section 46-343; 1949 (46) 466; 1954 (48) 1782; 1987 Act No. 179 Section 1; 1998 Act No. 434, Section 4; 2000 Act No. 390, Section 7; 2008 Act No. 201, Section 4, eff February 10, 2009.

SECTION 56-5-2933.

Driving with an unlawful alcohol concentration; penalties; enrollment in Alcohol and Drug Safety Action Program; prosecution.

(A) It is unlawful for a person to drive a motor vehicle within this State while his alcohol concentration is eight one-hundredths of one percent or more. A person who violates the provisions of this section is guilty of the offense of driving with an unlawful alcohol concentration and, upon conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail must be punished as follows: (1) for a first offense, by a fine of four hundred dollars or imprisonment for not less than forty-eight hours nor more than thirty days. However, in lieu of the forty-eight hour minimum imprisonment, the court may provide for forty-eight hours of public service employment. The minimum forty-eight hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum forty-eight hour sentence. If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of five hundred dollars or imprisonment for not less than seventy-two hours nor more than thirty days. However, in lieu of the seventy-two hour minimum imprisonment, the court may provide for seventy-two hours of public service employment. The minimum seventy-two hour imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment in lieu of the minimum sentence. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of one thousand dollars or imprisonment for not less than thirty days nor more than ninety days. However, in lieu of the thirty-day minimum imprisonment, the court may provide for thirty days of public service employment. The minimum thirty days imprisonment or public service employment must be served at a time when the person is not working and does not interfere with his regular employment under terms and conditions as the court considers proper. However, the court may not compel an offender to perform public service employment instead of the thirty-day minimum sentence. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, a first offense charged for this item may be tried in magistrates court;

(2) for a second offense, by a fine of not less than two thousand one hundred dollars nor more than five thousand one hundred dollars, and imprisonment for not less than five days nor more than one year. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of not less than two thousand five hundred dollars nor more than five thousand five hundred dollars and imprisonment for not less than thirty days nor more than two years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of not less than three thousand five hundred dollars nor more than six thousand five hundred dollars and imprisonment for not less than ninety days nor more than three years. However, the fine imposed by this item must not be suspended in an amount less than one thousand one hundred dollars;

(3) for a third offense, by a fine of not less than three thousand eight hundred dollars nor more than six thousand three hundred dollars, and imprisonment for not less than sixty days nor more than three years. If the person's alcohol concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by a fine of not less than five thousand dollars nor more than seven thousand five hundred dollars and imprisonment for not less than ninety days nor more than four years. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by a fine of not less than seven thousand five hundred dollars nor more than ten thousand dollars and imprisonment for not less than six months nor more than five years; or

(4) for a fourth or subsequent offense, by imprisonment for not less than one year nor more than five years. If the person's alcohol

concentration is at least ten one-hundredths of one percent but less than sixteen one-hundredths of one percent, then the person must be punished by imprisonment for not less than two years nor more than six years. If the person's alcohol concentration is sixteen one-hundredths of one percent or more, then the person must be punished by imprisonment for not less than three years nor more than seven years.

(B) No part of the minimum sentences provided in this section may be suspended. Instead of public service employment the court may invoke another sentence provided in this section. For a second or subsequent offense of this section, the service of the minimum sentence is mandatory. However, the judge may provide for the sentence to be served upon terms and conditions as he considers proper including, but not limited to, weekend service or nighttime service in any fashion he considers necessary.

(C) The fine for a first offense must not be suspended. The court is prohibited from suspending a monetary fine below that of the next preceding minimum monetary fine.

(D) For the purposes of this chapter a conviction, entry of a plea of guilty or of nolo contendere, or forfeiture of bail for the violation of a law or ordinance of this or another state or a municipality of this or another state that prohibits a person from driving a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics, including, but not limited to, Section 56-5-2930, or prohibits a person from driving a motor vehicle with an unlawful alcohol concentration, including, but not limited to, this section, constitutes a prior offense of this section. Only those violations which occurred within a period of ten years including and immediately preceding the date of the last violation constitute prior violations within the meaning of this section.

(E) Upon imposition of a sentence of public service, the defendant may apply to the court to be allowed to perform his public service in his county of residence if he has been sentenced to public service in a county where he does not reside.

(F) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.

(G) Two hundred dollars of the fine imposed pursuant to subsections (A)(3) must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

(H) A person convicted of violating this section, whether for a first offense or subsequent offense, must enroll in and successfully complete an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services. An assessment of the extent and nature of the alcohol and drug abuse problem of the applicant must be prepared and a plan of education or treatment, or both, must be developed for the applicant. The Alcohol and Drug Safety Action Program shall determine if the applicant successfully has completed the services. The applicant must attend the first Alcohol and Drug Safety Action Program available after the date of enrollment. The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each applicant shall bear the cost of services recommended in the applicant's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. An applicant may not be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the applicant successfully has completed services. An applicant who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the applicant successfully has completed services. The court must be notified whether an offender failed to enroll in a certified program within thirty days or failed to participate in the plan of education or treatment. The court may hold the individual in contempt of court if the individual cannot show cause as to why no enrollment occurred within the mandated thirty days or why no progress has been made on the plan of education or treatment.

(I) A person charged for a violation of Section 56-5-2930 may be prosecuted pursuant to this section if the original testing of the person's breath or collection of other bodily fluids was performed within two hours of the time of arrest and reasonable suspicion existed to justify the traffic stop. A person may not be prosecuted for both a violation of Section 56-5-2930 and a violation of this section for the same incident. A person who violates the provisions of this section is entitled to a jury trial and is afforded the right to challenge certain factors including the following:

(1) whether or not the person was lawfully arrested or detained;

(2) the period of time between arrest and testing;

(3) whether or not the person was given a written copy of and verbally informed of the rights enumerated in Section 56-5-2950;

(4) whether the person consented to taking a test pursuant to Section 56-5-2950, and whether the:

(a) reported alcohol concentration at the time of testing was eight one-hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950;

(c) tests administered and samples obtained were conducted pursuant to Section 56-5-2950 and regulations adopted pursuant to Section 56-5-2951(O) and Section 56-5-2953(F); and

(d) machine was working properly.

(J) Nothing contained in this section prohibits the introduction of:

(1) the results of any additional tests of the person's breath or other bodily fluids;

(2) any evidence that may corroborate or question the validity of the breath or bodily fluid test result including, but not limited to:

(a) evidence of field sobriety tests;

(b) evidence of the amount of alcohol consumed by the person; and

(c) evidence of the person's driving;

(3) a video recording of the person's conduct at the incident site and breath testing site taken pursuant to Section 56-5-2953 which is

subject to redaction under the South Carolina Rules of Evidence; or

(4) any other evidence of the state of a person's faculties to drive which would call into question the results of a breath or bodily fluid test.

At trial, a person charged with a violation of this section is allowed to present evidence relating to the factors enumerated above and the totality of the evidence produced at trial may be used by the jury to determine guilt or innocence. A person charged with a violation of this section must be given notice of intent to prosecute under the provisions of this section at least thirty calendar days before his trial date.

(K) For the purpose of this section, any offense carrying a penalty of imprisonment of ninety days or less may be tried in magistrates court.

(L) In cases in which enhanced penalties for higher levels of alcohol concentration may be applicable, upon the determination of guilt, the finder of fact shall determine the alcohol concentration and the judge shall apply the appropriate penalty.

HISTORY: 2000 Act No. 390; 2003 Act No. 61, Section 5; 2008 Act No. 201, Section 5, eff February 10, 2009.

SECTION 56-5-2934.

Compulsory process to obtain witnesses and documents; breath testing software.

Notwithstanding any other provision of law, a person charged with a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945 who is being tried in any court of competent jurisdiction in this State has the right to compulsory process for obtaining witnesses, documents, or both, including, but not limited to, state employees charged with the maintenance of breath testing devices in this State and the administration of breath testing pursuant to this article. This process may be issued under the official signature of the magistrate, judge, clerk, or other officer of the court of competent jurisdiction. The term "documents" includes, but is not limited to, a copy of the computer software program of breath testing devices. SLED must produce all breath testing software in a manner that complies with any and all licensing agreements. This section does not limit a person's ability to obtain breath testing software directly from the manufacturer or distributor.

HISTORY: 2000 Act No. 390, Section 9; 2003 Act No. 61, Section 15; 2008 Act No. 201, Section 6, eff February 10, 2009.

SECTION 56-5-2935.

Right to jury trial.

Notwithstanding any other provision of law, a person charged with a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945 who is being tried in any court of competent jurisdiction in this State must have the right of trial by jury. A person charged with one or more of these offenses shall enjoy the right to a speedy and public trial by an impartial jury, to be fully informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses, documents, or both, and the right to be fully heard in his defense by himself or by his counsel or, by both.

HISTORY: 2000 Act No. 390, Section 10.

SECTION 56-5-2936.

Implementation of compulsory testimony requirement postponed; training of employees.

Notwithstanding any other provision of law, the State Law Enforcement Division is not required to implement the provisions of Section 56-5-2934 as contained in Section 9 of Act 390 of 2000 pertaining to the compulsory process for obtaining witnesses including, but not limited to, state employees charged with the maintenance of breath testing devices in this State and the administration of breath testing pursuant to Chapter 5 of Title 56 of the 1976 Code, until the time the General Assembly is adequately able to fund the program or by December 31, 2002, whichever first occurs. Provided, however, by December 31, 2002, the State Law Enforcement Division must have at least three state employees trained and prepared for the purpose of appearing in court and testifying on the maintenance of breath testing devices and the administration of breath testing pursuant to Chapter 5, Title 56 of the 1976 Code.

HISTORY: 2002 Act No. 165, Section 1.

SECTION 56-5-2941.

Ignition interlock device.

(A)(1) The Department of Motor Vehicles shall require a person who is convicted of violating the provisions of Sections 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or who is issued a temporary alcohol license pursuant to Section 56-1-286 or 56-5-2951, to have installed on any motor vehicle the person drives, except a moped or motorcycle, an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This requirement shall not apply to a person who submitted to a breath test pursuant to Section 56-5-2950 and had an alcohol concentration of .00 one-hundredths of one percent.

(2) The department may waive the requirements of this section if the department determines that the person has a medical condition that makes the person incapable of properly operating the installed device. If the department grants a medical waiver, the department shall suspend the person's driver's license for the length of time that the person would have been required to hold an ignition interlock restricted license. The department may withdraw the waiver at any time that the department becomes aware that the person's medical condition has improved to the extent that the person has become capable of properly operating an installed device.

(3) The department also shall require a person who has enrolled in the Ignition Interlock Device Program in lieu of the remainder of a driver's license suspension, denial of license to operate a vehicle as an habitual offender pursuant to Section 56-1-1090, or denial of the issuance of a driver's license or permit to have an ignition interlock device installed on any motor vehicle the person drives, except a moped or motorcycle.

(4) The length of time that a device is required to be affixed to a motor vehicle is set forth in Section 56-1-286; 56-1-1090; 56-5-2945; 56-5-2951; 56-5-2990; or 56-5-2947, except if the conviction was for Section 56-5-750.

(5) Nothing in this section shall be construed to require installation of an ignition interlock device until the suspension is upheld at a contested case hearing or the contested hearing is waived.

(B) Notwithstanding the pleadings, for purposes of a second or a subsequent offense, the specified length of time that a device is required to be affixed to a motor vehicle is based on the Department of Motor Vehicle's records for offenses pursuant to Section 56-1-286; 56-1-1090; 56-5-2930; 56-5-2933; 56-5-2945; 56-5-2950; 56-5-2951; or 56-5-2947, except if the conviction was for Section 56-5-750.

(C) If a resident of this State is convicted of violating a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, and, as a result of the conviction, the person is subject to an ignition interlock device requirement in the other state, the person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(D) If a person from another state becomes a resident of South Carolina while subject to an ignition interlock device requirement in another state, the person only may obtain a South Carolina driver's license if the person enrolls in the South Carolina Ignition Interlock Device Program pursuant to this section. The person is subject to the requirements of this section for the length of time that would have been required for an offense committed in South Carolina, or for the length of time that is required by the other state, whichever is longer.

(E) The person must be subject to an Ignition Interlock Device Point System managed by the Department of Probation, Parole and Pardon Services. A person accumulating a total of:

(1) two points or more, but less than three points, must have the length of time that the device is required extended by two months;

(2) three points or more, but less than four points, must have the length of time that the device is required extended by four months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and shall successfully complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan, or not make progress toward completing the plan, the Department of Motor Vehicles shall suspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan;

(3) four points or more must have the person's ignition interlock restricted license suspended for a period of six months, shall submit to a substance abuse assessment pursuant to Section 56-5-2990, and successfully shall complete the plan of education and treatment, or both, as recommended by the certified substance abuse program. Should the person not complete the recommended plan or not make progress toward completing the plan, the Department of Motor Vehicles shall leave the person's ignition interlock restricted license in suspended status, or, if the license has already been reinstated following the six-month suspension, shall resuspend the person's ignition interlock restricted license until the plan is completed or progress is being made toward completing the plan. The Department of Alcohol and Other Drug Abuse Services is responsible for notifying the Department of Motor Vehicles of a person's completion and compliance with education and treatment programs. Upon reinstatement of driving privileges following the six-month suspension, the Department of Probation, Parole and Pardon Services shall reset the person's point total to zero points, and the person shall complete the remaining period of time on the ignition interlock device.

(F) The cost of the device must be borne by the person. However, unless a person is participating in the Ignition Interlock Device Program as an habitual offender pursuant to Section 56-1-1090(A), if the person is indigent and cannot afford the cost of the device, the person may submit an affidavit of indigency to the Department of Probation, Parole and Pardon Services for a determination of indigency as it pertains to the cost of the device. The affidavit of indigency form must be made publicly accessible on the Department of Probation, Parole and Pardon Services' internet website. If the Department of Probation, Parole and Pardon Services determines that the person is indigent as it pertains to the device, the Department of Probation, Parole and Pardon Services may authorize a device to be affixed to the motor vehicle and the cost of the initial installation and standard use of the device to be paid for by the Ignition Interlock Device Fund managed by the Department of Probation, Parole and Pardon Services. Funds remitted to the Department of Probation, Parole and Pardon Services for the Ignition Interlock Device Fund also may be used by the Department of Probation, Parole and Pardon Services to support the Ignition Interlock Device Program. For purposes of this section, a person is indigent if the person is financially unable to afford the cost of the ignition interlock device. In making a determination whether a person is indigent, all factors concerning the person's financial conditions should be considered including, but not limited to, income, debts, assets, number of dependents claimed for tax purposes, living expenses, and family situation. A presumption that the person is indigent is created if the person's net family income is less than or equal to the poverty guidelines established and revised annually by the United States Department of Health and Human Services published in the Federal Register. "Net income" means gross income minus deductions required by law. The determination of indigency is subject to periodic review at the discretion of the Department of Probation, Parole and Pardon Services.

(G) The ignition interlock service provider shall collect and remit monthly to the Ignition Interlock Device Fund a fee as determined by the Department of Probation, Parole and Pardon Services not to exceed thirty dollars per month for each month the person is required to drive a vehicle with a device. A service provider who fails to properly remit funds to the Ignition Interlock Device Fund may be decertified as a service provider by the Department of Probation, Parole and Pardon Services. If a service provider is decertified for failing to remit funds to the Ignition Interlock Device Fund, the cost for removal and replacement of a device must be borne by the service provider.

(H)(1) The person shall have the device inspected every sixty days to verify that the device is affixed to the motor vehicle and

properly operating, and to allow for the preparation of an ignition interlock device inspection report by the service provider indicating the person's alcohol content at each attempt to start and running retest during each sixty-day period. Failure of the person to have the interlock device inspected every sixty days must result in one ignition interlock device point.

(2) Only a service provider authorized by the Department of Probation, Parole and Pardon Services to perform inspections on ignition interlock devices may conduct inspections. The service provider immediately shall report devices that fail inspection to the Department of Probation, Parole and Pardon Services. The report must contain the person's name, identify the vehicle upon which the failed device is installed, and the reason for the failed inspection.

(3) If the inspection report reflects that the person has failed to complete a running retest, the person must be assessed one ignition interlock device point.

(4) If any inspection report or any photographic images collected by the device shows that the person has violated subsection (M), (O), or (P), the person must be assessed one and one-half ignition interlock device points.

(5) The inspection report must indicate the person's alcohol content at each attempt to start and running retest during each sixty-day period. If the report reflects that the person violated a running retest by having an alcohol concentration of:

(a) two one-hundredths of one percent or more but less than four one-hundredths of one percent, the person must be assessed one-half ignition interlock device point;

(b) four one-hundredths of one percent or more but less than fifteen one-hundredths of one percent, the person must be assessed one ignition interlock device point; or

(c) fifteen one-hundredths of one percent or more, the person must be assessed two ignition interlock device points.

(6) A person may appeal less than four ignition interlock device points received to an administrative hearing officer with the Department of Probation, Parole and Pardon Services through a process established by the Department of Probation, Parole and Pardon Services. The administrative hearing officer's decision on appeal is final and no appeal from such decision is allowed.

(I)(1) If a person's license is suspended due to the accumulation of four or more ignition interlock device points, the Department of Probation, Parole and Pardon Services must provide a notice of assessment of ignition interlock points which must advise the person of his right to request a contested case hearing before the Office of Motor Vehicle Hearings. The notice of assessment of ignition interlock points also must advise the person that, if he does not request a contested case hearing within thirty days of the issuance of the notice of assessment of ignition interlock points, he waives his right to the administrative hearing and the person's driver's license is suspended pursuant to subsection (E).

(2) The person may seek relief from the Department of Probation, Parole and Pardon Services' determination that a person's license is suspended due to the accumulation of four or more ignition interlock device points by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act. The filing of the request for a contested case hearing will stay the driver's license suspension pending the outcome of the hearing. However, the filing of the request for a contested case hearing will not stay the requirements of the person having the ignition interlock device.

(3) At the contested case hearing:

(a) the assessment of driver's license suspension can be upheld;

(b) the driver's license suspension can be overturned, or any or all of the contested ignition interlock points included in the device inspection report that results in the contested suspension can be overturned, and the penalties as specified pursuant to subsection (E) will then be imposed accordingly.

(4) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the ignition interlock device. However, if the ignition interlock device is found to not be in working order due to failure of regular maintenance and upkeep by the person challenging the accumulation of ignition interlock points pursuant to the requirement of the ignition interlock program, such allegation cannot serve as a basis to overturn point accumulations.

(5) A written order must be issued by the Office of Motor Vehicle Hearings to all parties either reversing or upholding the assessment of ignition interlock points.

(6) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal does not stay the ignition interlock requirement.

(J) Five years from the date of the person's driver's license reinstatement and every five years thereafter, a fourth or subsequent offender whose license has been reinstated pursuant to Section 56-1-385, or a person with a lifetime ignition interlock requirement due to a conviction on or after October 1, 2014, may apply to the Department of Probation, Parole and Pardon Services for removal of the ignition interlock device and the removal of the restriction from the person's driver's license. The Department of Probation, Parole and Pardon Services may, for good cause shown, notify the Department of Motor Vehicles that the person is eligible to have the restriction removed from the person's license.

(K)(1) Except as otherwise provided in this section, it is unlawful for a person who is subject to the provisions of this section to drive a motor vehicle that is not equipped with a properly operating, certified ignition interlock device. A person who violates this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than one year. The person must have the length of time that the ignition interlock device is required extended by six months;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five thousand dollars or

imprisoned not more than three years. The person must have the length of time that the ignition interlock device is required extended by one year; and

(c) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than ten thousand dollars or imprisoned not more than ten years. The person must have the length of time that the ignition interlock device is required extended by three years.

(2) No portion of the minimum sentence imposed pursuant to this subsection may be suspended.

(3) Notwithstanding any other provision of law, a first or second offense punishable pursuant to this subsection may be tried in summary court.

(4) Nothing in this subsection shall be construed to prevent a person who is participating in the Ignition Interlock Device Program pursuant to Section 56-1-1090(A) and who drives a motor vehicle that is not equipped with a properly operating, certified ignition interlock device from being charged with a violation of Section 56-1-1100, or Section 56-1-1105.

(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; or

(c) a person participating in the Ignition Interlock Device Program as an habitual offender pursuant to Section 56-1-1090(A).

(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).

(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).

(M) It is unlawful for a person to tamper with or disable, or attempt to tamper with or disable, an ignition interlock device installed on a motor vehicle pursuant to this section. Obstructing or obscuring the camera lens of an ignition interlock device constitutes tampering. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(N) It is unlawful for a person to knowingly rent, lease, or otherwise provide a person who is subject to this section with a motor vehicle without a properly operating, certified ignition interlock device. This subsection does not apply if the person began the lease contract period for the motor vehicle prior to the person's arrest for a first offense violation of Section 56-5-2930 or 56-5-2933 or prior to a person who is participating in the Ignition Interlock Device Program as an habitual offender pursuant to Section 56-1-1090(A) receiving his license with an ignition interlock restriction. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(O) It is unlawful for a person who is subject to the provisions of this section to solicit or request another person, or for a person to solicit or request another person on behalf of a person who is subject to the provisions of this section, to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section or to conduct a running retest while the vehicle is in operation. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(P) It is unlawful for another person on behalf of a person subject to the provisions of this section to engage an ignition interlock device to start a motor vehicle with a device installed pursuant to this section or to conduct a running retest while that vehicle is in operation. A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(Q) Only ignition interlock devices certified by the Department of Probation, Parole and Pardon Services may be used to fulfill the requirements of this section.

(1) The Department of Probation, Parole and Pardon Services shall certify whether a device meets the accuracy requirements and specifications provided in guidelines or regulations adopted by the National Highway Traffic Safety Administration, as amended from time to time. Manufacturers of ignition interlock devices shall apply to the Department of Probation, Parole and Pardon Services for certification of devices provided to South Carolina drivers who are subject to the ignition interlock restriction. The Department of Probation, Parole and Pardon Services may charge an initial annual fee on the manufacturer's application for certification of each device, and a subsequent fee for every year the manufacturer continues to provide the certified device to South Carolina drivers. This fee shall be remitted to the Ignition Interlock Device Fund for use by the Department of Probation, Parole and Pardon Services in support of the Ignition Interlock Device Program.

(2) All devices certified to be used in South Carolina must be set to prohibit the starting of a motor vehicle when an alcohol concentration of two one-hundredths of one percent or more is measured and all running retests must record violations of an alcohol

concentration of two one-hundredths of one percent or more, and must capture a photographic image of the driver as the driver is operating the ignition interlock device. The photographic images recorded by the ignition interlock device may be used by the Department of Probation, Parole and Pardon Services to aid in the Department of Probation, Parole and Pardon Services' management of the Ignition Interlock Device Program; however, neither the Department of Probation, Parole and Pardon Services, the Department of Probation, Parole and Pardon Services' employees, nor any other political subdivision of this State may be held liable for any injury caused by a driver or other person who operates a motor vehicle after the use or attempted use of an ignition interlock device.

(3) The Department of Probation, Parole and Pardon Services shall maintain a current list of certified ignition interlock devices and manufacturers. The list must be updated at least quarterly. If a particular certified device fails to continue to meet federal requirements, the device must be decertified, may not be used until it is compliant with federal requirements, and must be replaced with a device that meets federal requirements. The cost for removal and replacement must be borne by the manufacturer of the noncertified device.

(4) Only ignition interlock installers certified by the Department of Probation, Parole and Pardon Services may install and service ignition interlock devices required pursuant to this section. The Department of Probation, Parole and Pardon Services shall maintain a current list of vendors that are certified to install the devices.

(R) In addition to availability under the Freedom of Information Act, any Department of Probation, Parole and Pardon Services' policy concerning ignition interlock devices must be made publicly accessible on the Department of Probation, Parole and Pardon Services' internet website. The information regarding a person's participation in the Ignition Interlock Device Program recorded by the ignition interlock device is collected at the direction of the Department of Probation, Parole and Pardon Services and is a record of the department. Information obtained by the Department of Probation, Parole and Pardon Services and ignition interlock service providers regarding a person's participation in the Ignition Interlock Device Program is to be used for internal purposes only and is not subject to the Freedom of Information Act. A person participating in the Ignition Interlock Device Program or the person's family member may request that the Department of Probation, Parole and Pardon Services provide the person or family member with information obtained by the department and ignition interlock service providers. The Department of Probation, Parole and Pardon Services may release the information to the person or family member at the department's discretion. The Department of Probation, Parole and Pardon Services and ignition interlock service providers must purge all photographic images collected by the device no later than twelve months from the date of the person's completion of the Ignition Interlock Device Program. The Department of Probation, Parole and Pardon Services may retain the images past twelve months if there are any pending appeals or contested case hearings involved with that person, and at their conclusion must purge the images. The Department of Probation, Parole and Pardon Services and ignition interlock service providers must purge all personal information regarding a person's participation in the Ignition Interlock Device Program no later than twelve months from the date of the person's completion of the Ignition Interlock Device Program except for that information which is relevant for pending legal matters.

(S) The Department of Probation, Parole and Pardon Services shall develop policies including, but not limited to, the certification, use, maintenance, and operation of ignition interlock devices and the Ignition Interlock Device Fund.

(T) 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).

HISTORY: 2000 Act No. 390, Section 12; 2007 Act No. 103, Section 23.A, eff January 1, 2008; 2008 Act No. 285, Section 1, eff January 1, 2009; 2014 Act No. 158 (S.137), Section 9, eff October 1, 2014; 2015 Act No. 34 (S.590), Section 3, eff June 1, 2015; 2017 Act No. 89 (H.3247), Section 34, eff November 19, 2018; 2023 Act No. 55 (S.36), Section 7, eff May 19, 2023 and May 19, 2024.

Editor's Note

2023 Act No. 55, Section 10, provides as follows:

"SECTION 10.A. Sections 56-5-2941(J), (Q)(1), and (R), as amended by this act, take effect upon approval by the Governor.

"B. Except as otherwise provided, this act takes effect one year after the date approved by the Governor."

Effect of Amendment

2017 Act No. 89, Section 34, in (A), inserted ", except a moped" twice, and made a nonsubstantive change.

2023 Act No. 55, Section 7, in (J), in the first sentence, inserted ", or a person with a lifetime ignition interlock requirement due to a conviction on or after October 1, 2014,"; in (Q), in (1), added the second through fourth sentences and redesignated the former second and third sentences as (2), and redesignated former (2) and (3) as (3) and (4), respectively; and in (R), inserted the second sentence and made nonsubstantive changes.

2023 Act No. 55, Section 7, rewrote the section.

SECTION 56-5-2942.

Vehicle immobilization after conviction for subsequent violation of Sections 56-5-2930, 56-5-2933, or 56-5-2945; immobilized defined; identity of immobilized vehicle; surrendering of license plates and registration; release of vehicle; hearing; penalties; fees.

(A) A person who is convicted of or pleads guilty or nolo contendere to a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945 must have all motor vehicles owned by or registered to the person immobilized if the person is a resident of this State, unless the vehicle has been confiscated pursuant to Section 56-5-6240 or the person is a holder of a valid ignition interlock restricted license.

(B) For purposes of this section, "immobilized" and "immobilization" mean suspension and surrender of the registration and motor vehicle license plate.

(C) Upon receipt of a conviction by the department from the court for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, the department shall determine all vehicles registered to the person, both solely and jointly, and suspend all vehicles registered to the person, unless the person is a holder of a valid ignition interlock restricted license.

(D) Upon notification by a court in this State or another state of a conviction for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, the department shall require the person, unless the person is a holder of a valid ignition interlock restricted license, to surrender all license plates and vehicle registrations subject to immobilization pursuant to this section. The immobilization is for a period of thirty days to take place during the driver's license suspension pursuant to a conviction for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945. The department shall maintain a record of all vehicles immobilized pursuant to this section.

(E) An immobilized motor vehicle must be released to the holder of a bona fide lien on the motor vehicle when possession of the motor vehicle is requested, as provided by law, by the lienholder for the purpose of foreclosing on and satisfying the lien.

(F) An immobilized motor vehicle may be released by the department without legal or physical restraints to a person who has not been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945, if that person is a registered owner of the motor vehicle or a member of the household of a registered owner. The vehicle must be released if an affidavit is submitted by that person to the department stating that:

(1) the person regularly drives the motor vehicle subject to immobilization;

(2) the immobilized motor vehicle is necessary to the person's employment, transportation to an educational facility, or for the performance of essential household duties;

(3) no other motor vehicle is available for the person's use;

(4) the person will not authorize the use of the motor vehicle by any other person known by the person to have been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945; or

(5) the person will report immediately to a local law enforcement agency any unauthorized use of the motor vehicle by a person known by the person to have been convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(G) The department may issue a determination permitting or denying the release of the vehicle based on the affidavit submitted pursuant to subsection (F). A person may seek relief from a department determination immobilizing a motor vehicle or denying the release of the motor vehicle 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.

(H) A person who drives an immobilized motor vehicle except as provided in subsections (E) and (F) is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(I) A person who fails to surrender registrations and license plates pursuant to this section is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days.

(J) A fee of fifty dollars must be paid to the department for each motor vehicle that was suspended before any of the suspended registrations and license plates may be registered or before the motor vehicle may be released pursuant to subsection (F). This fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(K) For purposes of this article, a conviction of or plea of nolo contendere to Section 56-5-2933 is considered a prior offense of Section 56-5-2930.

HISTORY: 2003 Act No. 61, Section 13; 2008 Act No. 201, Section 7, eff February 10, 2009; 2012 Act No. 212, Section 3, eff June 7, 2012; 2014 Act No. 158 (S.137), Section 10, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 74, eff July 1, 2016.

SECTION 56-5-2945.

Offense of felony driving under the influence; penalties; "great bodily injury" defined.

(A) A person who, while under the influence of alcohol, drugs, or the combination of alcohol and drugs, drives a motor vehicle and when driving a motor vehicle does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to another person, is guilty of the offense of felony driving under the influence, and, upon conviction, must be punished:

(1) by a mandatory fine of not less than five thousand one hundred dollars nor more than ten thousand one hundred dollars and mandatory imprisonment for not less than thirty days nor more than fifteen years when great bodily injury results;

(2) by a mandatory fine of not less than ten thousand one hundred dollars nor more than twenty-five thousand one hundred dollars and mandatory imprisonment for not less than one year nor more than twenty-five years when death results.

A part of the mandatory sentences required to be imposed by this section must not be suspended, and probation must not be granted for any portion.

(B) As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(C)(1) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted pursuant to this section. For suspension purposes of this section, convictions arising out of a single incident must run concurrently.

(2) After the person is released from prison, the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, 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 for three years when great bodily injury results and five years when a death occurs.

(D) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special

restricted account to be used by the Department of Public Safety for the Highway Patrol.

HISTORY: 1983 Act No. 114 Section 4; 1987 Act No. 58 Section 1; 1987 Act No. 82 Section 1; 1993 Act No. 181, Section 1419; 1993 Act No. 184 Section 252; 2003 Act No. 61, Section 17; 2008 Act No. 201, Section 8, eff February 10, 2009; 2014 Act No. 158 (S.137), Section 11, eff October 1, 2014.

SECTION 56-5-2946.

Submission to testing for alcohol or drugs.

(A) Notwithstanding any other provision of law, a person must submit to either one or a combination of chemical tests of his breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or a combination of alcohol and drugs if there is probable cause to believe that the person violated or is under arrest for a violation of Section 56-5-2945.

(B) The tests must be administered at the direction of a law enforcement officer. The administration of one test does not preclude the administration of other tests. The resistance, obstruction, or opposition to testing pursuant to this section is evidence admissible at the trial of the offense which precipitated the requirement for testing. A person who is tested or gives samples for testing may have a qualified person of his choice conduct additional tests at his expense and must be notified of that right. A person's request or failure to request additional blood or urine tests is not admissible against the person in the criminal trial.

(C) The provisions of Section 56-5-2950, relating to the administration of tests to determine a person's alcohol concentration, additional tests at the person's expense, the availability of other evidence on the question of whether or not the person was under the influence of alcohol, drugs, or a combination of them, availability of test information to the person or his attorney, and the liability of medical institutions and persons administering the tests are applicable to this section and also extend to the officer requesting the test, the State or its political subdivisions, or governmental agency, or entity which employs the officer making the request, and the agency, institution, or employer, either governmental or private, of persons administering the tests. Notwithstanding any other provision of state law pertaining to confidentiality of hospital records or other medical records, information regarding tests performed pursuant to this section must be released, upon subpoena, to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of Section 56-5-2945.

HISTORY: 1998 Act No. 434, Section 6; 2012 Act No. 226, Section 2, eff December 18, 2012.

Validity

For the validity of this section, see *State v. German*, 887 S.E.2d 912 (S.C. 2023).

SECTION 56-5-2947.

Child endangerment; definition; penalties; jurisdiction; evidence for taking child into protective custody.

(A) A person eighteen years of age or older is guilty of child endangerment when:

(1) the person violates:

(a) Section 56-5-750;

(b) Section 56-5-2930;

(c) Section 56-5-2933; or

(d) Section 56-5-2945; and

(2) the person has one or more passengers younger than sixteen years of age in the motor vehicle when the violation occurs.

If more than one passenger younger than sixteen years of age is in the vehicle when a violation occurs, the person may be charged with only one violation of this section.

(B) Upon conviction, the person must be:

(1) fined not more than one-half of the maximum fine allowed for committing the violation in subsection (A)(1), when the person is fined for that offense;

(2) imprisoned not more than one-half of the maximum term of imprisonment allowed for committing the violation listed in subsection (A)(1), when the person is imprisoned for the offense; or

(3) fined and imprisoned as prescribed in items (1) and (2) when the person is fined and imprisoned for the offense.

(C) No portion of the penalty assessed pursuant to subsection (B) may be suspended or revoked and probation may not be awarded.

(D)(1) In addition to imposing the penalties for offenses listed in subsection (A)(1) and the penalties contained in subsection (B), the Department of Motor Vehicles shall suspend the person's driver's license for sixty days upon conviction under subsection (A)(1)(a). Upon conviction under subsection (A)(1)(b) through (d), the Department of Motor Vehicles shall suspend the person's driver's license.

(2) Upon conviction under subsection (A)(1)(b) through (d), the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, 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 for three months.

(3) Sections 56-1-1320 and 56-5-2990 as they relate to enrollment in an alcohol and drug safety action program and to the issuance of a provisional driver's license will not be effective until the ignition interlock restricted license period is completed.

(E) A person may be convicted pursuant to this section for child endangerment in addition to being convicted for an offense listed in subsection (A)(1).

(F) The court that has jurisdiction over an offense listed in subsection (A)(1) has jurisdiction over the offense of child endangerment.

(G) A first offense charge for a violation of this section may not be used as the only evidence for taking a child into protective custody pursuant to Sections 63-7-620(A) and 63-7-660.

HISTORY: 1995 Act No. 81, Section 1; 1997 Act No. 14, Section 1; 2008 Act No. 201, Section 20, eff February 10, 2009; 2014 Act No. 158 (S.137), Section 12, eff October 1, 2014.

SECTION 56-5-2948.

Field sobriety tests.

When a person is suspected of causing a motor vehicle incident resulting in the death of another person by the investigating law enforcement officer on the scene of the incident, the driver must submit to field sobriety tests if he is physically able to do so.

HISTORY: 2012 Act No. 226, Section 3, eff December 18, 2012.

SECTION 56-5-2949.

Policies, procedures and regulations on the SLED internet website.

In addition to availability under the Freedom of Information Act, any South Carolina Law Enforcement Division policy, procedure, or regulation concerning breath alcohol testing or breath site video recording which is in effect on or after July 1, 2000, must be made publicly accessible on the SLED Internet web site. A policy, procedure, or regulation may be removed from the SLED web site only after five years from the effective date of the subsequent revision.

HISTORY: 2000 Act No. 390, Section 13; 2007 Act No. 103, Section 23.C, eff January 1, 2008; 2008 Act No. 201, Section 16, eff February 10, 2009.

SECTION 56-5-2950.

Implied consent to testing for alcohol or drugs; procedures; inference of DUI.

(A) A person who drives a motor vehicle in this State is considered to have given consent to chemical tests of the person's breath, blood, or urine for the purpose of determining the presence of alcohol, drugs, or the combination of alcohol and drugs, if arrested for an offense arising out of acts alleged to have been committed while the person was driving a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs. A breath test must be administered at the direction of a law enforcement officer who has arrested a person for driving a motor vehicle in this State while under the influence of alcohol, drugs, or a combination of alcohol and drugs. At the direction of the arresting officer, the person first must be offered a breath test to determine the person's alcohol concentration. If the person is physically unable to provide an acceptable breath sample because the person has an injured mouth, is unconscious or dead, or for any other reason considered acceptable by the licensed medical personnel, the arresting officer may request a blood sample to be taken. If the officer has reasonable suspicion that the person is under the influence of drugs other than alcohol, or is under the influence of a combination of alcohol and drugs, the officer may order that a urine sample be taken for testing. A breath sample taken for testing must be collected within two hours of the arrest. Any additional tests to collect other samples must be collected within three hours of the arrest. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to SLED policies. Before the breath test is administered, an eight one-hundredths of one percent simulator test must be performed and the result must reflect a reading between 0.076 percent and 0.084 percent. Blood and urine samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, and other medical personnel trained to obtain the samples in a licensed medical facility. Blood and urine samples must be obtained and handled in accordance with procedures approved by SLED.

(B) No tests may be administered or samples obtained unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

- (1) the person does not have to take the test or give the samples, but that the person's privilege to drive must be suspended or denied for at least six months with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person refuses to submit to the test, and that the person's refusal may be used against the person in court;
- (2) the person's privilege to drive must be suspended for at least one month with the option of ending the suspension if the person enrolls in the Ignition Interlock Device Program, if the person takes the test or gives the samples and has an alcohol concentration of fifteen one-hundredths of one percent or more;
- (3) the person has the right to have a qualified person of the person's own choosing conduct additional independent tests at the person's expense;
- (4) the person has the right to request a contested case hearing within thirty days of the issuance of the notice of suspension; and
- (5) if the person does not request a contested case hearing or if the person's suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

(C) A hospital, physician, qualified technician, chemist, or registered nurse who obtains the samples or conducts the test or participates in the process of obtaining the samples or conducting the test in accordance with this section is not subject to a cause of action for assault, battery, or another cause alleging that the drawing of blood or taking samples at the request of the arrested person or a law enforcement officer was wrongful. This release from liability does not reduce the standard of medical care required of the person obtaining the samples or conducting the test. This qualified release also applies to the employer of the person who conducts the test or obtains the samples.

(D) The person tested or giving samples for testing may have a qualified person of the person's own choosing conduct additional tests at the person's expense and must be notified in writing of that right. A person's request or failure to request additional blood or urine tests is not admissible against the person in the criminal trial. The failure or inability of the person tested to obtain additional tests does not preclude the admission of evidence relating to the tests or samples obtained at the direction of the law enforcement officer.

(E) The arresting officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance, at a minimum, includes providing transportation for the person to the nearest medical facility which performs blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but

refuses or fails to test the blood sample to determine the person's alcohol concentration, SLED shall test the blood sample and provide the result to the person and to the arresting officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

SLED shall administer the provisions of this subsection and shall make regulations necessary to carry out this subsection's provisions. The costs of the tests administered at the direction of the law enforcement officer must be paid from the state's general fund. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person shall pay twenty-five dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

(F) A qualified person who obtains samples or administers the tests or assists in obtaining samples or the administration of tests at the direction of a law enforcement officer is released from civil and criminal liability unless the obtaining of samples or tests is performed in a negligent, reckless, or fraudulent manner. No person may be required by the arresting officer, or by another law enforcement officer, to obtain or take any sample of blood or urine.

(G) In the criminal prosecution for a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945 the alcohol concentration at the time of the test, as shown by chemical analysis of the person's breath or other body fluids, gives rise to the following:

- (1) if the alcohol concentration was at that time five one-hundredths of one percent or less, it is conclusively presumed that the person was not under the influence of alcohol;
- (2) if the alcohol concentration was at that time in excess of five one-hundredths of one percent but less than eight one-hundredths of one percent, this fact does not give rise to any inference that the person was or was not under the influence of alcohol, but this fact may be considered with other evidence in determining the guilt or innocence of the person; or
- (3) if the alcohol concentration was at that time eight one-hundredths of one percent or more, it may be inferred that the person was under the influence of alcohol.

The provisions of this section must not be construed as limiting the introduction of any other evidence bearing upon the question of whether or not the person was under the influence of alcohol, drugs, or a combination of alcohol and drugs.

(H) A person who is unconscious or otherwise in a condition rendering the person incapable of refusal is considered to be informed and not to have withdrawn the consent provided by subsection (A) of this section.

(I) A person required to submit to tests by the arresting law enforcement officer must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any trial or other proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of such tests to the officer before a trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(J) Policies, procedures, and regulations promulgated by SLED may be reviewed by the trial judge or hearing officer on motion of either party. The failure to follow policies, procedures, and regulations, or the provisions of this section, shall result in the exclusion from evidence of any test results, if the trial judge or hearing officer finds that this failure materially affected the accuracy or reliability of the test results or the fairness of the testing procedure and the court trial judge or hearing officer rules specifically as to the manner in which the failure materially affected the accuracy or reliability of the test results or the fairness of the procedure.

(K) If a state employee charged with the maintenance of breath testing devices in this State and the administration of breath testing policy is required to testify at a contested case hearing or court proceeding, the entity employing the witness may charge a reasonable fee to the defendant for such services.

HISTORY: 1962 Code Section 46-344; 1952 Code Section 46-344; 1949 (46) 466; 1969 (56) 395; 1987 Act No. 95 Section 9; 1987 Act No. 179 Section 2; 1988 Act No. 348; 1988 Act No. 616; 1993 Act No. 181, Section 1420; 1994 Act No. 497, Part II, Section 36T; 1998 Act No. 434, Section 7; 2000 Act No. 390, Section 14; 2003 Act No. 61, Section 6; 2008 Act No. 201, Section 9, eff February 10, 2009; 2014 Act No. 158 (S.137), Section 13, eff October 1, 2014.

SECTION 56-5-2951.

Suspension of license for refusal to submit to testing or for certain level of alcohol concentration; contested case hearing request; Ignition Interlock Device Program enrollment; temporary alcohol license; administrative hearing; restricted driver's license; penalties.

(A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to, a person who drives a motor vehicle and refuses to submit to a test provided for in Section 56-5-2950 or has an alcohol concentration of fifteen one-hundredths of one percent or more. The arresting officer shall issue a notice of suspension which is effective beginning on the date of the alleged violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(B)(1) Within thirty days of the issuance of the notice of suspension, the person may:

- (a) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure; and, either:
- (b) enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941; or
- (c) obtain a temporary alcohol license from the Department of Motor Vehicles. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license and such fee must be held in trust by the Department of Motor Vehicles until final disposition of any contested case hearing. Should the temporary suspension provided for in this subsection be upheld during the contested case hearing, twenty-five dollars of the fee must be distributed by the Department of Motor Vehicles to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment, while the remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive without any restrictive conditions pending the outcome of the

contested case hearing provided for in subsection (F), this section, or the final decision or disposition of the matter. If the suspension is upheld at the contested case hearing, the temporary alcohol license remains in effect until the Office of Motor Vehicle Hearings issues the hearing officer's decision and the Department of Motor Vehicles sends notice to the person pursuant to subsection (H).

(2) At the contested case hearing, if:

(a) the suspension is upheld, the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension period provided for in subsection (I). Within thirty days of the issuance of the notice that the suspension has been upheld, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 and must enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941;

(b) the suspension is overturned, the person must have the person's driver's license, permit, or nonresident operating privilege reinstated and the person must be reimbursed by the Department of Motor Vehicles in the amount of the fees provided for in subsection (B)(1)(c).

(3) If the suspension is overturned, the person's driver's license, permit, or nonresident operating privilege must be reinstated.

(4) The provisions of this subsection do not affect the trial for a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945.

(C) The period of suspension provided for in subsection (I) begins on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continues until the person applies for a temporary alcohol license and requests a contested case hearing.

(D) If a person does not request a contested case hearing, the person waives the person's right to the hearing, and the person's suspension must not be stayed but continues for the period provided for in subsection (I).

(E) The notice of suspension must advise the person:

(1) of the person's right to obtain a temporary alcohol driver's license and to request a contested case hearing before the Office of Motor Vehicle Hearings;

(2) that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person waives the person's right to the contested case hearing, and the suspension continues for the period provided for in subsection (I); and

(3) that, if the suspension is upheld at the contested case hearing or the person does not request a contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program.

(F)(1) A contested case hearing must be held after the request for the hearing is received by the Office of Motor Vehicle Hearings. The scope of the hearing is limited to whether the person:

(a) was lawfully arrested or detained;

(b) was given a written copy of and verbally informed of the rights enumerated in Section 56-5-2950;

(c) refused to submit to a test pursuant to Section 56-5-2950; or

(d) consented to taking a test pursuant to Section 56-5-2950, and the:

(i) reported alcohol concentration at the time of testing was fifteen one-hundredths of one percent or more;

(ii) individual who administered the test or took samples was qualified pursuant to Section 56-5-2950;

(iii) tests administered and samples obtained were conducted pursuant to Section 56-5-2950; and

(iv) machine was working properly.

(2) Nothing in this section prohibits the introduction of evidence at the contested case hearing on the issue of the accuracy of the breath test result.

(3) A written order must be issued to all parties either reversing or upholding the suspension of the person's license, permit, or nonresident's operating privilege, or denying the issuance of a license or permit. If the suspension is upheld, the person must receive credit for the number of days the person's license was suspended before the person received a temporary alcohol license and requested the contested case hearing and must receive credit for the number of days, if any, the person maintained an ignition interlock restriction on the temporary alcohol license.

(4) The Department of Motor Vehicles and the arresting officer shall have the burden of proof in contested case hearings conducted pursuant to this section. If neither the Department of Motor Vehicles nor the arresting officer appears at the contested case hearing, the hearing officer shall rescind the suspension of the person's license, permit, or nonresident's operating privilege regardless of whether the person requesting the contested case hearing or the person's attorney appears at the contested case hearing.

(G) A contested case hearing is governed by the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with the Administrative Law Court's appellate rules. The filing of an appeal stays the suspension until a final decision is issued on appeal.

(H) If the person did not request a contested case hearing or the suspension is upheld at the contested case hearing, the person shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990.

(I)(1) Except as provided in item (3), the period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, an arrested person who has no previous convictions for violating Section 56-5-2930, 56-5-2933, or 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 within the ten years preceding a violation of this section, and who has had no previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) six months for a person who refuses to submit to a test pursuant to Section 56-5-2950; or

(b) one month for a person who takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen

one-hundredths of one percent or more.

(2) The period of a driver's license, permit, or nonresident operating privilege suspension for, or denial of issuance of a license or permit to, a person who has been convicted previously for violating Section 56-5-2930, 56-5-2933, or 56-5-2945, or another law of this State or another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or another drug within the ten years preceding a violation of this section, or who has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990, within the ten years preceding a violation of this section is:

(a) for a second offense, nine months if the person refuses to submit to a test pursuant to Section 56-5-2950, or two months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more;

(b) for a third offense, twelve months if the person refuses to submit to a test pursuant to Section 56-5-2950, or three months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more; and

(c) for a fourth or subsequent offense, fifteen months if the person refuses to submit to a test pursuant to Section 56-5-2950, or four months if the person takes a test pursuant to Section 56-5-2950 and has an alcohol concentration of fifteen one-hundredths of one percent or more.

(3)(a) In lieu of serving the remainder of a suspension or denial of the issuance of a license or permit, a person may enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, 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 three months, the ignition interlock device is required to be affixed to the motor vehicle for three months.

(b) The person must receive credit for the number of days the person maintained an ignition interlock restriction on the temporary alcohol license.

(c) 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 cannot subsequently choose to serve the suspension.

(J) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension or ignition interlock restricted license requirement pursuant to subsection (I) has concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program. After the person's driving privilege is restored, the person shall continue the services of the Alcohol and Drug Safety Action Program. If the person withdraws from or in any way stops making satisfactory progress toward the completion of the Alcohol and Drug Safety Action Program, the person's license must be suspended until the completion of the Alcohol and Drug Safety Action Program. A person shall be attending or have completed an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 before the person's driving privilege can be restored at the conclusion of the suspension period or ignition interlock restricted license requirement.

(K) When a nonresident's privilege to drive a motor vehicle in this State has been suspended pursuant to the provisions of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license or permit.

(L) The department shall not suspend the privilege to drive of a person under the age of twenty-one pursuant to Section 56-1-286, if the person's privilege to drive has been suspended pursuant to this section arising from the same incident.

(M) A person whose driver's license or permit is suspended pursuant to this section is not required to file proof of financial responsibility.

(N) An insurer shall not increase premiums on, add surcharges to, or cancel the automobile insurance of a person charged with a violation of Section 56-1-286, 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 based solely on the violation unless the person is convicted of the violation.

(O) The department shall administer the provisions of this section.

(P) Nothing in this section shall prevent the prosecuting authority from waiving or dismissing the charge.

HISTORY: 1998 Act No. 434, Section 8; 1999 Act No. 115, Sections 7, 8, 13; 1999 Act No. 100, Part II, Section 11; 1999 Act No. 115, Section 15; 2000 Act No. 390, Sections 15 to 22; 2001 Act No. 79, Sections 2.I.1. and 2.I.2.; 2002 Act No. 296, Sections 2, 3; 2002 Act No. 348, Sections 10 and 11; 2002 Act No. 354, Sections 4 and 5; 2003 Act No. 61, Section 7; 2006 Act No. 381, Section 7, eff June 13, 2006; 2008 Act No. 201, Section 10, eff February 10, 2009; 2012 Act No. 212, Section 4, eff June 7, 2012; 2012 Act No. 264, Section 5, eff June 18, 2012; 2014 Act No. 158 (S.137), Section 14, eff October 1, 2014; 2016 Act No. 275 (S.1258), Sections 75, 76, eff July 1, 2016; 2023 Act No. 55 (S.36), Section 8, eff May 19, 2024; 2024 Act No. 130 (H.3518), Section 2, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 8, rewrote the section.

2024 Act No. 130, Section 2, in (B), in (1), in (a), inserted "and, either:" at the end, in (c), in the fifth sentence, substituted "pursuant to subsection (H)" for "that the person is eligible to receive a restricted license pursuant to subsection (H); and" and made a nonsubstantive change, and deleted (2) and redesignated former (3) to (5) as (2) to (4).

SECTION 56-5-2952.

Filing fee to request contested case hearing.

The filing fee to request a contested case hearing before the Office of Motor Vehicle Hearings of the Administrative Law Court is

two hundred dollars, or as otherwise prescribed by the rules of procedure for the Office of Motor Vehicle Hearings. Funds generated from the collection of this fee must be retained by the Administrative Law Court, provided, however, that these funds first must be used to meet the expenses of the Office of Motor Vehicle Hearings, including the salaries of its employees, as directed by the chief judge of the Administrative Law Court.

HISTORY: 2002 Act No. 235, Section 1; 2003 Act No. 61, Section 18; 2005 Act No. 128, Section 23, eff July 1, 2005; repealed by 2006 Act No. 381, Section 11, eff June 13, 2006; 2006 Act No. 387, Section 37, eff July 1, 2006; 2008 Act No. 279, Section 7, eff October 1, 2008; 2012 Act No. 212, Section 5, eff June 7, 2012.

Editor's Note

2005 Act No. 128, Section 27, provides as follows:

"This act takes effect on July 1, 2005, and applies to all licensing and administrative hearings involving the South Carolina Department of Consumer Affairs."

SECTION 56-5-2953.

Incident site and breath test site video recording.

(A) A person who violates Section 56-5-2930, 56-5-2933, or 56-5-2945 must have his conduct at the incident site and the breath test site video recorded.

(1)(a) The video recording at the incident site must:

(i) not begin later than the activation of the officer's blue lights;

(ii) include any field sobriety tests administered; and

(iii) include the arrest of a person for a violation of Section 56-5-2930 or Section 56-5-2933, or a probable cause determination in that the person violated Section 56-5-2945, and show the person being advised of his Miranda rights.

(b) A refusal to take a field sobriety test does not constitute disobeying a police command.

(2) The video recording at the breath test site must:

(a) include the entire breath test procedure, the person being informed that he is being video recorded, and that he has the right to refuse the test;

(b) include the person taking or refusing the breath test and the actions of the breath test operator while conducting the test; and

(c) also include the person's conduct during the required twenty-minute pre-test waiting period, unless the officer submits a sworn affidavit certifying that it was physically impossible to video record this waiting period.

(3) The video recordings of the incident site and of the breath test site are admissible pursuant to the South Carolina Rules of Evidence in a criminal, administrative, or civil proceeding by any party to the action.

(B) Nothing in this section may be construed as prohibiting the introduction of other relevant evidence in the trial of a violation of Section 56-5-2930, 56-5-2933, or 56-5-2945. Failure by the arresting officer to produce the video recording required by this section is not alone a ground for dismissal of any charge made pursuant to Section 56-5-2930, 56-5-2933, or 56-5-2945 if the arresting officer submits a sworn affidavit certifying that the video recording equipment at the time of the arrest or probable cause determination, or video equipment at the breath test facility was in an inoperable condition, stating which reasonable efforts have been made to maintain the equipment in an operable condition, and certifying that there was no other operable breath test facility available in the county or, in the alternative, submits a sworn affidavit certifying that it was physically impossible to produce the video recording because the person needed emergency medical treatment, or exigent circumstances existed. In circumstances including, but not limited to, road blocks, traffic accident investigations, and citizens' arrests, where an arrest has been made and the video recording equipment has not been activated by blue lights, the failure by the arresting officer to produce the video recordings required by this section is not alone a ground for dismissal. However, as soon as video recording is practicable in these circumstances, video recording must begin and conform with the provisions of this section. Nothing in this section prohibits the court from considering any other valid reason for the failure to produce the video recording based upon the totality of the circumstances; nor do the provisions of this section prohibit the person from offering evidence relating to the arresting law enforcement officer's failure to produce the video recording.

(C) A video recording must not be disposed of in any manner except for its transfer to a master recording for consolidation purposes until the results of any legal proceeding in which it may be involved are finally determined.

(D) SLED is responsible for purchasing, maintaining, and supplying all necessary video recording equipment for use at the breath test sites. SLED also is responsible for monitoring all breath test sites to ensure the proper maintenance of video recording equipment. The Department of Public Safety is responsible for purchasing, maintaining, and supplying all videotaping equipment for use in all law enforcement vehicles used for traffic enforcement. The Department of Public Safety also is responsible for monitoring all law enforcement vehicles used for traffic enforcement to ensure proper maintenance of video recording equipment.

(E) Beginning one month from the effective date of this section, all of the funds received in accordance with Section 14-1-208(C)(9) must be expended by SLED to equip all breath test sites with video recording devices and supplies. Once all breath test sites have been equipped fully with video recording devices and supplies, eighty-seven and one-half percent of the funds received in accordance with Section 14-1-208(C)(9) must be expended by the Department of Public Safety to purchase, maintain, and supply video recording equipment for vehicles used for traffic enforcement. The remaining twelve and one-half percent of the funds received in accordance with Section 14-1-208(C)(9) must be expended by SLED to purchase, maintain, and supply video recording equipment for the breath test sites. Funds must be distributed by the State Treasurer to the Department of Public Safety and SLED on a monthly basis. The Department of Public Safety and SLED are authorized to carry forward any unexpended funds received in accordance with Section 14-1-208(C)(9) as of June thirtieth of each year and to expend these carried forward funds for the purchase,

maintenance, and supply of video recording equipment. The Department of Public Safety and SLED must report the revenue received under this section and the expenditures for which the revenue was used as required in the department's and SLED's annual appropriation request to the General Assembly.

(F) The Department of Public Safety and SLED must promulgate regulations necessary to implement the provisions of this section.

(G) The provisions contained in Section 56-5-2953(A), (B), and (C) take effect for each law enforcement vehicle used for traffic enforcement once the law enforcement vehicle is equipped with a video recording device. The provisions contained in Section 56-5-2953(A), (B), and (C) take effect for a breath test site once the breath test site is equipped with a video recording device.

HISTORY: 1998 Act No. 434, Section 9; 2000 Act No. 390, Section 23; 2003 Act No. 61, Section 8; 2008 Act No. 201, Section 11, eff February 10, 2009.

SECTION 56-5-2954.

Breath testing sites; records of problems with devices.

The State Law Enforcement Division and each law enforcement agency with a breath testing site is required to maintain a detailed record of malfunctions, repairs, complaints, or other problems regarding breath testing devices at each site. These records must be electronically recorded. These records, including any and all remarks, must be entered into a breath testing device and subsequently made available on the State Law Enforcement Division web site. The records required by this section are subject to compulsory process issued by any court of competent jurisdiction in this State and are public records under the Freedom of Information Act.

HISTORY: 2000 Act No. 390, Section 24; 2008 Act No. 201, Section 12, eff February 10, 2009.

SECTION 56-5-2955.

Admissibility of evidence obtained under Section 56-5-2950.

Any evidence obtained under the provisions of Section 56-5-2950 shall not be admissible as evidence to prove a criminal offense other than those offenses delineated in Title 56.

HISTORY: 1987 Act No. 179 Section 3.

SECTION 56-5-2970.

Reports to Department of Motor Vehicle of convictions, certain pleas and bail forfeitures.

All clerks of court, magistrates, city recorders, and other public officers in this State having charge or responsibility with respect to convictions or of the entry of pleas of guilty or of nolo contendere or of the forfeitures of bail posted for violation of Section 56-5-2930, 56-5-2933, or for convictions or of the entry of pleas of guilty or of nolo contendere or of the forfeitures of bail posted for violations of any other laws or ordinances of this State that prohibit any person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics are required to report to the Department of Motor Vehicles every such conviction, plea of guilty or of nolo contendere or bail forfeiture within ten days after such conviction, entry of a plea of guilty or of nolo contendere or forfeiture or after the receipt of such report, as the case may be. Such reports shall be made upon forms to be provided by the department, arranged in duplicate, and the director of the Department of Motor Vehicles shall acknowledge the filing of each such report by signing the duplicate of such report and returning it to the officer making it, to be kept by such officer as evidence of his compliance with the requirement that he make such report.

Any person violating the provisions of this section shall be subject to a penalty of twenty-five dollars for each such failure, to be collected by the Attorney General or the solicitors of the State under the direction of the Attorney General and paid into the general fund of the State.

HISTORY: 1962 Code Section 46-347; 1952 Code Section 46-347; 1949 (46) 466; 1956 (49) 1688; 2000 Act No. 390, Section 25.

SECTION 56-5-2980.

Copies of reports as prima facie evidence of certain matters; effect of stipulating subsequent offense.

In all trials and proceedings in any court of this State in which the defendant is charged with a violation of Section 56-5-2920, 56-5-2930, or 56-5-2933, photostatic, optical disk, or other copies of the reports required to be filed with the Department of Motor Vehicles pursuant to Section 56-5-2970 shall be deemed prima facie evidence of the information contained on such reports for the purpose of showing any previous conviction of the defendant in any other court. Copies of the reports must be duly certified by the director of the department or his designee as true copies. If the defendant stipulates that the charge constitutes a second or subsequent offense, the indictment shall not contain allegations of prior offenses and evidence of such prior offenses must not be introduced.

HISTORY: 1962 Code Section 46-349; 1953 (48) 222; 1996 Act No. 459, Section 185; 2000 Act No. 390, Section 26.

SECTION 56-5-2990.

Suspension of convicted person's driver's license; period of suspension.

(A)(1) The Department of Motor Vehicles shall suspend the driver's license of a person who is convicted 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.

(2) For a first offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, 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 for six months. The person is not eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56.

(3) For a second offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, 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 for two years.

(4) For a third offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, 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 for three years. If the third offense occurs within five years from the date of the first offense, the ignition interlock device is required to be affixed to the motor vehicle for four years.

(5) For a fourth or subsequent offense, a person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, 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 for life.

(6) Except as provided in subsection (A)(4), only those offenses which occurred within ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section.

(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. 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 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 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.

(C) The Department of Alcohol and Other Drug Abuse Services shall determine the cost of services provided by each certified Alcohol and Drug Safety Action Program. Each person shall bear the cost of services recommended in the person's plan of education or treatment. The cost may not exceed five hundred dollars for education services, two thousand dollars for treatment services, and two thousand five hundred dollars in total for all services. No person may be denied services due to an inability to pay. Inability to pay for services may not be used as a factor in determining if the person has successfully completed services. A person who is unable to pay for services shall perform fifty hours of community service as arranged by the Alcohol and Drug Safety Action Program, which may use the completion of this community service as a factor in determining if the person has successfully completed services. The Department of Alcohol and Other Drug Abuse Services shall report annually to the House Ways and Means Committee and Senate Finance Committee on the number of first and multiple offenders completing the Alcohol and Drug Safety Action Program, the amount of fees collected and expenses incurred by each Alcohol and Drug Safety Action Program, and the number of community service hours performed in lieu of payment.

(D) If the person has not successfully completed the services as directed by the Alcohol and Drug Safety Action Program within one year of enrollment, a hearing must be provided by the Alcohol and Drug Safety Action Program whose decision is appealable to the Department of Alcohol and Other Drug Abuse Services. If the person is unsuccessful in the Alcohol and Drug Safety Action Program, the Department of Motor Vehicles may waive the successful completion of the program as a mandatory requirement of the issuance of an ignition interlock restricted license upon the recommendation of the Medical Advisory Board as utilized by the Department of Motor Vehicles, if the Medical Advisory Board determines public safety and welfare of the person may not be endangered.

(E) The Department of Motor Vehicles and the Department of Alcohol and Other Drug Abuse Services shall develop procedures necessary for the communication of information pertaining to relicensing, or otherwise. These procedures must be consistent with the confidentiality laws of the State and the United States. If a person's driver's license is suspended pursuant to this section, an insurance company shall not refuse to issue insurance to cover the remaining members of the person's family, but the insurance company is not liable for any actions of the person whose license has been suspended or who has voluntarily turned the person's license in to the Department of Motor Vehicles.

HISTORY: 1962 Code Section 46-348; 1952 Code Section 46-348; 1949 (46) 466; 1956 (49) 1688; 1958 (50) 1662; 1981 Act No. 167, Section 2; 1982 Act No. 355, Section 4; 1983 Act No. 114 Section 2; 1985 Act No. 201, Part II, Section 39B; 1988 Act No. 532, Section 28; 1988 Act No. 658, Part II, Section 38B; 1993 Act No. 181, Section 1421; 1996 Act No. 459, Section 186; 1998 Act No. 258, Section 13; 1998 Act No. 379, Section 1; 1998 Act No. 434, Section 10; 1999 Act No. 100, Part II, Section 11; 1999 Act No. 115, Section 14; 2000 Act No. 390, Sections 27, 28; 2002 Act No. 296, Section 1; 2002 Act No. 348, Section 9; 2002 Act No. 354, Section 3; 2014 Act No. 158 (S.137), Section 15, eff October 1, 2014; 2015 Act No. 34 (S.590), Section 2, eff June 1, 2015; 2023 Act No. 55 (S.36), Section 9, eff May 19, 2024.

Effect of Amendment

2023 Act No. 55, Section 9, rewrote (A); in (B), deleted the second sentence, which related to completion of an Alcohol Drug and Safety Action Program as a condition of reinstatement of driving privileges; and deleted (F), which provided for when the driver's license suspension periods began.

SECTION 56-5-2995.

Additional assessment on persons convicted of driving under influence of intoxicating liquors or drugs.

(A) In addition to the penalties imposed for a first offense violation of Section 56-5-2930 or 56-5-2933 in magistrate's or municipal court, an additional assessment of twelve dollars must be added to any punishment imposed which must be remitted to the State

Treasurer who shall then distribute the twelve-dollar assessments in the manner provided in Section 14-1-201.

(B) In addition to the penalties and assessments imposed for a second or subsequent violation of Section 56-5-2930, 56-5-2933, or a violation of Section 56-5-2945 in general sessions court, an additional assessment of twelve dollars must be added to any punishment imposed which must be remitted to the State Treasurer who shall then distribute these twelve-dollar assessments in the manner provided in Section 14-1-201.

HISTORY: 1997 Act No. 155, Part II, Section 37A; 2000 Act No. 390, Section 29.

ARTICLE 25

Pedestrians; Rights and Duties

SECTION 56-5-3110.

Pedestrian obedience to traffic-control devices and traffic regulations.

(a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to him unless otherwise directed by a police officer.

(b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in Sections 56-5-970 and 56-5-990.

(c) At all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

HISTORY: 1962 Code Section 46-431; 1952 Code Section 46-431; 1949 (46) 466; 1977 Act No. 145 Section 1.

SECTION 56-5-3120.

Local regulations.

Local authorities may by ordinance require that pedestrians shall strictly comply with the directions of any official traffic-control signal and may by ordinance prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

HISTORY: 1962 Code Section 46-432; 1952 Code Section 46-432; 1949 (46) 466.

SECTION 56-5-3130.

Pedestrians' right-of-way in crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to yield to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) shall not apply under the conditions stated in subsection (b) of Section 56-5-3150.

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

HISTORY: 1962 Code Section 46-433; 1952 Code Section 46-433; 1949 (46) 466; 1977 Act No. 145 Section 2.

SECTION 56-5-3140.

Pedestrian shall use right half of crosswalk.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

HISTORY: 1962 Code Section 46-434; 1952 Code Section 46-434; 1949 (46) 466.

SECTION 56-5-3150.

Crossing at other than crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.

(c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices and when authorized to cross diagonally pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

HISTORY: 1962 Code Section 46-435; 1952 Code Section 46-435; 1949 (46) 466; 1977 Act No. 145 Section 3.

SECTION 56-5-3160.

Pedestrians on highways.

(a) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available any pedestrian walking along and upon a highway shall walk only on a shoulder as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway and, if on a two-way roadway, shall walk only on the left side of the roadway.

(d) Except as otherwise provided in this chapter, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

HISTORY: 1962 Code Section 46-436; 1952 Code Section 46-436; 1949 (46) 466; 1965 (54) 692; 1971 (57) 296; 1977 Act No. 145

Section 4.

SECTION 56-5-3170.

Pedestrians prohibited on freeways.

(A) No person as a pedestrian, unless otherwise directed by a law enforcement officer, shall occupy any space within the limits of the roadway and shoulder of the main facility of a freeway, except to perform public works or official duties, as a result of an emergency caused by an accident or breakdown of a motor vehicle, or to obtain assistance.

The prohibitions imposed by this subsection on the use of freeways do not apply to service roads alongside the highways.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 46-436.1; 1971 (57) 298; 1993 Act No. 98, Section 2.

SECTION 56-5-3180.

Pedestrians soliciting rides or business.

(a) No person shall stand in a roadway for the purpose of soliciting a ride.

(b) Except when authorized by the provisions of Section 5-27-910, no person shall stand on a highway for the purpose of soliciting employment, business, or contributions from the occupant of any vehicle.

(c) No person may stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

HISTORY: 1962 Code Section 46-437; 1952 Code Section 46-437; 1949 (46) 466; 1977 Act No. 145 Section 5; 1988 Act No. 373, Section 3.

SECTION 56-5-3190.

Only blind or incapacitated person may raise certain canes.

It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway to carry in a raised or extended position a cane or walking stick which is white in color or white tipped with red.

HISTORY: 1962 Code Section 46-438; 1952 Code Section 46-438; 1949 (46) 170.

SECTION 56-5-3200.

Vehicle shall stop for pedestrian guided by dog or raising cane.

Whenever a pedestrian is crossing or attempting to cross a public street or highway, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, the driver of every vehicle approaching the intersection or place where such pedestrian is attempting to cross shall bring his vehicle to a full stop before arriving at such intersection or place of crossing and before proceeding shall take such precautions as may be necessary to avoid injuring such pedestrian.

HISTORY: 1962 Code Section 46-439; 1952 Code Section 46-439; 1949 (46) 170.

SECTION 56-5-3210.

Penalties for violating Sections 56-5-2720, 56-5-3190, or 56-5-3200.

A person who violates any of the provisions of Sections 56-5-3190, 56-5-3200, or 56-5-2720 is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding twenty-five dollars or imprisonment for not exceeding ten days.

HISTORY: 1962 Code Section 46-440; 1952 Code Section 46-440; 1949 (46) 170; 1992 Act No. 399, Section 5.

SECTION 56-5-3220.

Effect of failure of incapacitated person to carry walking stick or cane, or to be guided by dog.

Nothing contained in Sections 56-5-3190 and 56-5-3200 shall be construed to deprive any totally or partially blind or otherwise incapacitated person not carrying such a cane or walking stick or not being guided by a dog of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick or to be guided by a guide dog upon the streets, highways, or sidewalks of this State to be held to constitute or be evidence of contributory negligence.

HISTORY: 1962 Code Section 46-441; 1952 Code Section 46-441; 1949 (46) 170.

SECTION 56-5-3230.

Drivers to exercise due care.

Notwithstanding other provisions of any local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human-powered vehicle and shall give an audible signal when necessary and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated or intoxicated person.

HISTORY: 1962 Code Section 46-442; 1952 Code Section 46-442; 1949 (46) 466; 1977 Act No. 145 Section 6.

SECTION 56-5-3240.

Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

HISTORY: Former 56-5-3240 [1949 (46) 466; 1952 Code Section 46-396; 1962 Code Section 46-396] repealed by 1977 Act No. 145, Section 13; New 1962 Code Section 46-443 enacted by 1977 Act No. 145, Section 7, and codified as Section 56-5-3240.

SECTION 56-5-3250.

Pedestrians' right-of-way on sidewalks.

The driver of a vehicle crossing a sidewalk shall yield the right-of-way to any pedestrian and all other traffic on the sidewalk.

HISTORY: 1962 Code Section 46-444; 1977 Act No. 145 Section 8.

SECTION 56-5-3260.

Pedestrians yield to authorized emergency vehicles.

(a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of Section 56-5-4970 and visual signals meeting the requirements of Section 56-5-4700, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.

(b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

HISTORY: 1962 Code Section 46-445; 1977 Act No. 145 Section 9.

SECTION 56-5-3270.

Pedestrians under influence of alcohol or drugs.

A pedestrian who is under the influence of alcohol, or any drug, to a degree which renders himself a hazard shall not walk or be upon a highway except a sidewalk.

HISTORY: 1962 Code Section 46-446; 1977 Act No. 145 Section 10.

SECTION 56-5-3280.

Bridge and railroad signals.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

HISTORY: 1962 Code Section 46-447; 1977 Act No. 145 Section 11.

ARTICLE 26

Electric Personal Assistive Mobility Devices

SECTION 56-5-3310.

Electric Personal Assistive Mobility Devices.

(A) As used in this article, "Electric Personal Assistive Mobility Device" or "EPAMD" means a self-balancing two nontandem wheeled device designed to transport one person, with an electric propulsion system with average power of seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by this propulsion system while ridden by an operator weighing one hundred seventy pounds, is less than twenty miles an hour.

(B) The operation of an EPAMD is governed by the provisions of this article. Notwithstanding another provision of law, an EPAMD is not considered a "vehicle" or "motor vehicle" within the meaning of the laws of this State and no provisions of law relating to vehicles or motor vehicles apply to an EPAMD unless specified in this article.

(C) A person may operate an EPAMD upon sidewalks, roadways, bicycle routes, paths, or trails as contained in this article.

(D) A person operating an EPAMD on a sidewalk, roadway, bicycle route, path, or trail shall exercise due care to avoid colliding with, and shall yield the right-of-way to, pedestrians and human powered devices. A person operating an EPAMD also shall give an audible signal before overtaking and passing a pedestrian or person operating a human powered device.

(E) An EPAMD must not be operated at a speed greater than fifteen miles an hour.

(F) A person operating an EPAMD shall obey the instructions of an official traffic control device specifically applicable to him unless otherwise directed by a police officer. A person operating an EPAMD is subject to traffic and pedestrian control signals as provided in Sections 56-5-970 and 56-5-990. At all other places a person operating an EPAMD must be accorded the privileges and is subject to the restrictions contained in this article.

(G) Local authorities by ordinance may require that a person operating an EPAMD strictly comply with the directions of an official traffic control signal and by ordinance may prohibit a person operating an EPAMD from crossing a roadway in a business district or a designated highway except in a crosswalk.

(H) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slow down, or stop to yield to a person operating an EPAMD crossing a roadway within a crosswalk when the person operating the EPAMD is upon or approaching the portion of the roadway on which the vehicle is traveling. A person operating an EPAMD shall not leave a curb suddenly, or another place of safety, move into the path of a vehicle and create an immediate hazard. When a vehicle is stopped at a marked crosswalk or at an unmarked crosswalk at an intersection to permit an EPAMD to cross the roadway, the driver of another vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(I) A person operating an EPAMD shall move, whenever practicable, upon the right portion of a crosswalk.

(J) A person operating an EPAMD while crossing a roadway at a point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway. A person operating an EPAMD crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway. Between adjacent intersections at which traffic control signals are in operation a person operating an EPAMD shall cross only at an intersection marked crosswalk. A person operating an EPAMD shall not cross a roadway intersection diagonally unless authorized by official traffic control devices. When authorized to cross a roadway diagonally, a person operating an EPAMD shall cross only in accordance with the official traffic control devices pertaining to these crossing movements.

(K) Where a sidewalk is provided and its use is practicable, it is unlawful for a person to operate an EPAMD along and upon an adjacent roadway. Where a sidewalk is not available, a person operating an EPAMD along and upon a highway shall operate only on a shoulder as far as practicable from the edge of the roadway. Where neither a sidewalk nor a shoulder is available, a person

operating an EPAMD along and upon a highway shall operate it as near as practicable to an outside edge of the roadway and, if on a two-way roadway, shall operate only on the left side of the roadway. Except as otherwise provided in this chapter, a person operating an EPAMD upon a roadway shall yield the right-of-way to all vehicles upon the roadway.

(L) A person operating an EPAMD, unless otherwise directed by a law enforcement officer, shall not occupy a space within the limits of the roadway and shoulder of the main facility of a freeway, except to perform public works or official duties, resulting from an emergency caused by an accident or breakdown of a motor vehicle, or to obtain assistance. The prohibitions imposed by this subsection on the use of freeways do not apply to service roads alongside the highways. A person who violates the provisions contained in this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

(M) Notwithstanding a local ordinance, every driver of a vehicle shall exercise due care to avoid colliding with a person operating an EPAMD and shall give an audible signal when necessary.

(N) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of Section 56-5-4970 and visual signals meeting the requirements of Section 56-5-4700, or of a police vehicle properly and lawfully making use of an audible signal only, a person operating an EPAMD shall yield the right-of-way to the authorized emergency vehicle. This subsection shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with a person operating an EPAMD.

(O) An EPAMD must not be used to carry more persons than it is designed and equipped to carry.

(P) A person operating an EPAMD shall not enter or remain upon a bridge or an approach to it beyond the bridge signal, gate, or barrier after a bridge operation signal indication has been given. A person operating an EPAMD shall not pass through, around, over, or under a crossing gate or a barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.

(Q) An EPAMD must be equipped with a stopping mechanism which will enable the operator to bring the EPAMD to a controlled stop. A person shall not operate an EPAMD unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet. However, an EPAMD shall not be equipped with, nor shall a person use, a siren or whistle on an EPAMD, except as provided in subsection (R). An EPAMD when in use at nighttime must be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred feet to the front and with front, rear, and side reflectors which must be visible from at least three hundred feet.

(R) An authorized police patrol EPAMD used as a part of a police EPAMD patrol may exercise the privileges of an emergency vehicle as provided in Section 56-5-760. An authorized police patrol EPAMD may be equipped with a siren. An officer utilizing a police patrol EPAMD may use his whistle or deploy the vehicle's siren for law enforcement purposes. Notwithstanding the provisions of Section 56-5-760(C), an authorized police patrol EPAMD acting as an emergency vehicle is entitled to the exemptions of an authorized emergency vehicle if it makes use of an audible signal meeting the requirements of Section 56-5-4970 or visual signals meeting the requirements of Section 56-5-4700.

(S) An operator of an EPAMD who violates a provision contained in this article, unless specified in a subsection, is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five dollars.

HISTORY: 2002 Act No. 269, Section 1.

ARTICLE 27

Bicyclists and Users of Play Vehicles; Rights and Duties

SECTION 56-5-3410.

Applicability of article to bicycles.

The provisions of this article are applicable to bicycles whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated in this article.

HISTORY: 1962 Code Section 46-451; 1952 Code Section 46-451; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3420.

Rights and duties of bicyclists generally.

A person riding a bicycle upon a roadway must be granted all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special provisions in this article and except as to those provisions of this chapter which by their nature can have no application.

HISTORY: 1962 Code Section 46-452; 1952 Code Section 46-452; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3425.

Bicycle lanes.

(A) For purposes of this section, "bicycle lane" means a portion of the roadway or a paved lane separated from the roadway that has been designated by striping, pavement markings, and signage for the preferential or exclusive use of bicyclists.

(B) Whenever a bicycle lane has been provided adjacent to a roadway, operators of:

(1) motor vehicles may not block the bicycle lane to oncoming bicycle traffic and shall yield to a bicyclist in the bicycle lane before entering or crossing the lane; and

(2) bicycles are required to ride in the bicycle lane except when necessary to pass another person riding a bicycle or to avoid an obstruction in the bicycle lane. However, bicyclists may ride on the roadway when there is only an adjacent recreational bicycle path available instead of a bicycle lane.

HISTORY: 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3430.

Riding on roadways and bicycle paths.

(A) Except as provided in subsection (B), every bicyclist operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable. A bicyclist may, but is not required to, ride on the shoulder of the roadway in order to comply with the requirements of this subsection.

(B) A bicyclist may ride in a lane other than the right-hand lane if only one lane is available that permits the bicyclist to continue on his intended route.

(C) When operating a bicycle upon a roadway, a bicyclist must exercise due care when passing a standing vehicle or one proceeding in the same direction.

(D) Bicyclists riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

HISTORY: 1962 Code Section 46-453; 1952 Code Section 46-453; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3435.

Driver to maintain safe operating distance between motor vehicle and bicycle.

A driver of a motor vehicle must at all times maintain a safe operating distance between the motor vehicle and a bicycle.

HISTORY: 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3440.

Manner of riding bicycles; number of persons which may be carried.

A bicyclist propelling a bicycle may not ride other than upon or astride a permanent and regular seat attached to the bicycle. No bicycle may be used to carry more persons at one time than the number for which it is designed and equipped.

HISTORY: 1962 Code Section 46-454; 1952 Code Section 46-454; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3445.

Harassing or throwing object at person riding bicycle; penalty.

It is unlawful to harass, taunt, or maliciously throw an object at or in the direction of any person riding a bicycle. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred fifty dollars or imprisoned not more than thirty days, or both.

HISTORY: 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3450.

Clinging to vehicles prohibited.

A person riding upon any bicycle, coaster, roller skates, sled, or toy vehicle may not attach it or them or himself to a vehicle upon a roadway.

HISTORY: 1962 Code Section 46-455; 1952 Code Section 46-455; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3460.

Carrying articles.

A bicyclist operating a bicycle may not carry any package, bundle, or article that prevents the rider from keeping at least one hand upon the handle bars.

HISTORY: 1962 Code Section 46-456; 1952 Code Section 46-456; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3470.

Lamps and reflectors on bicycle.

A bicycle when in use at nighttime must be equipped with a lamp on the front which must emit a white light visible from a distance of at least five hundred feet to the front and with a red reflector on the rear that must be visible from all distances from fifty feet to three hundred feet to the rear when directly in front of the lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred feet to the rear may be used in addition to the red reflector.

HISTORY: 1962 Code Section 46-457; 1952 Code Section 46-457; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3480.

Signaling turns; penalty.

(A)(1) A bicyclist shall indicate a right turn by extending the left arm upward, by raising the left arm to the square, or by extending the right arm horizontally to the right.

(2) A bicyclist shall indicate a left turn by extending the left arm horizontally.

(3) A bicyclist shall indicate stopping or decreasing speed by extending the left arm or the right arm downward.

(B) A bicyclist is not required to give signals provided for in subsection (A) continuously if the hand or arm is needed to control the bicycle.

(C) A violation of this section is punishable by a fine of twenty-five dollars.

HISTORY: 1962 Code Section 46-458; 1952 Code Section 46-458; 1949 (46) 466; 1997 Act No. 56, Section 2; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3490.

Brake on bicycle; penalty.

A bicycle must be equipped with a brake that will enable the bicyclist to make the braked wheels skid on dry, level, clean pavement.

A violation of this section is punishable by a fine of twenty-five dollars.

HISTORY: 1962 Code Section 46-459; 1952 Code Section 46-459; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.
SECTION 56-5-3500.

Violations of article; penalties.

(A) Except as otherwise provided, in the absence of another violation being cited, a violation of this article by the driver of a motor vehicle is subject to a civil fine of up to one hundred dollars unless a bicyclist is injured as a result of the violation.

(B) In the absence of another violation being cited, a person driving a motor vehicle who violates a provision of this article and the violation is the proximate cause of a:

(1) minor injury to a bicyclist, must be assessed a civil fine of up to five hundred dollars; or

(2) great bodily injury, as defined in Section 56-5-2945, to a bicyclist, must be assessed a civil fine of not more than one thousand dollars.

HISTORY: 1962 Code Section 46-460; 1952 Code Section 46-460; 1949 (46) 466; 2008 Act No. 317, Section 3, eff June 10, 2008.
SECTION 56-5-3515.

Authorized police patrol bicycles; operating as emergency vehicles.

(A) An authorized police patrol bicycle used as a part of a police bicycle patrol may exercise the privileges of an emergency vehicle provided in Section 56-5-760.

(B) An authorized police patrol bicycle may be equipped with a siren or the officer may utilize a whistle in the performance of his duties, or both.

(C) Notwithstanding the provisions of Section 56-5-760(C), an authorized police patrol bicycle acting as an emergency vehicle is entitled to the exemptions of an authorized emergency vehicle if it makes use of an audible signal meeting the requirements of Section 56-5-4970 or visual signals meeting the requirements of Section 56-5-4700.

HISTORY: 1997 Act No. 56, Section 1; 2008 Act No. 317, Section 3, eff June 10, 2008.

SECTION 56-5-3520.

Applicability of provisions to bicycles with helper motors.

Bicyclists operating bicycles with helper motors, as defined in Section 56-1-10, are subject to all statutory provisions applicable to bicyclists, as provided in Section 56-5-3420.

HISTORY: 2020 Act No. 114 (H.3174), Section 2, eff February 3, 2020.

ARTICLE 29

Motorcyclists; Rights and Duties Thereof

SECTION 56-5-3610.

Rights and duties of operator of motorcycle generally.

Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the drivers of motor vehicles, except as to special regulations or other provisions of law which by their nature would not apply.

HISTORY: 1962 Code Section 46-498.4; 1969 (56) 317.

SECTION 56-5-3630.

Manner in which motorcycles must be operated.

(A) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto and the operator shall not carry any other person nor shall any other person ride on a motorcycle unless the motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

(B) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle.

(C) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.

(D) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(E) No person shall ride upon a motorcycle as a passenger unless, when sitting astride the seat, the person can reach the footrests with both feet. Provided, the provisions of this section shall not apply to persons riding in a motorcycle sidecar.

(F) No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle on the roadway.

HISTORY: 1962 Code Section 46-498; 1952 Code Section 46-498; 1949 (46) 466; 1978 Act No. 451 Section 6; 2016 Act No. 267 (S.689), Section 2, eff June 7, 2016.

SECTION 56-5-3640.

Motorcycle entitled to full use of lane; riding two or more abreast; overtaking and passing; operation in other instances.

(a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This shall not apply to motorcycles operated two abreast in a single lane.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(c) No person shall operate a motorcycle between lanes of traffic, or between adjacent lines or rows of vehicles.

(d) Motorcycles shall not be operated more than two abreast in a single lane.

(e) Items (b) and (c) shall not apply to police officers in the performance of their official duties.

HISTORY: 1962 Code Section 46-498.2; 1969 (56) 317.

SECTION 56-5-3650.

Footrests; rear view mirror.

(A) Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, must be equipped with footrests for its passenger.

(B) A person shall not operate any motorcycle unless it is equipped with a rear view mirror which will afford the operator ample vision to the rear at all times.

HISTORY: 1962 Code Section 46-4983; 1969 (56) 317; 2006 Act No. 278, Section 1, eff May 23, 2006.

SECTION 56-5-3660.

Helmets must be worn by operators and passengers under age twenty-one; helmet design; list of approved helmets.

It shall be unlawful for any person under the age of twenty-one to operate or ride upon a two-wheeled motorized vehicle unless he wears a protective helmet of a type approved by the Department of Public Safety. Such a helmet must be equipped with either a neck or chin strap and be reflectorized on both sides thereof. The department is hereby authorized to adopt and amend regulations covering the types of helmets and the specifications therefor and to establish and maintain a list of approved helmets which meet the specifications as established hereunder.

HISTORY: 1962 Code Section 46-631; 1967 (55) 199; 1980 Act No. 514, Section 1; 1993 Act No. 181, Section 1422.

SECTION 56-5-3670.

Goggles or face shields shall be worn by operators under age twenty-one; list of approved goggles and face shields.

It shall be unlawful for any person under the age of twenty-one to operate a two-wheeled motorized vehicle unless he wears goggles or a face shield of a type approved by the Department of Public Safety. The department is hereby authorized to adopt and amend regulations covering types of goggles and face shields and the specifications therefor and to establish and maintain a list of approved goggles and face shields which meet the specifications as established hereunder.

HISTORY: 1962 Code Section 46-632; 1967 (55) 199; 1980 Act No. 514, Section 2; 1993 Act No. 181, Section 1423.

SECTION 56-5-3680.

Wind screens.

The provisions of Section 56-5-3670 with respect to goggles and face shields shall not apply to the operator of a two-wheeled motorized vehicle equipped with a wind screen meeting specifications established by the Department of Public Safety. The department is hereby authorized to adopt and amend regulations covering types of wind screens and specifications therefor.

HISTORY: 1962 Code Section 46-633; 1967 (55) 199; 1993 Act No. 181, Section 1424.

SECTION 56-5-3690.

Unlawful to sell or distribute helmets, goggles, or face shields not approved by Department of Public Safety.

It shall be unlawful to sell, offer for sale or distribute any protective helmets, goggles or face shields for use by the operators of two-wheeled motorized vehicles, or protective helmets for the use of passengers thereon, unless they are of a type and specification approved by the Department of Public Safety and appear on the list of approved devices maintained by the department.

HISTORY: 1962 Code Section 46-634; 1967 (55) 199; 1993 Act No. 181, Section 1425.

SECTION 56-5-3700.

Penalty for violation of Sections 56-5-3660 to 56-5-3690.

Any person violating the provisions of Sections 56-5-3660 to 56-5-3690 shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 46-635; 1967 (55) 199.

ARTICLE 30

Moped Regulation [Repealed]

ARTICLE 30, Chapter 5, Title 56 of the 1976 Code was repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

SECTIONS 56-5-3710 to 56-5-3760.

Repealed.

HISTORY: Former Section 56-5-3710, titled Limitations as to riding position and number of riders, had the following history: 1986 Act No. 528, Section 11. Repealed by 2017 Act No. 89, Section 35, eff November 19, 2018.

HISTORY: Former Section 56-5-3720, titled Required equipment, had the following history: 1986 Act No. 528, Section 11; 1991 Act No. 94, Section 5. Repealed by 2017 Act No. 89, Section 35, eff November 19, 2018.

HISTORY: Former Section 56-5-3730, titled Use of operating lights, had the following history: 1986 Act No. 528, Section 11. Repealed by 2017 Act No. 89, Section 35, eff November 19, 2018.

HISTORY: Former Section 56-5-3740, titled Modification of equipment to increase horsepower or speed, had the following history: 1986 Act No. 528, Section 11; 1991 Act No. 94, Section 6. Repealed by 2017 Act No. 89, Section 35, eff November 19, 2018.

HISTORY: Former Section 56-5-3750, titled Labeling requirements; violations and penalties, had the following history: 1986 Act No. 528, Section 11; 1991 Act No. 94, Section 7; 1993 Act No. 181, Section 1426; 1996 Act No. 459, Section 187. Repealed by 2017 Act No. 89, Section 35, eff November 19, 2018.

HISTORY: Former Section 56-5-3760, titled Sign to be posted by persons selling mopeds, had the following history: 1986 Act No. 528, Section 11. Repealed by 2017 Act No. 89, Section 35, eff November 19, 2018.

ARTICLE 31

Miscellaneous Traffic Rules

SECTION 56-5-3810.

Limitations on backing.

(a) No driver shall back a vehicle unless such movement can be made with safety and without interfering with other traffic.

(b) No driver shall back a vehicle upon any shoulder or roadway of any controlled-access highway.

HISTORY: 1962 Code Section 46-492; 1952 Code Section 46-492; 1949 (46) 466; 1978 Act No. 451 Section 1.

SECTION 56-5-3820.

Operation of vehicle when driver's view or control over driving mechanism interfered with.

No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons, exceeding three, as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle. No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the side or to interfere with his control over the driving mechanism of the vehicle.

HISTORY: 1962 Code Section 46-493; 1952 Code Section 46-493; 1949 (46) 466.

SECTION 56-5-3822.

Opening vehicle doors.

No person shall open any door of a motor vehicle unless it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

HISTORY: 1978 Act No. 451 Section 2.

SECTION 56-5-3826.

Riding in moving house trailers prohibited.

No person shall occupy a house trailer while it is being moved upon a public highway.

HISTORY: 1978 Act No. 451 Section 3.

SECTION 56-5-3830.

Driving through defiles or canyons or on mountain highways.

The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold the vehicle under control and as near the right-hand edge of the roadway as reasonably possible and, except when driving entirely to the right of the center of the roadway, shall give audible warning with the horn of the vehicle upon approaching any curve where the view is obstructed within a distance of two hundred feet along the highway.

HISTORY: 1962 Code Section 46-494; 1952 Code Section 46-494; 1949 (46) 466; 1978 Act No. 451 Section 4.

SECTION 56-5-3835.

Driving upon sidewalk.

No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

HISTORY: 1978 Act No. 451 Section 7.

SECTION 56-5-3840.

Coasting prohibited.

The driver of any motor vehicle when traveling upon a downgrade shall not coast with the gears of such vehicle in neutral. The driver of a commercial motor vehicle when traveling upon a downgrade shall not coast with the clutch disengaged.

HISTORY: 1962 Code Section 46-495; 1952 Code Section 46-495; 1949 (46) 466.

SECTION 56-5-3850.

Crossing fire hose prohibited.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway to be used at any fire or alarm of fire, without the consent of the fire department official in command.

HISTORY: 1962 Code Section 46-497; 1952 Code Section 46-497; 1949 (46) 466.

SECTION 56-5-3860.

Animals and certain vehicles prohibited on controlled-access highways; exceptions; penalty.

(A)(1) No person, unless otherwise directed by a law enforcement officer, shall occupy any space within the limits of the roadway and shoulders of the main facility of a freeway with an animal-drawn vehicle, a ridden or led animal, herded animals, a pushcart, a bicycle, a bicycle with motor attached, a motor-driven cycle with a motor which produces not to exceed five brake horsepower, an agricultural tractor or other farm machinery, except in the performance of public works or official duties.

(2) The prohibitions imposed by this subsection on the use of freeways do not apply to service roads alongside the highways.

(B)(1) A local governing body may authorize a partial exemption from the provisions contained in subsection (A) that would allow bicyclists and pedestrians to use the roadway and shoulders of the main facility of a noninterstate freeway.

(2) The local governing body may authorize a partial exemption to subsection (A) for bicyclists and pedestrians if the local governing body:

(a) determines that bicyclists and pedestrians have no other reasonably safe or viable alternative route and the use of the freeway route is at least ten percent less than the shortest conventional alternate route;

(b) adopts an ordinance allowing bicycle and pedestrian traffic on the shoulder of a main facility of the noninterstate freeway and allowing bicycle and pedestrian traffic on the roadway when utilizing the shoulder is not practicable because of an obstruction or an unpaved shoulder, or when necessary to cross an access ramp in compliance with accepted bicycle safety standards and practices; and

(c) notifies the department that the ordinance has been adopted.

(3) Upon receiving notice pursuant to item (B)(2)(c), the department shall remove all signs prohibiting pedestrians and bicyclists

along the roadway and shoulders of the main facility of the portion of the freeway to which the ordinance applies.

(4) The local governing body may request permission from the department to erect appropriate signs and markers along the roadway and shoulders of the main facility of the portion of the freeway to which the partial exemption applies.

(5) Two or more local governing bodies that have jurisdiction over portions of a section of a roadway to which a partial exemption from the provisions contained in subsection (A) is proposed may authorize an exemption for the entire section if the local governing bodies affected by the proposed exemption formally agree to granting the exemption and each local jurisdiction completes the exemption procedure contained in this section for the portion of the roadway section that passes through its jurisdiction.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 46-498.5; 1971 (57) 298; 1993 Act No. 98, Section 3; 2012 Act No. 252, Section 1, eff June 18, 2012.

SECTION 56-5-3870.

Motor vehicle speed detection jamming devices.

(A) It is unlawful for a motor vehicle to be equipped with or for an operator of a motor vehicle to employ any device that is designed for jamming, scrambling, neutralizing, disabling, or interfering with radar, laser, or any other electronic device used by a law enforcement agency to measure the speed of a motor vehicle.

(B) A person who violates a provision contained in this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars.

HISTORY: 2006 Act No. 279, Section 1, eff May 23, 2006.

SECTION 56-5-3880.

Closure of state highways for running events.

The Department of Transportation may close state highways, roadways, or bridges to allow marathons or other running events when the race or event is open to all persons including the handicapped if in the opinion of the district engineer the race or event may be conducted in a safe manner. The Department of Transportation, city, county, organization, and sponsors of the race or event are immune from liability except for gross negligence from incidents arising from participation in or association with the race or event. If the John P. Grace Memorial Bridge is not available for the annual Cooper River Bridge Run and Walk in Charleston County, the Silas N. Pearman Bridge must be made available for the event, if a contingency plan for vehicular traffic can be developed, provided, that if the Cooper River Bridge Run and Walk is not open to persons sixty-five years of age or older, neither bridge may be used for this event.

HISTORY: 1985 Act No. 201, Part II, Section 20A; 1992 Act No. 304, Section 2; 1993 Act No. 181, Section 1427.

SECTION 56-5-3885.

Unlawful to display obscene bumper sticker.

(A) No person may operate a motor vehicle in this State which has affixed or attached to any part of the motor vehicle which is visible to members of the public not occupying the vehicle any sticker, decal, emblem, or other device containing obscene or indecent words, photographs, or depictions.

(B) Obscene words, photographs, or depictions must be defined and interpreted as provided in Section 16-15-305(B), (C), (D), and (E).

(C) A sticker, decal, emblem, or device is indecent when:

(1) taken as a whole, it describes, in a patently offensive way, as determined by contemporary community standards, sexual acts, excretory functions, or parts of the human body; and

(2) taken as a whole, it lacks serious literary, artistic, political, or scientific value.

(D) A person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding two hundred dollars.

HISTORY: 1990 Act No. 443, Section 1.

SECTION 56-5-3890.

Unlawful use of a wireless electronic communication device while operating a motor vehicle; penalties; limitation on law enforcement officers; department to maintain statistical information; preemption of local ordinances.

(A) For purposes of this section:

(1) "Hands-free wireless electronic communication device" means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person without holding the device in either hand by utilizing an internal feature or function of the device, an attachment, or an additional device. A hands-free wireless electronic communication device may require the use of either hand to activate or deactivate an internal feature or function of the device.

(2) "Text-based communication" means a communication using text-based information, including, but not limited to, a text message, an SMS message, an instant message, or an electronic mail message.

(3) "Wireless electronic communication device" means an electronic device, including, but not limited to, a telephone, a personal digital assistant, a text-messaging device, or a computer, which allows a person to wirelessly communicate with another person.

(B) It is unlawful for a person to use a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State.

(C) This section does not apply to a person who is:

(1) lawfully parked or stopped;
(2) using a hands-free wireless electronic communication device;
(3) summoning emergency assistance;
(4) transmitting or receiving data as part of a digital dispatch system;
(5) a public safety official while in the performance of the person's official duties; or
(6) using a global positioning system device or an internal global positioning system feature or function of a wireless electronic communication device for the purpose of navigation or obtaining related traffic and road condition information.

(D)(1) A person who is adjudicated to be in violation of the provisions of this section must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this section. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this section. A custodial arrest for a violation of this section must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this section does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this section must not be:

(a) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or
(b) reported to the offender's motor vehicle insurer.

(2) During the first one hundred eighty days after this section's effective date, law enforcement officers shall issue only warnings for violations of this section.

(E) A law enforcement officer shall not:

(1) stop a person for a violation of this section except when the officer has probable cause that a violation has occurred based on the officer's clear and unobstructed view of a person who is using a wireless electronic communication device to compose, send, or read a text-based communication while operating a motor vehicle on the public streets and highways of this State;
(2) seize, search, view, or require the forfeiture of a wireless electronic communication device because of a violation of this section;
(3) search or request to search a motor vehicle, driver, or passenger in a motor vehicle, solely because of a violation of this section; or
(4) make a custodial arrest for a violation of this section, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine.

(F) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(G) This section preempts local ordinances, regulations, and resolutions adopted by municipalities, counties, and other local governmental entities regarding persons using wireless electronic communication devices while operating motor vehicles on the public streets and highways of this State.

HISTORY: 2014 Act No. 260 (S.459), Section 1, eff June 9, 2014.

SECTION 56-5-3900.

Transportation of minors in open vehicles.

(A) It is unlawful to transport a person under fifteen years of age in the open bed or open cargo area of a pickup truck or trailer. An open bed or open cargo area is a bed or cargo area without permanent overhead restraining construction.

(B) Subsection (A) does not apply when:

(1) an adult is present in the bed or cargo area of the vehicle and is supervising the child;
(2) the child is secured or restrained by a seat belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208, installed to support a load of not less than five thousand pounds for each belt, and of a type approved by the Department of Public Safety;
(3) an emergency situation exists;
(4) the vehicle is being operated in an organized hayride or parade pursuant to a valid permit;
(5) the vehicle is being operated while hunting or in an agricultural enterprise;
(6) the vehicle is being operated in a county which has no incorporated area with a population greater than three thousand five hundred; or
(7) the vehicle has a closed metal tailgate and is being operated less than thirty-six miles an hour.

(C) A person violating this section is guilty of a misdemeanor and, upon conviction, must be fined twenty-five dollars.

(D) No driver's license points or insurance surcharge may be assessed for a violation of this section.

HISTORY: 2002 Act No. 181, Section 8.

ARTICLE 33

Size, Weight, and Load

SECTION 56-5-4010.

Size and weight limits not to be exceeded; powers of local authorities.

(A) It is unlawful for a person to drive or move or for the owner to cause or knowingly to permit to be driven or moved on a highway a vehicle of a size or weight exceeding the limitations stated in this article or otherwise in violation of this article. The maximum size and weight of vehicles herein specified is lawful throughout the State, and local authorities shall have no power or authority to alter these limitations except as express authority may be granted in this article. Provided, that municipalities and their franchisees may operate combinations of vehicles of not more than four units and not more than sixty-five feet in length on city streets within their corporate limits and the operation of these combinations of units is limited to speeds not in excess of twenty

miles an hour, and these combination units must be equipped with brakes meeting braking requirements of Section 56-5-4860 and the rear vehicle must be equipped with at least one stoplight.

(B) The Transport Police Division of the Department of Public Safety has exclusive authority in this State for enforcement of the commercial motor vehicle carrier laws, which include Federal Motor Carrier Safety Regulations, Hazardous Material Regulations, and size and weight laws and regulations.

HISTORY: 1962 Code Section 46-651; 1952 Code Section 46-651; 1949 (46) 466; 1978 Act No. 411 Section 1; 2012 Act No. 180, Section 4, eff May 25, 2012.

SECTION 56-5-4020.

Exemptions; annual permits for certain vehicles; maximum width for exempt vehicles.

(A) Except as provided in Section 56-5-4140(2), the provisions of this article governing size, weight, and load do not apply to fire apparatus, road machinery or implements, and products of husbandry including farm tractors, timber equipment, liquid fertilizer storage facilities, and vehicles or combinations of vehicles used to transport, store, or spread lime, nitrogen, or other soil improvement products for agricultural purposes moved upon the highways so as not to damage the highways nor unduly interfere with highway traffic, or to vehicles operated under terms of special permits issued pursuant to this chapter. The exemptions do not apply to Section 56-5-4230. With regard to vehicles or combinations of vehicles used to transport, store, or spread soil improvement products and to transport products of husbandry exempted pursuant to this section, the owners shall obtain an annual permit to operate the vehicle as provided in Section 57-3-130 which prescribes the specific conditions of the exemption.

(B) For purposes of this section, 'timber equipment' means implements of silviculture including, but not limited to, machinery used in establishing, tending, harvesting, and protecting forest crops such as tree shears, chippers, slashers, log loaders, skidders, and fellers.

(C) None of the vehicles or devices exempted by this section may exceed twelve feet in width, except farm implements which may not exceed sixteen feet in width, and they may be moved only in clear weather conditions during daylight hours.

HISTORY: 1962 Code Section 46-653; 1952 Code Section 46-653; 1949 (46) 466; 1954 (48) 1551; 1975 (59) 209; 1976 Act No. 588 Section 3; 1977 Act No. 77; 1980 Act No. 450; 1983 Act No. 151 Part II Section 28A; 1993 Act No. 164, Part II, Section 39B.

SECTION 56-5-4030.

Width of vehicles.

(A) As contained in this section, "appurtenances" include:

(1) an awning and its support hardware; and

(2) an appendage that is intended to be an integral part of a motor home, travel trailer, or truck camper and is installed by the manufacturer or dealer which includes, but is not limited to, vents, electrical outlet covers, and window frames.

(B) The total outside width of a vehicle or the load on it may not exceed one hundred two inches exclusive of safety devices approved by the Department of Public Safety.

(C) Appurtenances on motor homes, travel trailers, and truck campers in noncommercial use may extend to a maximum of six inches on one side and four inches on the other beyond the maximum width requirement contained in subsection (B).

HISTORY: 1962 Code Section 46-654; 1952 Code Section 46-654; 1949 (46) 466; 1977 Act No. 36; 1986 Act No. 373, Section 1; 1989 Act No. 167, Section 1; 2002 Act No. 197, Section 1.

SECTION 56-5-4035.

Permit for transporting culvert pipe; penalties.

The Department of Transportation may, under such terms and conditions as it may deem to be in the public interest for safety on the highways and in addition to any other permits required by Title 56, issue annual permits for vehicles transporting culvert pipe on public highways. No permit shall be issued for loads exceeding a width of one hundred six inches, exclusive of safety devices approved by the Department of Public Safety. The fee for each permit shall be fifteen dollars for each vehicle hauling such loads. Any person violating the provisions of this section or any regulation promulgated by authority hereof shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed two hundred dollars or imprisoned for a term not to exceed thirty days.

HISTORY: 1978 Act No. 516 Section 1; 1996 Act No. 459, Section 188.

SECTION 56-5-4040.

Width of motor buses and trolley coaches; local ordinances.

Incorporated cities and municipalities may by ordinance permit the operation within their respective jurisdictions of any motor bus or trolley coach with a maximum outside width of not to exceed one hundred and two inches. But in the case of state highways within incorporated cities no such permit shall become effective until approved by the Department of Transportation. All such permits shall specify the streets or sections of streets over which such trolley coaches may be operated. The term "trolley coach" means a vehicle which is propelled by electric power obtained from overhead trolley wires though not operated upon rails.

The Department of Transportation with respect to the state highways and local authorities with respect to other highways, may issue permits for the operation of motor buses and trolley coaches, having a lateral outside width of not exceeding one hundred and two inches upon any highway, route or routes of sufficient width in suburban areas adjacent to municipalities.

HISTORY: 1962 Code Section 46-655; 1952 Code Section 46-655; 1949 (46) 466; 1950 (46) 2314; 1993 Act No. 181, Section 1428.

SECTION 56-5-4050.

Side projecting loads on passenger vehicles.

No passenger vehicle shall be operated on any highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side of such vehicle.

HISTORY: 1962 Code Section 46-656; 1952 Code Section 46-656; 1949 (46) 466.

SECTION 56-5-4055.

Oversized vehicle on interstate highway.

Notwithstanding any provision of this article, relating to the issuance of permits for the movement of oversized loads or vehicles on the highways of this State or exemptions from permit requirements provided for oversized loads or vehicles, no vehicle or load shall be moved within the interstate highway system if such oversized load or vehicle could not be lawfully moved on the highways of this State pursuant to permit or otherwise on July 1, 1956.

HISTORY: 1978 Act No. 516 Section 2.

SECTION 56-5-4060.

Height of vehicles; exception; routing permits; underpasses.

(A)(1) No vehicle, unladen or with load, may exceed a height of thirteen feet six inches except that the height of an automobile transporter unit or a heavy truck transporting one or more other heavy trucks in a saddle mount combination may not exceed fourteen feet. Automobile transporters and heavy trucks transporting one or more other heavy trucks in a saddle mount combination are responsible for any personal injury or property damage resulting from operating a unit at a height in excess of thirteen feet six inches.

(2) To qualify for the fourteen foot exception contained in subsection (A)(1), the owner or operator of the heavy truck transporting one or more other heavy trucks in a saddle mount combination must have a valid routing permit issued by the Department of Transportation. All applicants shall be issued routing permits at no charge upon providing the department with evidence of its general liability coverage. Routing permits shall remain valid for twelve months from the date of issuance and specify the routes that may be traveled by the permittee and the conditions the permittee must observe while transporting heavy trucks in a saddle mount combination. Routing permits do not limit or otherwise affect the holder's liability for personal injuries or property damage.

(B) It is unlawful for any person to operate or attempt to operate under any underpass having a vertical clearance of less than thirteen feet six inches any vehicle with a height in excess of the vertical clearance of the underpass posted in accordance with the manual on uniform traffic-control devices provided for in Section 56-5-920. No person is required to raise, alter, construct, or reconstruct any existing underpass, wire, pole, trestle, or other structure to permit the passage of any vehicle, and neither the State nor any of its agencies or political subdivisions are liable for any personal injury or property damage resulting from the operation of a vehicle over any highway, road, or bridge or through any underpass having a vertical clearance of less than fourteen feet where the Department of Transportation or other body having maintenance jurisdiction of the underpass has posted notice of the reduced vertical clearance in accordance with the manual on uniform traffic-control devices provided for in Section 56-5-920.

HISTORY: 1962 Code Section 46-657; 1952 Code Section 46-657; 1949 (46) 466; 1950 (46) 2314; 1956 (49) 1689; 1960 (51) 1611; 1988 Act No. 298; 1993 Act No. 181, Section 1429; 2008 Act No. 234, Section 4, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-5-4070.

Length of vehicles; limitations on vehicle combinations.

(A) Two or three unit vehicle combinations may be operated on the National System of Interstate and Defense Highways, on those qualifying federal-aid highways so designated by the United States Secretary of Transportation, and on other highways as designated by the Department of Transportation in accordance with Section 56-5-4075. The Department of Public Safety may require warning devices which may be necessary to protect public safety. When in use on the National System of Interstate and Defense Highways and "other qualifying highways":

(1) No trailer or semitrailer may be operated in a two unit truck tractor-trailer or truck tractor-semitrailer combination in excess of fifty-three feet, inclusive of the load carried on it. A fifty-three foot long trailer must be equipped with a rear underride guard, and the distance between the kingpin of the vehicle and the center of the rear axle assembly or to the center of the tandem axle assembly if equipped with two axles may be no greater than forty-one feet. However, trailers or semitrailers used exclusively or primarily to transport vehicles used in connection with motorsports competition events may not exceed forty-six feet on the distance measured from the kingpin to the center of the rear axle.

(2) A trailer or semitrailer, operating in a three unit combination, may not exceed a length of twenty-eight and one-half feet, inclusive of the load carried on it.

(3) Auto and boat transporters may not have an overall length in excess of seventy-five feet, exclusive of front and rear overhang. However, front overhang may not exceed three feet, and rear overhang may not exceed four feet.

(4) Saddle mounts and full mounts may not have an overall length in excess of seventy-five feet.

(B) No motor vehicle, exclusive of truck tractors being used in two or three unit combinations on the National System of Interstate and Defense Highways, on those qualifying federal-aid highways so designated by the United States Secretary of Transportation, and on other highways as designated by the Department of Transportation in accordance with Section 56-5-4075, may exceed a length of forty feet extreme overall dimension, inclusive of front and rear bumpers and load carried on it, except buses as approved by the Department of Public Safety, or motor homes which may not exceed forty-five feet in length, if the turning radius of the motor home is forty-eight feet or less.

(C) A combination of vehicles coupled together or especially constructed to transport motor vehicles in a truckaway or driveway service may tow up to three saddle mounts. No other combination of vehicles coupled together may consist of more than two units,

except as permitted by subsection (A).

(D) Except as permitted by subsection (A), trailers or semitrailers used within combinations may not exceed a length of fifty-three feet, and auto transporters are excluded from trailer length limitations. A fifty-three foot long trailer must be equipped with a rear underride guard, and the distance between the kingpin of the vehicle and the center of the rear axle assembly or to the center of the tandem axle assembly if equipped with two axles may be no greater than forty-one feet. Auto transporters may be allowed an upper level overhang not to exceed three feet on the front and four feet on the rear.

(E) Except where specifically prohibited in this article, there is no overall length limit on combination vehicles.

(F) Appropriate safety and energy conservation devices and compressors and fuel saving equipment on the front or loading devices on the rear of vehicles must not be considered when determining their length for purposes of this section if the overall length limitations of combinations of vehicles is not exceeded.

HISTORY: 1962 Code Section 46-657.1; 1952 Code Section 46-657; 1949 (46) 466; 1950 (46) 2314; 1956 (49) 1689; 1960 (51) 1611; 1963 (53) 75, 549; 1972 (57) 2397; 1974 (58) 2714; 1978 Act No. 411 Section 2; 1980 Act No. 500, Section 1; 1986 Act No. 373, Section 2; 1989 Act No. 167, Section 2; 1992 Act No. 413, Sections 1, 2; 1993 Act No. 181, Section 1430; 1994 Act No. 511, Section 2; 1996 Act No. 459, Section 189; 1998 Act No. 333, Section 3; 2002 Act No. 197, Sections 2, 3; 2016 Act No. 188 (H.4932), Section 1, eff May 25, 2016.

SECTION 56-5-4072.

Towing.

The operator of a vehicle utilizing a fifth wheel assembly may tow one additional trailing vehicle, provided that:

- (1) the operator has been issued a classified driver's license by the department;
- (2) the operation is for private, recreational purposes only;
- (3) the combined length of all three vehicles does not exceed sixty-five feet, inclusive of front and rear bumpers and load;
- (4) the weight of the final trailer with its load does not exceed three thousand pounds;
- (5) the towing truck is equipped with a functioning video system that enables the operator to monitor the final trailer as it is being towed; and
- (6) in addition to the drawbar, tongue, trailer hitch, or other primary connection, the final trailer is attached by a safety chain, safety cable, or equivalent safety device. Both the primary connection and the safety device must be of sufficient strength to retain the connection between the fifth wheel assembly and the final trailer under all conditions while the final trailer is being towed.

HISTORY: 2024 Act No. 129 (H.3355), Section 1, eff July 12, 2024.

SECTION 56-5-4075.

Promulgation of regulations; cooperation with United States Government; petition for removal of federally designated highway.

The Department of Public Safety and the Department of Transportation may promulgate regulations as necessary to implement the provisions of this article. Regulations may be promulgated to make designations as are necessary to provide for those vehicles which operate on the National System of Interstate and Defense Highways and "other qualifying highways" pursuant to Sections 56-5-4030 and 56-5-4070 reasonable access to:

- (a) terminals, facilities for food, fuel, repairs, and rest;
- (b) points of loading and unloading for household goods carriers and auto transporters; and
- (c) specific industrial, commercial, warehousing, and similar sites, only after consulting with and considering the views of the local governments through whose jurisdictions such specific site access would pass.

The Department of Transportation may cooperate with the United States Government by providing information to accomplish uniformity in designating "other qualifying highways". The information may only be provided after safety and operational requirements of the citizens of this State have been studied by the Department of Transportation. Any proposals by the Department of Transportation to add highways, other than those provided for in (a), (b), and (c) of this section, to the network of "qualifying highways" designated by the U. S. Secretary of Transportation must be approved by the General Assembly before they become effective.

The Governor may petition the Secretary of Transportation of the United States to remove any highway federally designated under the Surface Transportation Assistance Act of 1982 [49 USCS Appx Sections 2301 et seq.], as amended by Congress, and not considered safe.

HISTORY: 1986 Act No. 373, Section 4; 1989 Act No. 167, Section 3; 1993 Act No. 181, Section 1431; 1996 Act No. 459, Section 190.

SECTION 56-5-4080.

Length of loads; hydraulic boom and bucket.

Subject to the foregoing provisions of this article limiting the length of vehicles and loads, the load upon any vehicle operated alone or the load upon the front vehicle of a combination of vehicles shall not extend more than three feet beyond the foremost part of the vehicle and the load upon any vehicle operated alone or the load upon the rear vehicle of a combination of vehicles shall not extend more than six feet beyond the rear of the bed or body of such vehicle; provided, that the hydraulic boom and bucket permanently attached to a vehicle used in the maintenance and construction of electric service lines shall not be considered as load within the meaning of this section. Provided, further, that such boom and bucket shall not extend more than eight feet beyond the foremost part of the vehicle.

HISTORY: 1962 Code Section 46-658; 1952 Code Section 46-658; 1949 (46) 466; 1972 (57) 2269.

SECTION 56-5-4090.

Length of load on certain pole trailers or pole carriers; structural material.

(A) The limitations regarding length of vehicles and loads stated in Sections 56-5-4070 and 56-5-4080 do not apply to a load upon a pole trailer, longwood trailer, or self-propelled pole carrier when transporting poles or logs.

(B) During daylight hours only, the limitations regarding length of vehicles and loads stated in Sections 56-5-4070 and 56-5-4080 do not apply to a load upon a pole trailer, longwood trailer, or self-propelled pole carrier when transporting pipes or structural material which cannot be dismembered.

(C) Between 2:00 a.m. and thirty minutes past sunset, the limitations regarding length of loads stated in Section 56-5-4080 do not apply to loads of iron, steel, and concrete articles up to sixty feet in length carried on a fifty-three foot long flat-bed trailer so long as:

(1) the vehicle is traveling upon or within five miles of the South Carolina Truck Network as defined by regulation of the Department of Transportation;

(2) the load does not extend more than three feet six inches beyond the front of the bed of the trailer;

(3) the load does not extend more than four feet beyond the rear of the bed of the trailer;

(4) a flashing amber strobe light and a red flag as required by Section 56-5-4630 are attached to any overhanging rear load; and,

(5) the vehicle's headlights, taillights, and any other exterior lights are on at all times while traveling upon the highways of this State.

(D) A pole, log, pipe, or other material exceeding eighty feet in length may not be transported unless a permit has been first obtained as authorized in Section 57-3-130.

(E) The provisions of this section do not apply to a pole trailer or self-propelled pole carrier operated by a utility company when transporting a pole to replace a damaged one.

HISTORY: 1962 Code Section 46-659; 1952 Code Section 46-659; 1949 (46) 466; 1956 (49) 1689; 1972 (57) 2270; 1991 Act No. 122, 1996 Act No. 425, Section 4; 1998 Act No. 333, Section 4.

SECTION 56-5-4095.

Transportation of modular or sectional housing units.

An official of the Department of Transportation designated by the secretary, in his discretion, upon application in writing and good cause being shown, may issue to a vehicle a permit in writing authorizing the applicant to operate or move upon the state's public highways a motor vehicle and loads for transporting not more than two modular housing units or sectional housing units if the total length of the vehicle, including the load, does not exceed the length presently authorized by law and regulation for the transporting of mobile homes. No permit may be issued to any vehicle whose operation upon the public highways of this State threatens the safety of others or threatens to unduly damage a highway or any of its appurtenances.

HISTORY: 1986 Act No. 391; 1993 Act No. 181, Section 1432; 1996 Act No. 459, Section 191.

SECTION 56-5-4100.

Preventing escape of materials loaded on vehicles; cleaning the highways of escaped substances or cargo.

(A) No vehicle may be driven or moved on any public highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking, or otherwise escaping from the vehicle, except that sand, salt, or other chemicals may be dropped for the purpose of securing traction, and water or other substance may be sprinkled on a roadway in the cleaning or maintaining of the roadway by the public authority having jurisdiction.

(B) Trucks, trailers, or other vehicles when loaded with rock, gravel, stone, or other similar substances which could blow, leak, sift, or drop must not be driven or moved on any highway unless the height of the load against all four walls does not extend above a horizontal line six inches below their tops when loaded at the loading point; or, if the load is not level, unless the height of the sides of the load against all four walls does not extend above a horizontal line six inches below their tops, and the highest point of the load does not extend above their tops, when loaded at the loading point; or, if not so loaded, unless the load is securely covered by tarpaulin or some other suitable covering; or unless it is otherwise constructed so as to prevent any of its load from dropping, sifting, leaking, blowing, or otherwise escaping from the vehicle. This subsection also includes the transportation of garbage or waste materials to locations for refuse in this State.

(C) The loader of the vehicle and the driver of the vehicle, in addition to complying with the other provisions of this section, shall sweep or otherwise remove any loose gravel or similar material from the running boards, fenders, bumpers, or other similar exterior portions of the vehicle before it is moved on a public highway.

(D) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent such covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

(E) Any person operating a vehicle from which any substances or cargo, excluding water, have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon the public highway, shall make every reasonable effort to immediately cause the public highway to be cleaned of all substances and shall pay any costs for the cleaning.

If the person does not make every reasonable effort to clean the public highway promptly, the Department of Transportation or any law enforcement officer may, without the consent of the owner or carrier of the substance or cargo, remove or have removed the substance from the public highway if the substance or cargo is blocking the public highway or endangering public safety. The State, its political subdivisions, and their officers and employees are not liable for any damages to the substance or cargo that may result from the removal or the disposal of the substance or cargo unless the removal or disposal was carried out recklessly or in a grossly negligent manner. The State, its political subdivisions, and their officers and employees are not liable for any damages or claims of

damages that may result from the failure to exercise any authority granted under this section. The owner, driver of the vehicle, or motor carrier of the substance or cargo removed under this subsection shall bear all reasonable costs of its removal and subsequent storage or disposition.

Nothing in this section bars a claim for damages.

(F) Any person who violates the provisions of subsections (B), (C), (D), or (E) is guilty of a misdemeanor and, upon conviction, must be fined one hundred dollars.

(G) The provisions contained in subsections (A), (B), (C), (D), and (E) are not applicable to and do not restrict the transportation of seed cotton, soybeans, tobacco, poultry, livestock or silage, or other feed grain used in the feeding of poultry or livestock or of paper, wastepaper utilized for the manufacture of industrial products, paper products, forest products, or textile products.

HISTORY: 1962 Code Section 46-660; 1952 Code Section 46-660; 1949 (46) 466; 1978 Act No. 496 Section 18; 1988 Act No. 532, Section 10; 2004 Act No. 286, Section 3; 2024 Act No. 202 (H.4601), Section 1, eff May 21, 2024.

Effect of Amendment

2024 Act No. 202, Section 1, inserted (D) and redesignated former (D) to (F) as (E) to (G); in (F), substituted "(D), or (E)" for "or (D),"; and in (G), substituted "(C), (D), and (E)" for "and (C)".

SECTION 56-5-4110.

Repealed.

HISTORY: Former Section, titled Loads and covers must be firmly attached, had the following history: 1962 Code Section 46-661; 1952 Code Section 46-661; 1949 (46) 466. Repealed by 2024 Act No. 202, Section 2, eff May 21, 2024.

SECTION 56-5-4120.

Connections to trailers and towed vehicles; display of white flag.

When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered. When one vehicle is towing another vehicle and the connection consists of a chain, rope or cable there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

HISTORY: 1962 Code Section 46-662; 1952 Code Section 46-662; 1949 (46) 466.

SECTION 56-5-4130.

Wheel and axle loads; high and low pressure tires.

(A)(1) The gross weight upon any wheel of a vehicle shall not exceed eight thousand pounds when equipped with high-pressure pneumatic, solid rubber or cushion tires, nor ten thousand pounds when equipped with low-pressure pneumatic tires. The gross weight upon any one axle of a vehicle shall not exceed sixteen thousand pounds when equipped with high-pressure pneumatic, solid rubber or cushion tires, nor twenty thousand pounds when equipped with low-pressure pneumatic tires.

(2) On the interstate and noninterstate highways of this State, any over-the-road bus as defined by Title 49 of the United States Code, motorhome, or any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus as defined by Title 49 of the United States Code, is excluded from the axle weight limits in item (1). However, these vehicles are limited to a maximum single axle weight limit of twenty-four thousand pounds, including all enforcement tolerances.

(B) For the purpose of this section an "axle load" shall be defined as the total load transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle, every pneumatic tire designed for use and used when inflated with air to less than one hundred pounds pressure shall be deemed a "low-pressure tire" and every pneumatic tire inflated to one hundred pounds pressure or more shall be deemed a "high-pressure tire".

HISTORY: 1962 Code Section 46-663; 1952 Code Section 46-663; 1949 (46) 466; 2016 Act No. 188 (H.4932), Section 2, eff May 25, 2016.

SECTION 56-5-4140.

Gross weight of vehicles, combinations of vehicles, and loads; exceptions.

(A)(1) The gross weight of a vehicle or combination of vehicles, operated or moved upon any section of highway, including the interstate highway system, except where the formula in item (4) allows for a higher weight, shall not exceed:

(The following weight limits do not include applicable tolerances)

(a) Single-unit vehicle with two axles 35,000 lbs. (b) Single-unit vehicle with three axles 46,000 lbs. (c) Single-unit vehicle with four axles 63,500 lbs.

except, on the interstate, vehicles must meet axle spacing requirements and corresponding maximum overall gross weights, not to exceed 63,500 lbs., in accordance with the table in item (4).

(d) Single-unit vehicle with five or more axles 65,000 lbs.

except, on the interstate, vehicles must meet axle spacing requirements and corresponding maximum overall gross weights, not to exceed 65,000 lbs., in accordance with the table in item (4).

(e) Combination of vehicles with three axle 50,000 lbs. (f) Combination of vehicles with four axles 65,000 lbs. (g) Combination of vehicles with five or more axles 73,280 lbs.

The gross weight imposed upon any highway or section of highway other than the interstate by two or more consecutive axles in tandem articulated from a common attachment to the vehicle and spaced not less than forty inches nor more than ninety-six inches apart shall not exceed thirty-six thousand pounds, and no one axle of any such group of two or more consecutive axles shall exceed

The ten percent enforcement tolerance specified in Section 56-5-4160 applies to the vehicle weight limits specified in item (1), and subsections (B) and (C). However, the gross weight on a single axle operated on the interstate may not exceed 20,000 pounds, including all enforcement tolerances; the gross weight on a tandem axle operated on the interstate may not exceed 35,200 pounds, including all enforcement tolerances; the overall gross weight for vehicles operated on the interstate may not exceed 75,185 pounds, including all enforcement tolerances except as provided in item (4).

(3) Enforcement tolerance is fifteen percent for a vehicle or trailer transporting sod only on noninterstate routes.

The weight imposed upon the highway by any group of two or more consecutive axles may not, unless specially permitted by the Department of Public Safety, exceed an overall gross weight produced by the application of the following formula:

As an exception, two consecutive sets of tandem axles may carry a gross load of 68,000 pounds if the overall distance between the first and last axles of the consecutive sets of tandem axles is 36 feet or more. The formula is expressed by the following table:

(B) On the interstate and noninterstate highways of this State, any over-the-road bus as defined in Title 49 of the United States Code, motorhome, or any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus as defined in Title 49 of the United States Code, is excluded from the axle spacing requirements in subsection (A). However, these vehicles are limited to a maximum single axle weight limit of twenty-four thousand pounds, including all enforcement tolerances.

(2) Concrete mixing trucks which operate within a fifteen-mile radius of their home base are not required to conform to the requirements of this section. However, these vehicles are limited to a maximum load of the rated capacity of the concrete mixer, the true gross load not to exceed sixty-six thousand pounds. All of these vehicles shall have at least three axles each with brake-equipped wheels.

Limitations as to weight, width, and vehicle combinations on Grace Memorial Bridge.

(b) The Grace Memorial Bridge (U.S. Route 17 over the Cooper River in Charleston County) is not a designated route in accordance

with the provisions of the Surface Transportation Assistance Act of 1982 [49 USCS Appx Sections 2301 et seq.]. Vehicles being operated or used on such segment of highway may not exceed a width of ninety-six inches nor exceed the gross weight limit as posted by the Department of Transportation, except during emergency conditions as determined by the Department of Transportation. Vehicle combinations of a truck-tractor, trailer or a truck-tractor, semitrailer or a truck-tractor, semitrailer, trailer or a truck-tractor, trailer-trailer are prohibited from being operated or used on this segment of highway.

HISTORY: 1986 Act No. 373, Sections 7, 8; 1993 Act No. 181, Section 1434.

SECTION 56-5-4150.

Investigation of vehicles; registration according to load capacity; marking empty weight on farm trucks; marking name of registered owner or lessor on certain vehicles.

(A) The Department of Motor Vehicles upon registering a vehicle, under the laws of this State, which is designed and used primarily for the transportation of property or for the transportation of ten or more persons, may require information and may make investigation or tests necessary to enable it to determine whether the vehicle may be operated safely upon the highways in accordance with all the provisions of this chapter. The department may register the vehicle for a load capacity which, added to the empty or unloaded weight of the vehicle, will result in a permissible gross weight not exceeding the limitations set forth in this chapter. It is unlawful for a person to operate a vehicle or combination of vehicles with a load capacity in excess of that for which it is registered by the department or in excess of the limitations set forth in this chapter. A person making application for a "farm truck" license shall declare in the form prescribed by the department the true unloaded or empty weight of the vehicle and shall stencil or mark in a conspicuous place on the left side of the vehicle the true unloaded or empty weight if the unloaded or empty weight is over five thousand pounds. A "farm truck" operating solely in intrastate commerce and otherwise specified in Section 56-5-225 is not required to have the name of the registered owner, lessor, or lessee stenciled or otherwise marked on the vehicle.

(B) A private motor truck or truck tractor equal to or exceeding 26,001 pounds gross weight and a for-hire motor truck or truck tractor must have the name of the registered owner or lessor on the side clearly distinguishable at a distance of fifty feet. These provisions do not apply to two-axle straight trucks hauling raw farm and forestry products. Except as provided in subsection (A) concerning certain "farm trucks", a truck operating pursuant to the federal motor carrier safety regulations must operate with the owner's, lessor's, or lessee's name as required.

HISTORY: 1962 Code Section 46-665; 1952 Code Section 46-665; 1949 (46) 466; 1959 (51) 391; 1977 Act No. 47; 1978 Act No. 491; 1983 Act No. 20; 1992 Act No. 498, Section 1; 1993 Act No. 164, Part II, Section 39C; 1993 Act No. 181, Section 1435; 1996 Act No. 459, Section 193; 2012 Act No. 180, Section 5, eff May 25, 2012.

SECTION 56-5-4160.

Weighing vehicles and loads; unloading excess weight; penalties.

(A) An officer or agent of the Department of Public Safety having reason to believe that the weight of a vehicle and load is unlawful may require the driver to stop and submit to a weighing of the vehicle and load either by means of portable or stationary scales and may require that the vehicle be driven to the nearest public scales. Whenever an officer upon weighing a vehicle and load determines that the weight is unlawful, he may require the driver to stop the vehicle in a suitable place and remain standing until the portion of the load necessary to reduce the axle weight, or gross weight of the vehicle, or both, to the limits permitted under this chapter is removed. All material unloaded must be cared for by the owner or operator of the vehicle at his own risk. In determining whether the limits established by Section 56-5-4130 or 56-5-4140 have been exceeded, the scaled weights of the gross weight of vehicles and combinations of vehicles are considered to be not closer than ten percent to the true gross weight, except as otherwise provided in Section 56-5-4140.

(B) A person who operates a vehicle on a public highway whose axle weight is in excess of the limits imposed by Section 56-5-4130 or 56-5-4140 is guilty of a misdemeanor and, upon conviction, must be fined five cents per pound or imprisoned not more than thirty days, or both. If a vehicle does not exceed the gross weight limits provided for by this article, and the axle weight limits are not exceeded by more than five percent including enforcement tolerances, the fine imposed is reduced by fifty percent with a minimum fine of twenty-five dollars.

(C) A person who operates a vehicle found to exceed the excess gross weight limitations imposed by Section 56-5-4130 or 56-5-4140 is guilty of a misdemeanor and, upon conviction, shall pay to the Department of Public Safety a fine based on the following scale:

(1) 500-3,500 pounds: four cents per pound over weight limit;

(2) 3,501-6000 pounds: six cents per pound over weight limit, beginning with the first pound in excess;

(3) 6,001 pounds and over: ten cents per pound over weight limit, beginning with the first pound in excess.

The fine imposed pursuant to items (1) and (2) must be equal to one-half the rate for vehicles transporting raw farm or forest products from the farm or forest to the first market, or by fully enclosed motor vehicles designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters, or by motor vehicles operating open top trailers used for hauling recyclables, scrap, and waste materials from sites without facilities for weighing, when operating for those purposes. If an operator is found to be in violation of both gross and axle limits, only one citation may be issued, the fine being for the greater of the two, for that load. No fine may be issued for violation of the vehicle registration statutes if that vehicle is registered for the maximum allowable weight for that class of vehicle as provided in Section 56-5-4140.

If the operator of the vehicle, upon conviction, fails to remit the fine imposed by this subsection to the Department of Public Safety, the owner of the vehicle is responsible for remitting the fine. The court is prohibited from suspending any portion of this fine.

(D)(1) A person who operates a vehicle found to have out-of-service violations, other than violations of brakes out of adjustment

and lighting violations which can be repaired at the scene, detected during a roadside inspection, is guilty of a misdemeanor and, upon conviction, shall pay to the Department of Public Safety a fine of two hundred dollars.

(2)(a) An individual who operates a commercial motor vehicle on a public highway whose vehicle or driver is in violation of the out-of-service order as defined in 49 CFR 390.5 is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars.

(b) A company or individual who operates or allows a commercial motor vehicle to be operated on a public highway in violation of a motor carrier operation out-of-service order, or order to cease operation, is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars.

(3) If the operator of the vehicle, upon conviction, fails to remit the fine imposed by this subsection to the Department of Public Safety, the owner of the vehicle is responsible for remitting the fine. The court is prohibited from suspending any portion of this fine.

(E) At the time that a uniform size, weight, and safety citation is issued pursuant to this section, the officer or agent who is authorized to issue the citation must inform the individual receiving the citation that he has the option, at that time, to elect to pay his fine directly to the Department of Public Safety or to receive a hearing in magistrate's court. If the individual at the time the citation is issued elects to pay his fine directly to the department within twenty-eight days, as specified on the citation, no assessments may be added to the original fine pursuant to this section. The fine may be deposited with the arresting officer or a person the department may designate. The fine must be deposited in full or other arrangements satisfactory to the department for payment must be made before the operator is allowed to move the vehicle.

(F) Magistrates have jurisdiction of all contested violations of this section. All monies collected pursuant to Section 56-5-4160 must be forwarded to the Department of Public Safety as provided for in this section. A magistrate, within forty-five days, must forward all monies collected to the department for deposit in the account established in this section. The department shall use these monies to establish and maintain automated data bases, to upgrade and refurbish existing weigh stations, to purchase and maintain portable scales, to hire additional State Transport Police Officers, to purchase equipment for State Transport Police Officers, and to procure other commercial motor vehicle safety measures, and fund other commercial motor vehicle safety programs that the department considers necessary. The fine may be deposited with the arresting officer or a person the department may designate. The fine must be deposited in full or other arrangements satisfactory to the department for payment must be made before the operator is allowed to move the vehicle. If there is no conviction, the fine must be returned to the owner promptly.

"Conviction", as used in this section, also includes the entry of a plea of guilty or nolo contendere and the forfeiture of bail or collateral deposited to secure a defendant's presence in the court.

If the fine is not paid in full to the Department of Public Safety within forty-five days after conviction, the license and registration of the vehicle found to violate Section 58-23-1120 or Regulations 38-423 et seq. or exceed the limits imposed by Section 56-5-4130 or 56-5-4140 must be suspended. The owner of the vehicles immediately shall return the license and registration of the vehicle to the Department of Motor Vehicles. If a person fails to return them as provided in this section, the Department of Motor Vehicles may secure possession of them by a commissioned trooper or officer. The suspension continues until the fine is paid in full.

(G) The Department of Public Safety shall provide a separate uniform citation to be used by the State Transport Police Division of the Department of Public Safety. The uniform citation must be used for all size, weight, idling, and safety violations which the State Transport Police Division of the Department of Public Safety is primarily responsible for enforcing.

(H) The issuance of a uniform citation to the operator of a vehicle for a violation of this section, Section 58-23-1120, or Regulation 38-423, et seq., constitutes notice to the owner of the violation. The uniform citation must include the following language in bold letters to be printed across the bottom of the citation "THE ISSUANCE OF A UNIFORM CITATION NOTICE TO THE OPERATOR OF A VEHICLE CONSTITUTES NOTICE TO THE OWNER OF A SIZE, WEIGHT, IDLING, OR SAFETY VIOLATION".

(I) An individual who fails to conduct a safety inspection of a vehicle as required by Part 396 of the Federal Motor Carrier Safety Regulations or fails to have in his possession documentation that an inspection has been performed must be fined one hundred dollars per vehicle operated in violation of this subsection.

(J) Motor carriers, officers, or agents in charge of them, who fail or refuse to permit authorized State Transport Police representatives or employees to examine and inspect their books, records, accounts, and documents, or their plants, property, or facilities, as provided by law and with reasonable notice, are guilty of a misdemeanor. Each day of such failure or refusal constitutes a separate offense and each offense is punishable by a fine of one thousand dollars.

(K) Notwithstanding any other provision of law, all fines collected pursuant to this section must be deposited into an account in the Office of the State Treasurer and called the "Size, Weight, and Safety Revitalization Program Fund for Permanent Improvements". Monies credited to the fund may only be expended as authorized in item (F) of this section.

(L) Notwithstanding any other provision of law, the maximum gross vehicle weight and axle weight limit for a vehicle or combination of vehicles equipped with an idle reduction system, as provided for in 23 U.S.C. 127, may be increased by an amount equal to the weight of the system, not to exceed five hundred fifty pounds. Upon request by a law enforcement officer, the vehicle operator must provide proof that the system is fully functional and that the vehicle's gross weight increase allowed pursuant to this section is attributable only to the system.

(M) Any motor vehicle that is fueled primarily by natural gas shall be allowed to exceed the gross, single axle, tandem axle, or bridge formula weight limits, including tolerances, by no more than two thousand pounds each individually weighed, up to a maximum gross vehicle weight of eighty-two thousand pounds on the interstate, by an amount that is equal to the difference

between: the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and the weight of a comparable diesel tank and fueling system. To be eligible for this exception, the operator of the vehicle must be able to demonstrate that the vehicle is a natural gas vehicle, a biofuel vehicle using natural gas, or a vehicle that has been converted to a natural gas vehicle. The operator shall provide documentation which certifies the difference between: the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and the weight of a comparable diesel tank and fueling system.

HISTORY: 1962 Code Section 46-666; 1952 Code Section 46-666; 1949 (46) 466; 1980 Act No. 500 Section 3; 1989 Act No. 167, Section 4; 1990 Act No. 612, Part II, Section 48; 1993 Act No. 164, Part II, Section 20A; 1993 Act No. 181, Sections 1436, 1437; 1996 Act No. 459, Section 194; 2006 Act No. 381, Section 12, eff 90 days after approval by the governor (approved June 13, 2006); 2008 Act No. 234, Sections 2, 7, eff upon approval (became law without the Governor's signature on May 22, 2008); 2016 Act No. 188 (H.4932), Sections 4, 5, eff May 25, 2016.

SECTION 56-5-4170.

Intermodal trailer, chassis, or container; tender; safety inspections; penalties and repairs; exceptions.

(A) For purposes of enforcing this section, "vehicle" means intermodal trailer, chassis, or container.

(B) A tender shall not tender or interchange a vehicle for use on any highway which is in violation of the requirements contained in the United States Department of Transportation Federal Motor Carrier Safety Regulations (FMCSR). A motor carrier shall not certify or guarantee to a person tendering or interchanging a vehicle to a motor carrier that the vehicle complies with the FMCSR unless the tenderer of the vehicle provides the motor carrier operator with certification that the vehicle meets FMCSR requirements. Before an operator may accept a vehicle, the tenderer must allow the motor carrier operator adequate equipment, time, and facilities to conduct a walk-around pre-trip inspection of the vehicle. If the vehicle fails to meet federal safety requirements, the tenderer immediately must make any necessary repairs to the vehicle so that it complies with applicable safety standards or immediately make available a replacement vehicle which meets the safety requirements.

(C) The Department of Public Safety State Transport Police, if requested by the State Ports Authority, may as a public safety service, enter upon, and perform courtesy inspections of vehicles for purposes of identifying and tagging vehicles which may require mechanical work before being tendered for use on public highways.

(D) If a vehicle that is tendered is placed out of service as a result of a roadside inspection within five complete working days from the time the motor carrier is tendered, the vehicle as indicated on the equipment interchange agreement, then the operator must be reimbursed for all fines and penalties incurred pursuant to the out-of-service order, including reimbursement for all equipment repair expenses necessary to bring the vehicle into compliance with FMCSR, unless the fines, penalties, or repair expenses are due to actions or omissions of the motor carrier operator after the vehicle was tendered. Reimbursement must be made to the operator no later than thirty days after the date of conviction and must include payment for the following equipment repairs:

(1) Brake Adjustments:

push rod travel exceeds limits.

(2) Brake Drum:

(a) drum cracks;

(b) lining thickness loose or missing;

(c) lining saturated with oil.

(3) Inoperative Brakes:

(a) no movement of any components;

(b) missing or broken (loose) components;

(c) mismatch components.

(4) Air Lines and Tubing:

(a) bulge and swelling;

(b) audible leak other than proper connection;

(c) air lines broken, cracked, or crimped.

(5) Reservoir Tank:

any separation of original attachment points.

(6) Frames:

(a) any cracked, loose, sagging, or broken frame members which measured one and one-half inch in web or one inch or longer in bottom flange or any crack extending from web radius into bottom flange;

(b) any condition which causes moving parts to come in contact with the frame.

(7) Electrical.

(8) Wheel Assembly:

(a) low or no oil;

(b) oil leakage on brake components.

(9) Tire Separation:

(a) tire separation from casing;

(b) two inches of plies exposed.

(10) Rim Cracks:

(a) any circumferential crack except manufactured;

(b) lock or side ring cracked, bent, broken, sprung, improperly seated, or mismatched.

(11) Suspension:

(a) spring assembly leaves broken, missing, or separated;

(b) spring hanger, u-bolts, or axle positioning components cracked, broken, loose, or missing.

(12) Chassis Locking Pins:

any twist lock or fitting for securement which is sprung, broken, or improperly latched.

(E) If the originating motor carrier interchanges the vehicle to another mode of transportation or warehouse in substantially the same condition as it was tendered originally to the motor carrier, the originating motor carrier is relieved of any further responsibility for the condition of the vehicle.

(F) The Department of Public Safety shall develop and maintain a separate database on roadside vehicle inspection reports for power unit defects and for defects on any vehicle tendered to the motor carrier. The database may be used to identify and monitor those entities whose responsibility it is to provide any vehicle to motor carriers in roadworthy conditions as prescribed by the FMCSR. Roadside vehicle inspection reports noting defects on any vehicle where there is not ownership by the motor carrier must not be used or applied against the motor carrier when this information may affect the motor carrier's overall record of compliance with the FMCSR.

(G) Nothing in this section prevents a tenderer who is a railroad or a rail intermodal carrier and a motor carrier operator from agreeing to a different allocation of responsibility for compliance of a vehicle with the requirements of this section when the vehicle is owned or has been in the possession of or under the control of a railroad or rail intermodal carrier. This subsection does not apply to Section 56-5-4170(E).

HISTORY: 1998 Act No. 410, Section 1.

SECTION 56-5-4192.

Authorization; movement of mobile homes on Saturday.

Open-end permits issued pursuant to the provisions of Chapter 3, Title 57 shall authorize the movement of a mobile home on the highways of this State on a Saturday.

HISTORY: 1994 Act No. 439, Section 2; 1996 Act No. 459, Section 195.

SECTION 56-5-4210.

Reduced load, weight, and speed limits; special regulation or prohibition of specified classes or sizes of vehicles; posting of notices. Anything in this article to the contrary notwithstanding, the Department of Transportation with respect to state highways and local authorities with respect to highways under their jurisdiction may prescribe, by notice as herein provided, loads and weights and speed limits lower than the limits prescribed in this chapter and other laws, whenever in their judgment any road or part thereof or any bridge or culvert shall by reason of its design, deterioration, rain or other climatic or natural causes be liable to be damaged or destroyed by motor vehicles, trailers or semitrailers, if the gross weight or speed limit thereof shall exceed the limits prescribed in such notice. And the Department of Transportation or such local authority may, by like notice, regulate or prohibit, in whole or in part, the operation of any specified class or size of motor vehicle, trailer or semitrailer on any highways or specified parts thereof under its jurisdiction, whenever in its judgment, such regulation or prohibition is necessary to provide for the public safety and convenience on such highways or parts thereof by reason of traffic density, intensive use thereof by the traveling public or other reasons of public safety and convenience. The notice or the substance thereof shall be posted at conspicuous places at terminals of and all intermediate cross-roads and road junctions with the section of highway to which such notice shall apply. After any such notice shall have been posted, the operation of any motor vehicle or combination contrary to its provisions shall constitute a violation of this chapter.

HISTORY: 1962 Code Section 46-668; 1952 Code Section 46-668; 1949 (46) 466; 1993 Act No. 181, Section 1445.

SECTION 56-5-4220.

Local restrictions under Section 56-5-4210; approval by Department of Transportation.

No limitation shall be established by any county, municipal or other local authority pursuant to the provisions of Section 56-5-4210 that would interfere with or interrupt traffic as authorized hereunder over state highways, including officially established detours for such highways and cases where such traffic passes over roads, streets or thoroughfares within the sole jurisdiction of such county, municipal or other local authority, unless such limitations and further restrictions shall have first been approved by the Department of Transportation, except that with respect to county roads, other than such as are in use as state highway detours, the respective county road authorities shall have full power and authority to further limit the weights of vehicles upon bridges and culverts upon such public notice as they deem sufficient, and existing laws applicable thereto shall not be affected by the terms of this article.

HISTORY: 1962 Code Section 46-669; 1952 Code Section 46-669; 1949 (46) 466; 1993 Act No. 181, Section 1446.

SECTION 56-5-4230.

Liability for damages to highway or highway structure.

Any person driving or moving any vehicle, object or contrivance upon any highway or highway structure shall be liable for all damages which such highway or structure may sustain as a result of any illegal operation, driving or moving of such vehicles, objects or contrivances or whether such damage is a result of operating, driving or moving any vehicle, object or contrivance weighing in excess of the maximum weights as provided in this article but authorized by special permit issued pursuant to Section 56-5-4170. Whenever such driver is not the owner of such vehicle, object or contrivance, but is so operating, driving or moving it with the express or implied permission of such owner, the owner and driver shall be jointly and severally liable for any such damage. Such damage may be recovered in any civil action brought by the authorities in control of such highway or highway structure.

HISTORY: 1962 Code Section 46-670; 1952 Code Section 46-670; 1949 (46) 466.

SECTION 56-5-4240.

Commercial motor vehicle and its driver.

(A) Except as otherwise provided by law or through regulations promulgated by the Department of Public Safety, a commercial motor vehicle (CMV) and its driver operating in intrastate commerce with a gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), and gross combination weight rating (GCWR) equal to or exceeding 26,001 pounds must meet the requirements of the Federal Motor Carrier Safety Regulations, as enforced exclusively by the State Transport Police Division of the Department of Public Safety.

(B) CMVs operating below 26,001 pounds are exempt from the regulations cited in subsection (A).

(C) A CMV or its driver is not exempt from the regulations cited in subsection (A) regardless of weight, if the vehicle is:

(1) designed or used to transport sixteen or more passengers, including the driver; or

(2) used in the transportation of hazardous materials and is required to be placarded pursuant to 49 C. F. R. part 172, subpart F.

HISTORY: 2012 Act No. 180, Section 2, eff May 25, 2012.

ARTICLE 35

Equipment and Identification

SECTION 56-5-4410.

Unlawful to operate unsafe or improperly equipped vehicle or to violate provisions of article.

It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which is in such an unsafe condition as to endanger any person or property or which does not contain those parts or is not at all times equipped with lights, brakes, steering and other equipment in proper condition and adjustment as required in this article or which is equipped in any manner in violation of this article or for any person to do any act forbidden or fail to perform any act required under this article.

HISTORY: 1962 Code Section 46-511; 1952 Code Section 46-511; 1949 (46) 466.

SECTION 56-5-4420.

Special rules for implements of husbandry, farm tractors, and road machinery.

The provisions of this article with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery or farm tractors except as herein made applicable. Every farm tractor equipped with an electric-lighting system shall at all times mentioned in Section 56-5-4450 display a red tail lamp and either a multiple-beam or single-beam road-lighting equipment meeting the requirements of Sections 56-5-4510 to 56-5-4530, 56-5-4770 and 56-5-4790, respectively.

HISTORY: 1962 Code Section 46-512; 1952 Code Section 46-512; 1949 (46) 466.

SECTION 56-5-4430.

Additional parts and accessories not prohibited.

Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories of any vehicle which are not inconsistent with the provisions of this article.

HISTORY: 1962 Code Section 46-513; 1952 Code Section 46-513; 1949 (46) 466.

SECTION 56-5-4435.

Safety equipment required for motor vehicles used in vending food.

A motor vehicle which performs business in a residential or abundant housing area and makes frequent or unscheduled stops for the purpose of vendor sales of frozen dairy products or other types of snack foods must be equipped with the following safety features:

(1) an audible alarm signal device when the vehicle is in reverse gear, but the signal must not emit an unreasonably loud or harsh sound;

(2) signal lamps mounted on the front and on the rear as high and as widely spaced laterally as practicable, which are capable of displaying two alternately flashing red lights at the same level. These lights must have sufficient intensity to be visible at five hundred feet in normal sunlight;

(3) an extended mirror outside on both the right and left side of the vehicle to reflect to the driver a view of the street or highway for a distance of at least two hundred feet behind the vehicle;

(4) a rear mirror situated to provide the operator a view of the area immediately behind the vehicle; and

(5) a swing arm located on the front and rear of the vehicle that prohibits a person from walking directly in front of or behind the vehicle. The swing arm must be engaged when the vehicle is stopped for the purpose of vending products.

This section does not apply to a vehicle that delivers or distributes foods to commercial properties or construction sites only.

HISTORY: 1994 Act No. 303, Section 1.

SECTION 56-5-4440.

Image display devices.

(A) As used in this section, "image display device" means equipment capable of displaying to the driver of a motor vehicle:

(1) a broadcast television image; or

(2) a visual image, other than text, from a digital video disc or other storage device.

(B) Except as provided in subsection (E) of this section, no person shall drive a motor vehicle equipped with any image display device which is located in the motor vehicle at any point forward of the back of the driver's seat, or which is visible, directly or indirectly, to the driver while operating the motor vehicle.

(C) Except as provided in subsection (E) of this section, no person may install in a motor vehicle an image display device intended

to be visible to a driver in the normal driving position when the vehicle is in motion and when restrained by the vehicle seat belts adjusted in accordance with the manufacturer's recommendations.

(D) A person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

(E) Subsections (B) and (C) of this section do not apply to the following:

(1) emergency vehicles;

(2) image display devices that are displaying images that provide the driver with navigation and related traffic, road, and weather information;

(3) image display devices providing vehicle information or information related to the driving task;

(4) image display devices used to enhance or supplement the driver's view forward, behind, or to the sides of the motor vehicle;

(5) image display devices that permit the driver to monitor vehicle occupants seated rearward of the driver;

(6) image display devices that do not display images to the driver while the vehicle is in motion; or

(7) any use of an image display device while a vehicle is parked.

HISTORY: 1962 Code Section 46-514; 1965 (54) 323; 2008 Act No. 285, Section 3, eff June 11, 2008.

SECTION 56-5-4445.

Unlawful to elevate or lower motor vehicle; exception for "pickup trucks".

(A) It shall be unlawful for any person to drive a passenger motor vehicle on the highways of this State which has been elevated or lowered, yet still leveled, more than six inches by a modification, alteration, or change in the physical structure of the vehicle. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than twenty-five dollars nor more than fifty dollars. Provided, however, the provisions in this subsection shall not apply to motor vehicles commonly referred to as "pickup trucks".

(B)(1) It shall be unlawful for any person to drive a passenger motor vehicle, including vehicles commonly referred to as pickup trucks, on the highways of this State if, by alteration of the suspension, frame, or chassis, the height of the front fender is raised or lowered four or more inches greater than the height of the rear fender. For purposes of this subsection, the height of the fender shall be a vertical measurement from and perpendicular to the ground, through the centerline of the wheel, and to the bottom of the fender. As contained in this item, "fender" means the pressed and formed part mounted over the road wheels of a motor vehicle to reduce the splashing of mud, water, or similar substances.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, shall be fined one hundred dollars;

(b) for a second offense, shall be fined two hundred dollars; and

(c) for a third or subsequent offense, shall be fined three hundred dollars and have his license suspended by the Department of Motor Vehicles for twelve months from the date of conviction.

(3) Only offenses which occur within five years of each other, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

HISTORY: 1978 Act No. 447; 2023 Act No. 24 (S.363), Section 1, eff November 12, 2023.

Editor's Note

2023 Act No. 24, Section 2, provides as follows:

"SECTION 2. This act takes effect one hundred eighty days after approval by the Governor. For a period of one hundred eighty days after the effective date of this act, only warning tickets may be issued for a violation of the provisions of this act."

Effect of Amendment

2023 Act No. 24, Section 1, rewrote the section.

SECTION 56-5-4450.

Times when vehicles must be equipped with lights.

(A) Every vehicle upon a street or highway within this State shall display lighted lamps and illuminating devices, excluding parking lights, from a half hour after sunset to a half hour before sunrise, and at any other time when windshield wipers are in use as a result of rain, sleet, or snow, or when inclement weather or environmental factors severely reduce the ability to clearly discern persons and vehicles on the street or highway at a distance of five hundred feet ahead as required in this article for different classes of vehicles, subject to exceptions with respect to parked vehicles as provided in this article; provided, however, the provisions of this section requiring use of lights in conjunction with the use of windshield wipers shall not apply to instances when windshield wipers are used intermittently in misting rain, sleet, or snow.

(B) Any person who violates this section is guilty of a misdemeanor and, upon conviction, may be fined up to twenty-five dollars.

HISTORY: 1962 Code Section 46-521; 1952 Code Section 46-521; 1949 (46) 466; 1988 Act No. 532, Section 11; 2017 Act No. 89 (H.3247), Section 27, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 27, inserted the paragraph identifiers, and deleted the second paragraph of (A), which had related to warning tickets for failure to display the lights of a vehicle.

SECTION 56-5-4460.

Time when motorcycle lights must be turned on.

(1) Any person who operates a motorcycle or motor-driven cycle on public streets or highways shall, while so engaged, have the headlights of such motorcycle or motor-driven cycle turned on except for those vehicles exempted by Section 56-5-4470.

(2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than twenty-five dollars or be imprisoned for not more than ten days.

HISTORY: 1962 Code Section 46-521.1; 1973 (58) 634.

SECTION 56-5-4470.

Lighted lamps not required for vehicles not operated at night.

Vehicles which are not kept for use or used at any time when lighted lamps are required by Section 56-5-4450 need not be equipped with the lighting equipment otherwise required in this article for use at such times and it shall be unlawful for any person to drive or move any such vehicle or for the owner to permit such vehicle to be driven or moved on any highway during such times unless it shall comply with all provisions of this article with respect to lighted lamps and other equipment.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than two hundred dollars or imprisoned for not more than sixty days or both.

HISTORY: 1962 Code Section 46-522; 1952 Code Section 46-522; 1949 (46) 466; 1967 (55) 1024.

SECTION 56-5-4480.

Visibility distance and mounted height of lamps.

Whenever a requirement is herein declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall render objects visible, such provisions shall apply during the times stated in Section 56-5-4450 in respect to a vehicle without load when upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated. Whenever a requirement is herein declared as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without load.

HISTORY: 1962 Code Section 46-523; 1952 Code Section 46-523; 1949 (46) 466.

SECTION 56-5-4490.

Head lamps required on motor vehicles and motorcycles.

Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle. Such head lamps shall comply with the requirements and limitations set forth in this article. Every motorcycle and every motor-driven cycle shall be equipped with at least one and not more than two head lamps which shall comply with the requirements and limitations of this article.

HISTORY: 1962 Code Section 46-524; 1952 Code Section 46-524; 1949 (46) 466.

SECTION 56-5-4500.

Height of head lamps from ground.

Every head lamp upon every motor vehicle, including every motorcycle and motor-driven cycle, shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in Section 56-5-4480. However, this section shall apply only to new vehicles sold in this State after June 30, 1949.

HISTORY: 1962 Code Section 46-525; 1952 Code Section 46-525; 1949 (46) 466; 1957 (50) 113.

SECTION 56-5-4510.

Tail lamps required.

Every motor vehicle, trailer, semitrailer and pole trailer and any other vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail lamp mounted on the rear which, when lighted as herein required, shall emit a red light plainly visible from a distance of five hundred feet to the rear; provided, that in the case of a train of vehicles only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.

HISTORY: 1962 Code Section 46-526; 1952 Code Section 46-526; 1949 (46) 466.

SECTION 56-5-4520.

Height of tail lamps.

Every tail lamp upon every vehicle shall be located at a height of not more than sixty inches nor less than twenty inches to be measured as set forth in Section 56-5-4480.

HISTORY: 1962 Code Section 46-527; 1952 Code Section 46-527; 1949 (46) 466.

SECTION 56-5-4530.

Illumination of rear registration plate.

Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

HISTORY: 1962 Code Section 46-528; 1952 Code Section 46-528; 1949 (46) 466.

SECTION 56-5-4540.

Motor vehicles must be equipped with rear reflectors.

Every new motor vehicle sold after June 7, 1949 and operated upon a highway, other than a truck tractor, motorcycle and motor-driven cycle, shall carry on the rear, either as a part of the tail lamps or separately, two red reflectors meeting the requirements of this article, and every such motorcycle and every such motor-driven cycle shall carry at least one such reflector, except that vehicles of the type referred to in Section 56-5-4570 shall be equipped with reflectors as required in the sections applicable thereto.

HISTORY: 1962 Code Section 46-529; 1952 Code Section 46-529; 1949 (46) 466.

SECTION 56-5-4550.

Characteristics and mounting of rear reflectors.

Every such reflector shall be mounted on the vehicle at a height not less than twenty inches nor more than sixty inches measured as set forth in Section 56-5-4480 and shall be of such size and characteristics and so mounted as to be visible at night from all distances within three hundred feet to fifty feet from such vehicle except that visibility from the greater distance is herein required of reflectors on certain types of vehicles.

HISTORY: 1962 Code Section 46-530; 1952 Code Section 46-530; 1949 (46) 466.

SECTION 56-5-4560.

Stop lamps required on motor vehicles.

From and after July 1, 1949 it shall be unlawful for any person to sell any new motor vehicle, including any motorcycle or motor-driven cycle, in this State or for any person to drive such vehicle on the highways unless it is equipped with a stop lamp meeting the requirements of Section 56-5-4730.

HISTORY: 1962 Code Section 46-531; 1952 Code Section 46-531; 1949 (46) 466.

SECTION 56-5-4570.

Application of succeeding sections; lighting of lamp equipment.

Those sections of this chapter which follow immediately, including Sections 56-5-4580 to 56-5-4620, relating to clearance and marker lamps, reflectors and stop lights shall apply as stated in such sections to vehicles of the type therein enumerated, namely passenger buses, trucks, truck tractors and certain trailers, semitrailers and pole trailers, respectively, when operated upon any highway, and such vehicles shall be equipped as required, and all lamp equipment required shall be lighted at the times stated in Section 56-5-4450, except that clearance and side-marker lamps need not be lighted on any such vehicle when operated within any municipality where there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred feet.

HISTORY: 1962 Code Section 46-532; 1952 Code Section 46-532; 1949 (46) 466.

SECTION 56-5-4580.

Additional lighting equipment required on buses, trucks, trailers, semitrailers, and pole trailers.

In addition to other equipment required in this article, the vehicles listed below must be equipped as provided in this section when operated under the conditions stated in Section 56-5-4570:

- (1) On every bus or truck, whatever its size, on the rear, two reflectors, one on each side and one stop light;
- (2) On every bus or truck eighty inches or more in over-all width, in addition to the requirements in item (1),
 - (a) on the front, two clearance lamps, one at each side,
 - (b) on the rear, two clearance lamps, one at each side,
 - (c) on each side, two side-marker lamps, one at or near the front and one at or near the rear, and
 - (d) on each side, two reflectors, one at or near the front and one at or near the rear;
- (3) On every truck tractor,
 - (a) on the front, two clearance lamps, one at each side, and
 - (b) on the rear, one stop light;
- (4) On every trailer or semitrailer having a gross weight in excess of three thousand pounds,
 - (a) on the front, two clearance lamps, one at each side,
 - (b) on each side, two side-marker lamps, one at or near the front and one at or near the rear,
 - (c) on each side, two reflectors, one at or near the front and one at or near the rear, and
 - (d) on the rear, two clearance lamps, one at each side, and also two reflectors, one at each side, and one stop light;
- (5) On every pole trailer in excess of three thousand pounds gross weight,
 - (a) on each side, one side-marker lamp and one clearance lamp, which may be in combination, to show to the front, side, and rear, and
 - (b) on the rear of the pole trailer or load, two reflectors, one at each side;
- (6) On every trailer, semitrailer, or pole trailer weighing three thousand pounds gross or less, on the rear two reflectors, one on each side. If a trailer or semitrailer is loaded or is of dimensions so as to obscure the stop light on the towing vehicle then the vehicle also must be equipped with one stop light;
- (7) On every pole truck or trailer, a strip of light reflecting paint, tape, or reflectors on the external sides of the pole support frame or bolsters, or both, where practical.

HISTORY: 1962 Code Section 46-533; 1952 Code Section 46-533; 1949 (46) 466; 1993 Act No. 81, Section 1.

SECTION 56-5-4590.

Color of clearance lamps, side-marker lamps, reflectors, stop lights, and back-up lamps.

Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color. Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color. All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber or yellow and except that the light illuminating the license plate or the light emitted by a back-up lamp shall be white.

HISTORY: 1962 Code Section 46-534; 1952 Code Section 46-534; 1949 (46) 466.

SECTION 56-5-4600.

Mounting of reflectors, clearance lamps, and side-marker lamps.

Reflectors, when required pursuant to Section 56-5-4580, shall be mounted at a height not less than twenty-four inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than twenty-four inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet all the other reflector requirements of this chapter.

Clearance lamps shall be mounted on the permanent structure of the vehicle in such manner as to indicate its extreme width and as near the top thereof as practicable. Clearance lamps and side-marker lamps may be mounted in combination, provided illumination is given as required herein with reference to both.

HISTORY: 1962 Code Section 46-535; 1952 Code Section 46-535; 1949 (46) 466.

SECTION 56-5-4610.

Visibility of reflectors, clearance lamps, and marker lamps.

Every reflector upon any vehicle referred to in Section 56-5-4580 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within five hundred to fifty feet from the vehicle when directly in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides and those mounted on the rear shall reflect a red color to the rear.

Front and rear clearance lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at a distance of five hundred feet from the front and rear, respectively, of the vehicle.

Side-marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the time lights are required at a distance of five hundred feet from the side of the vehicle on which mounted.

HISTORY: 1962 Code Section 46-536; 1952 Code Section 46-536; 1949 (46) 466.

SECTION 56-5-4620.

Lighting lamps on vehicles operated in combination.

Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp, except tail lamps, need not be lighted which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicle required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

HISTORY: 1962 Code Section 46-537; 1952 Code Section 46-537; 1949 (46) 466.

SECTION 56-5-4630.

Lamp or flag on projecting load.

(A) Whenever the load upon a vehicle extends to the rear four feet or more beyond the bed or body of the vehicle, the vehicle must be equipped with, at the times specified in Section 56-5-4450, the following safety equipment:

(1) for any commercial motor vehicle as defined in this title transporting unmanufactured forest products as defined in Department of Public Safety Regulation 38-390, one amber strobe-type lamp equipped with a multi-directional-type lens securely affixed as close as practical to the end of the projecting load, so as to be visible from the rear and side of the projecting load. If one strobe lamp fails to make the projecting load visible from both sides and the rear of the projecting load, multiple strobe lamps must be utilized to meet the visibility requirements. The strobe lamp shall flash at a rate of at least sixty flashes per minute and must be plainly visible from a distance of at least five hundred feet to the sides and rear of the projecting load. The lamp must be operating any time the vehicle is operated on a highway or parked on the shoulder or immediately adjacent to the traveled portion of a public roadway; or (2) a red light or lantern plainly visible from a distance of at least five hundred feet to the side or rear must be displayed at the extreme rear of the load if the strobe light required by this section becomes temporarily inoperable while transporting a load between points.

(B) The projecting load must be marked at the extreme rear of the load with a red flag or cloth not less than twelve inches by twelve inches and hung so that the entire area is visible to the driver of a vehicle approaching from the rear.

(C) Utility companies when responding to an emergency situation such as caused by storms or accidents are exempt from the provisions of this section.

HISTORY: 1962 Code Section 46-538; 1952 Code Section 46-538; 1949 (46) 466; 1985 Act No. 199, Section 1; 1996 Act No. 425, Section 5; 2008 Act No. 234, Section 1, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-5-4640.

Lights on parked vehicles.

Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet upon such street or highway, no lights need be displayed upon such parked vehicle. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of five hundred feet to the front of the vehicle and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred feet to the rear of the vehicle, and the

location of such lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.

Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

HISTORY: 1962 Code Section 46-539; 1952 Code Section 46-539; 1949 (46) 466; 1959 (51) 124.

SECTION 56-5-4650.

Lamps on other vehicles and equipment.

All vehicles, including animal-drawn vehicles and implements of husbandry, road machinery or farm tractors and other vehicles not otherwise specifically required to be equipped with lamps, shall at the times specified in Section 56-5-4450 be equipped with at least one lighted lamp or lantern exhibiting a white light visible from a distance of five hundred feet to the front of such vehicle and with a lamp or lantern or reflector exhibiting a red light visible from a distance of five hundred feet to the rear.

HISTORY: 1962 Code Section 46-540; 1952 Code Section 46-540; 1949 (46) 466.

SECTION 56-5-4660.

Spot lamps.

Any motor vehicle may be equipped with not to exceed one spot lamp, and every lighted spot lamp shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle.

HISTORY: 1962 Code Section 46-541; 1952 Code Section 46-541; 1949 (46) 466.

SECTION 56-5-4670.

Fog lamps.

Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height of not less than twelve inches nor more than thirty inches above the level surface upon which the vehicle stands and so aimed that, when the vehicle is not loaded, none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of twenty-five feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes.

HISTORY: 1962 Code Section 46-542; 1952 Code Section 46-542; 1949 (46) 466.

SECTION 56-5-4680.

Auxiliary passing lamps.

Any motor vehicle may be equipped with not to exceed one auxiliary passing lamp mounted on the front at a height not less than twenty-four inches nor more than forty-two inches above the level surface upon which the vehicle stands, and every such auxiliary passing lamp shall meet the requirements and limitations set forth in this article.

HISTORY: 1962 Code Section 46-543; 1952 Code Section 46-543; 1949 (46) 466.

SECTION 56-5-4690.

Auxiliary driving lamps.

Any motor vehicle may be equipped with not to exceed one auxiliary driving lamp mounted on the front at a height not less than sixteen inches nor more than forty-two inches above the level surface upon which the vehicle stands, and every such auxiliary driving lamp shall meet the requirements and limitations set forth in this article.

HISTORY: 1962 Code Section 46-544; 1952 Code Section 46-544; 1949 (46) 466.

SECTION 56-5-4700.

Audible signal devices and signal lamps for authorized emergency vehicles, school buses and police vehicles; restrictions on use; effect of use.

(A) Every authorized emergency vehicle shall, in addition to any other equipment and distinctive markings required by this chapter, be equipped with a siren, exhaust whistle, or bell capable of giving an audible signal.

(B) Every school bus and every authorized emergency vehicle, in addition to any other equipment and distinctive markings required by this chapter, must be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which must be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights must have sufficient intensity to be visible at five hundred feet in normal sunlight. However, vehicles of a fire department or funeral home when equipped with a mounted, oscillating, rotating, or flashing red light, visible in all directions for a distance of five hundred feet in normal sunlight, are not required to have additional signal lamps.

(C) All police vehicles when used as authorized emergency vehicles must be equipped with oscillating, rotating, or flashing blue lights. In addition to the blue lights, the police vehicle may, but need not be equipped with alternately flashing red lights as herein specified, and may, but need not be equipped with oscillating, rotating, or flashing red lights, white lights, or both, in combination with the required blue lights. The authorized emergency police vehicle lights described herein must be visible for a distance of five hundred feet in all directions in normal sunlight. It shall be unlawful for any person to possess or display on any vehicle any blue light that is visible from outside the vehicle except one used primarily for law enforcement purposes.

(D) The alternately flashing lighting described in subsection (B) of this section shall not be used on any vehicle other than an authorized emergency vehicle. Provided, that a school bus may use the alternately flashing red lighting described in subsection (B), or red flashing lights in the rear and amber flashing lights in the front.

(E) The use of the signal equipment described herein shall impose upon drivers of other vehicles the obligation to yield right-of-way and stop as prescribed in Sections 56-5-2360 and 56-5-2770.

HISTORY: 1962 Code Section 46-544.1; 1966 (54) 2567; 1967 (55) 131; 1970 (56) 2320; 1979 Act No. 43; 2003 Act No. 65, Section 1.

SECTION 56-5-4710.

Use of mounted oscillating, rotating, or flashing red light by wreckers.

Wreckers may use a mounted oscillating, rotating or flashing red light only at the scene of accidents.

HISTORY: 1962 Code Section 46-544.2; 1970 (56) 2319.

SECTION 56-5-4715.

Forestry Commission vehicles authorized to use flashing red lights in fire emergencies.

Notwithstanding Section 56-5-4700, emergency and fire fighting vehicles of the South Carolina Forestry Commission may but not need be equipped with oscillating, rotating, or flashing red lights for use during any fire emergency. If a red light is used, it must be visible for a distance of five hundred feet in all directions in normal sunlight. The State Forestry Commission shall determine which vehicles should have red, yellow, white, or amber lights, or a combination thereof, and determine when a fire emergency exists. A forestry vehicle equipped with a red light is not required to have a siren or any other audible signal pursuant to Section 56-5-4700(a).

HISTORY: 1991 Act No. 97, Section 1.

SECTION 56-5-4720.

Use of oscillating, rotating or flashing red lights on Department of Transportation vehicles.

Notwithstanding the provisions of Section 56-5-4700, any Department of Transportation vehicle may use oscillating, rotating or flashing red lights during any emergency. The Department of Transportation personnel shall determine when an emergency exists.

HISTORY: 1962 Code Section 46-544.3; 1971 (57) 453; 1993 Act No. 181, Section 1447; 1996 Act No. 459, Section 196.

SECTION 56-5-4730.

Signal lamps and signal devices.

Any motor vehicle may be equipped, and when required under this chapter shall be equipped, with the following signal lamps and devices:

(1) A stop lamp on the rear which shall emit a red or yellow light and which shall be actuated upon application of the service (foot) brake and which may but need not be incorporated with a tail lamp; and

(2) A lamp or lamps or mechanical signal device capable of clearly indicating any intention to turn either to the right or to the left and which shall be visible both from the front and rear.

A stop lamp shall be plainly visible and understandable from a distance of one hundred feet to the rear both during normal sunlight and at nighttime and a signal lamp or lamps indicating intention to turn shall be visible and understandable during daytime and nighttime from a distance of one hundred feet both to the front and rear. When a vehicle is equipped with a stop lamp or other signal lamps, such lamp or lamps shall at all times be maintained in good working condition. No stop lamp or signal lamp shall project a glaring or dazzling light.

All mechanical signal devices shall be self-illuminated when in use at the times specified in Section 56-5-4450.

When a vehicle is so constructed or loaded that a hand-and-arm signal would not be visible both to the front and rear of such vehicle, such vehicle shall be equipped with such signal devices as are described in this section.

HISTORY: 1962 Code Section 46-545; 1952 Code Section 46-545; 1949 (46) 466.

SECTION 56-5-4740.

Warning lamps.

Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing, and when so equipped may display such warning in addition to any other warning signals required by this chapter. The lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing white or amber lights or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable and shall show simultaneously flashing amber or red lights or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred feet under normal atmospheric conditions at night.

HISTORY: 1962 Code Section 46-545.1; 1957 (50) 59.

SECTION 56-5-4750.

Side cowl, running board, and back-up lamps.

Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side thereof which shall emit a white or amber light without glare.

Any motor vehicle may be equipped with not more than two back-up lamps either separately or in combination with other lamps, but any such back-up lamp shall not be lighted when the motor vehicle is in forward motion.

HISTORY: 1962 Code Section 46-546; 1952 Code Section 46-546; 1949 (46) 466; 1957 (50) 59.

SECTION 56-5-4760.

Identification lamps for large commercial vehicles.

Any commercial vehicle eighty inches or more in over-all width may be equipped with not more than three identification lamps

showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be placed in a row and may be mounted either horizontally or vertically.
HISTORY: 1962 Code Section 46-546.1; 1957 (50) 59.

SECTION 56-5-4770.

Multiple-beam road-lighting equipment.

Except as hereinafter provided in this article the head lamps, the auxiliary driving lamps or the auxiliary passing lamps, or combinations thereof, on motor vehicles other than motorcycles or motor-driven cycles shall be so arranged that the driver may select at will between distributions of light projected to different elevations and may be so arranged that such selection can be made automatically, subject to the following limitations:

- (1) There shall be an uppermost distribution of light or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least three hundred and fifty feet ahead for all conditions of loading;
- (2) There shall be a lowermost distribution of light or composite beam so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead, and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed so as to strike the eyes of an approaching driver; and
- (3) Every motor vehicle, other than a motorcycle or motor-driven cycle, registered in this State after January 1, 1949 which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use and shall not otherwise be lighted. Such indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

HISTORY: 1962 Code Section 46-547; 1952 Code Section 46-547; 1949 (46) 466; 1955 (49) 89.

SECTION 56-5-4780.

Use of multiple-beam road-lighting equipment.

Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 56-5-4450, the driver shall use a distribution of light or composite beam directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

- (1) Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred feet, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver;
- (2) The lowermost distribution of light or composite beam specified in item (2) of Section 56-5-4770 shall be aimed to avoid glare at all times, regardless of road contour and loading; and
- (3) Whenever the driver of a vehicle follows another vehicle within two hundred feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this section other than the uppermost distribution of light specified in item (1) of Section 56-5-4770.

HISTORY: 1962 Code Section 46-548; 1952 Code Section 46-548; 1949 (46) 466; 1955 (49) 89.

SECTION 56-5-4790.

Single-beam road-lighting equipment.

Head lamps arranged to provide a single distribution of light not supplemented by auxiliary driving lamps shall be permitted on motor vehicles manufactured and sold prior to April 29, 1939 in lieu of multiple-beam road-lighting equipment herein specified, if the single distribution of light complies with the following requirements and limitations:

- (1) The head lamps shall be so aimed that when the vehicle is not loaded none of the high-intensity portion of the light shall at a distance of twenty-five feet ahead project higher than a level of five inches below the level of the center of the lamp from which it comes and in no case higher than forty-two inches above the level on which the vehicle stands at a distance of seventy-five feet ahead; and
- (2) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least two hundred feet.

HISTORY: 1962 Code Section 46-549; 1952 Code Section 46-549; 1949 (46) 466.

SECTION 56-5-4800.

Road-lighting equipment on motor-driven cycles.

The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

- (1) Every such head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour, and any such motor-driven cycle shall be subject to the speed limitations in Section 56-5-1550;
- (2) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps, the upper beam shall meet the minimum requirements set forth above and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in item (2) of Section 56-5-4770; and
- (3) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, such lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

HISTORY: 1962 Code Section 46-550; 1952 Code Section 46-550; 1949 (46) 466; 1955 (49) 89.

Editor's Note

Section 56-5-1550 was reserved by 2017 Act No. 89, Section 25, effective November 19, 2018.

SECTION 56-5-4810.

Alternate road-lighting equipment at low speeds.

Any motor vehicle may be operated under the conditions specified in Section 56-5-4450 when equipped with two lighted lamps upon the front thereof capable of revealing persons and objects seventy-five feet ahead in lieu of lamps required in Sections 56-5-4770 and 56-5-4790, provided that it is at no time operated at a speed in excess of twenty miles per hour.

HISTORY: 1962 Code Section 46-551; 1952 Code Section 46-551; 1949 (46) 466.

SECTION 56-5-4820.

Number of driving lamps required or permitted.

At all times specified in Section 56-5-4450 at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle other than a motor cycle or motor-driven cycle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps, a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than three hundred candle power, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway.

HISTORY: 1962 Code Section 46-552; 1952 Code Section 46-552; 1949 (46) 466.

SECTION 56-5-4830.

Special restrictions on lamps; degree of intensity; red, blue and flashing lights.

Any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps, and school bus warning lamps, which project a beam of light of an intensity greater than three hundred candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

A person shall not drive, move, or park any vehicle or equipment upon a highway with a lamp or device on it displaying a red or blue light visible from directly in front of the center of it. This section shall not apply to a vehicle upon which a red or blue light visible from the front is expressly authorized or required by this chapter.

Flashing lights are prohibited except on an authorized emergency vehicle, school bus, snow-removal equipment, or on any vehicle as a means of indicating a right or left turn or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing.

HISTORY: 1962 Code Section 46-553; 1952 Code Section 46-553; 1949 (46) 466; 1957 (50) 112; 2003 Act No. 65, Section 2.

SECTION 56-5-4840.

Selling or using devices or equipment to change design or performance of lamps or reflectors.

It shall be unlawful for any person to sell, offer for sale or use any device or equipment which tends to change the original design or performance of any head lamps or any other lamps or reflectors required by law to be attached to motor vehicles, trailers or semitrailers unless the equipment or device has been approved by the director of the Department of Public Safety.

HISTORY: 1962 Code Section 46-554; 1960 (51) 1969; 1993 Act No. 181, Section 1448.

SECTION 56-5-4850.

Brake equipment.

Every motor vehicle, trailer, semitrailer and pole trailer and any combination of such vehicles operating upon a highway within this State, shall be equipped with brakes in compliance with the requirements of this chapter.

(a) Every such vehicle and combination of vehicles, except special mobile equipment, shall be equipped with service brakes complying with the performance requirements of Section 56-5-4860 and adequate to control the movement of and to stop and hold such vehicle under all conditions of loading, and on any grade incident to its operation.

(b) Every such vehicle and combination of vehicles, except motorcycles and motor-driven cycles, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice, or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other source of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind. The same brake drums, brake shoes and lining assemblies, brake shoe anchors and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(c) Every vehicle, manufactured or assembled after June 7, 1949, shall be equipped with brakes acting on all wheels except:

(1) Trailers, semitrailers or pole trailers, of a gross weight not exceeding three thousand pounds, provided that:

(a) The total weight on and including the wheels of the trailer shall not exceed forty per cent of the gross weight of the towing vehicle when connected to the trailer, and

(b) The combination of vehicles, consisting of the towing vehicle and its total towed load, is capable of complying with the performance requirements of Section 56-5-4860.

(2) Any vehicle being towed in driveaway or towaway operations, provided the combination of vehicles is capable of complying with the performance requirements of Section 56-5-4860.

(3) Trucks and truck-tractors having three or more axles need not have brakes on the front wheels, except that when such vehicles are equipped with at least two steerable axles, the wheels of one steerable axle need not have brakes. However, such trucks and truck-tractors must be capable of complying with the performance requirements of Section 56-5-4860.

(4) Special mobile equipment.

(5) The wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, or the front wheel of a motor-driven cycle need not be equipped with brakes, provided that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of Section 56-5-4860.

(d) Every trailer, semitrailer and pole trailer, equipped with air or vacuum actuated brakes and every trailer, semitrailer and pole trailer, with a gross weight in excess of three thousand pounds, shall be equipped with brakes acting on all wheels and of such character as to be applied automatically and promptly, and remain applied for at least fifteen minutes, upon breakaway from the towing vehicle.

(e) Every motor vehicle, manufactured or assembled after July 1, 1964 and used to tow a trailer, semitrailer or pole trailer equipped with brakes, shall be equipped with means for providing that in case of breakaway of the towed vehicle, the towing vehicle will be capable of being stopped by the use of its service brakes.

(f) Air brakes systems, installed on trailers manufactured or assembled after July 1, 1964, shall be so designed that the supply reservoir used to provide air for the brakes shall be safeguarded against backflow of air from the reservoir through the supply line.

(g)(1) Every towing vehicle, manufactured or assembled after July 1, 1964, when used to tow another vehicle equipped with air controlled brakes, in other than driveaway or towaway operations, shall be equipped with two means for emergency application of the trailer brakes. One of these means shall apply the brakes automatically in the event of a reduction of the towing vehicle air supply to a fixed pressure which shall be not lower than twenty pounds per square inch nor higher than forty-five pounds per square inch. The other means shall be a manually controlled device for applying and releasing the brakes, readily operable by a person seated in the driving seat, and its emergency position or method of operation shall be clearly indicated. In no instance may the manual means be so arranged as to permit its use to prevent operation of the automatic means. The automatic and the manual means required by this section may be, but are not required to be, separate.

(2) Every towing vehicle, manufactured or assembled after July 1, 1964, used to tow other vehicles equipped with vacuum brakes, in operations other than driveaway or towaway operations, shall have, in addition to the single control device required by item (h), a second control device which can be used to operate the brakes on towed vehicles in emergencies. The second control shall be independent of brake air, hydraulic and other pressure, and independent of other controls, unless the braking system be so arranged that failure of the pressure upon which the second control depends will cause the towed vehicle brakes to be applied automatically. The second control is not required to provide modulated braking.

(h) Every motor vehicle, trailer, semitrailer and pole trailer, manufactured or assembled after July 1, 1964, and every combination of such vehicles, except motorcycles and motor-driven cycles equipped with brakes, shall have the braking system so arranged that one control device can be used to operate all service brakes. Trailers, equipped with special automatic braking systems actuated by forward pressure on the towing hitch when the towing vehicle is braked, shall be considered as satisfying this requirement, provided the performance capabilities of the trailer brake system meet the requirements of Section 56-5-4860. This requirement does not prohibit vehicles from being equipped with an additional control device to be used to operate brakes on the towed vehicles. This regulation does not apply to driveaway or towaway operations unless the brakes on the individual vehicles are designed to be operated by a single control on the towing vehicle.

(i)(1) Every bus, truck or truck-tractor with air operated brakes shall be equipped with at least one reservoir sufficient to insure that, when fully charged to the maximum pressure as regulated by the air compressor governor cut-out setting, a full service brake application may be made without lowering such reservoir pressure by more than twenty per cent. Each reservoir shall be provided with means for readily draining accumulated oil or water.

(2) Every truck with three or more axles equipped with vacuum assist type brakes, manufactured or assembled after July 1, 1964, and every truck-tractor and truck, manufactured or assembled after July 1, 1964, used for towing a vehicle equipped with vacuum brakes, shall be equipped with a reserve capacity or a vacuum reservoir sufficient to insure that, with the reserve capacity or reservoir fully charged and with the engine stopped, a full service brake application may be made without depleting the vacuum supply by more than forty per cent.

(3) All motor vehicles, trailers, semitrailers and pole trailers, when equipped with air or vacuum reservoirs or reserve capacity as required by this section, shall have such reservoirs or reserve capacity so safeguarded by a check valve or equivalent device that in the event of failure or leakage in its connection to the source of compressed air or vacuum, the stored air or vacuum shall not be depleted by the leak or failure.

(j)(1) Every bus, truck or truck-tractor, using compressed air for the operation of its own brakes or the brakes on any towed vehicle, shall be provided with a warning signal, other than a pressure gauge, readily audible or visible to the driver, which will operate at any time the air reservoir pressure of the vehicle is below fifty per cent of the air compressor governor cut-out pressure. In addition, each such vehicle shall be equipped with a pressure gauge visible to the driver, which indicates in pounds per square inch the pressure available for braking.

(2) Every motor vehicle, manufactured or assembled after July 1, 1964, and used for towing a vehicle equipped with vacuum operated brakes and every truck, manufactured or assembled after July 1, 1964, with three or more axles using vacuum in the operation of its brakes, except those in driveaway or towaway operations, shall be equipped with a warning signal, other than a gauge indicating vacuum, readily audible or visible to the driver, which will operate at any time the vacuum in the vehicle's supply

reservoir or reserve capacity is less than eight inches of mercury.

(3) When a vehicle required to be equipped with a warning device is equipped with both air and vacuum power for the operation of its own brakes or the brakes on a towed vehicle, the warning devices may be, but are not required to be, combined into a single device which will serve both purposes. A gauge indicating pressure or vacuum shall not be deemed to be an adequate means of satisfying this requirement.

HISTORY: 1962 Code Section 46-561; 1952 Code Section 46-561; 1949 (46) 466; 1964 (53) 2127.

SECTION 56-5-4860.

Performance ability of brakes; tests for deceleration and stopping distances.

Every motor vehicle and combination of vehicles, at all times and under all conditions of loading, upon application of the service brake, shall be capable of:

(a) Developing a braking force that is not less than the percentage of its gross weight tabulated herein for its classification,

(b) Decelerating to a stop from not more than twenty miles per hour at not less than the feet per second tabulated herein for its classification, and

(c) Stopping from a speed of twenty miles per hour in not more than the distance tabulated herein for its classification, such distance to be measured from the point at which movement of the service brake pedal or controls begins.

Tests for deceleration and stopping distance shall be made on a substantially level (not to exceed plus or minus one per cent grade), dry, smooth, hard surface that is free from loose material.

Classification

of Vehicles Braking force at a percentage of gross vehicle or combination weight Deceleration in feet

per second Brake System application and braking distance in feet from an initial speed of 20 m.p.h. (A) Passenger vehicles with a

seating capacity of ten people or less including driver, not having a manufacturer's gross vehicle weight rating 52.8% 17 25 (B-1)

All motorcycles and motor-driven cycles 43.5% 14 30 (B-2) Single unit vehicles with a manufacturer's gross vehicle weight rating

of 10,000 pounds or less 43.5% 14 30 (C-1) Single unit vehicles with a manufacturer's gross weight rating of more than 10,000

pounds 43.5% 14 40 (C-2) Combination of a two-axle towing vehicle and a trailer with a gross trailer weight of 3,000 pounds or less

43.5% 14 40 (C-3) Buses, regardless of the number of axles, not having a manufacturer's gross weight rating 43.5% 14 40 (C-4) All

combinations of vehicles in driveaway-towaway operations 43.5% 14 40 (D) All other vehicles and combinations of vehicles 43.5%

14 50

HISTORY: 1962 Code Section 46-562; 1952 Code Section 46-562; 1949 (46) 466; 1964 (53) 2127.

SECTION 56-5-4870.

Maintenance and adjustment of brakes.

All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle.

HISTORY: 1962 Code Section 46-563; 1952 Code Section 46-563; 1949 (46) 466; 1964 (53) 2127.

SECTION 56-5-4880.

Inspection of brakes; effect of disapproval.

(a) The Department of Public Safety is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove any such braking system on a vehicle which it finds will not comply with the performance ability standard set forth in Section 56-5-4860, or which in its opinion is equipped with a braking system that is not so designed or constructed as to insure reasonable and reliable performance in actual use.

(b) The Department of Motor Vehicles may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when the Department of Public Safety determines that the braking system thereon does not comply with the provisions of this section.

(c) No person shall operate on any highway any vehicle referred to in this section in the event the Department of Public Safety has disapproved the braking system upon such vehicle.

HISTORY: 1962 Code Section 46-564; 1952 Code Section 46-564; 1949 (46) 466; 1964 (53) 2127; 1993 Act No. 181, Section 1449; 1996 Act No. 459, Section 197.

SECTION 56-5-4890.

Hydraulic brake fluid; distribution and servicing; minimum standards; labelling.

(a) The term "hydraulic brake fluid" as used in this section shall mean the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.

(b) Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

(c) No hydraulic brake fluid for use in motor vehicles shall be shipped into this State for sale in this State if such brake fluid shall be below the minimum standard of the then current specifications established by the Society of Automotive Engineers for heavy duty brake fluid.

(d) No person shall distribute, have for sale, offer for sale, or sell any hydraulic brake fluid unless it complies with the requirements of this section. No person shall service any vehicle with brake fluid unless it complies with the requirements of this section.

(e) Every container in which hydraulic brake fluid is sold in this State shall carry a manufacturer's or packer's label clearly stating that the fluid in the container meets or exceeds the SAE specifications for heavy duty brake fluid and giving the then current SAE identification number for the specifications which are met or exceeded.

HISTORY: 1962 Code Section 46-565; 1952 Code Section 46-565; 1949 (46) 466; 1964 (53) 2127.

SECTION 56-5-4900.

Regulations concerning brakes inapplicable to certain farm trailers; speed limit; small tandem tobacco trailers; chains, hooks, other safety equipment required.

Sections 56-5-4850 to 56-5-4890 do not apply to trailers, not exceeding eight thousand pounds gross weight, which are pulled behind farm tractors or trucks and used in the transportation of farm products and articles to and from farms. These trailers may not exceed a speed of twenty miles an hour. However, farm trailers exceeding eight thousand pounds gross weight, excluding gooseneck-type trailers, which are not equipped with brakes must be pulled by tow vehicles whose empty vehicle weight is at least one-half of the farm trailer's gross vehicle weight. These trailers may not exceed a speed of thirty miles an hour and may only be pulled in clear weather conditions.

Two small tobacco trailers may be pulled in tandem if:

- (1) the maximum trailer length of each trailer is thirteen feet six inches;
- (2) the maximum gross weight of each trailer is three thousand pounds;
- (3) the maximum speed is twenty miles an hour;
- (4) within a twenty-mile radius of the operations center; and
- (5) operated in daylight hours only.

Notwithstanding any other provision of this section or of this chapter, all farm and tobacco trailers when towed must be secured by a pintle hook, spring-load latch, safety lock hitch pin, or equivalent mechanism and also must be equipped with and shall have in use safety chains secured by a spring-loaded latch or other mechanism to ensure positive closure under loaded, operating conditions when the trailers are used to haul farm products and articles on the roads, streets, or highways of this State.

HISTORY: 1962 Code Section 46-566; 1952 Code Section 46-566; 1949 (46) 466; 1964 (53) 2127; 1992 Act No. 479, Section 1; 1993 Act No. 164, Part II, Section 39E.

SECTION 56-5-4910.

Bumpers; "private passenger automobile" defined.

For the purposes of Sections 56-5-4910 to 56-5-4940, the term "private passenger automobile" shall mean a four-wheeled motor vehicle designed for carrying ten persons or less, except a multipurpose passenger vehicle which is constructed either on a truck chassis or with special features for occasional off-road operation.

HISTORY: 1962 Code Section 46-571; 1972 (57) 2115, 2677.

SECTION 56-5-4920.

Bumpers; warranty as to energy absorption system and ability to sustain shock; automobiles manufactured on and after August 1, 1972.

Every private passenger automobile manufactured on and after August 1, 1972, sold and licensed in the State of South Carolina, shall be sold subject to the manufacturer's warranty that it is equipped with an appropriate energy absorption system and that, without compromising existing standards of passenger safety, it can be driven front directly into a standard Society of Automotive Engineers (SAE-J-850) test barrier at a speed of five miles per hour, rear directly into a standard Society of Automotive Engineers (SAE J-850) test barrier at a speed of two and one-half miles per hour without sustaining any damage to the automobile.

HISTORY: 1962 Code Section 46-572; 1972 (57) 2115.

SECTION 56-5-4930.

Bumpers; warranty as to energy absorption system and ability to sustain shock; automobiles manufactured on and after August 1, 1974.

Every private passenger automobile manufactured on and after August 1, 1974, sold and licensed in the State of South Carolina, shall be sold subject to the manufacturer's warranty that it is equipped with an appropriate energy absorption system and that without compromising existing standards of passenger safety, it can be driven, both front and rear, directly into a standard Society of Automotive Engineers (SAE J-850) test barrier at a speed of five miles per hour without sustaining any damage to the automobile other than minor deformation of bumper parts.

HISTORY: 1962 Code Section 46-573; 1972 (57) 2115.

SECTION 56-5-4940.

Bumpers; exceptions to warranty requirements; common-law and statutory remedies not removed.

The warranty provisions of Sections 56-5-4910 to 56-5-4940 shall not be applicable with respect to any private passenger automobile as to which the manufacturer files a written certification under oath with the Department of Motor Vehicles, on a form to be prescribed by that department, that the particular make and model described therein complies with the applicable standards of Sections 56-5-4910 to 56-5-4940. Nothing in Sections 56-5-4910 to 56-5-4940 should be construed to remove any common-law or statutory remedy available against the manufacturer, distributor or ultimate vendor for a defective product.

HISTORY: 1962 Code Section 46-574; 1972 (57) 2115; 1993 Act No. 181, Section 1450.

SECTION 56-5-4950.

Horns and warning devices.

Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or whistle. No vehicle other than an authorized emergency vehicle shall be equipped with nor shall any person use upon any such vehicle any siren, whistle or bell.

HISTORY: 1962 Code Section 46-581; 1952 Code Section 46-581; 1949 (46) 466.

SECTION 56-5-4960.

Use of horn.

The driver of a motor vehicle shall, when reasonably necessary to insure safe operation, give audible warning with his horn but shall not otherwise use such horn when upon a highway.

HISTORY: 1962 Code Section 46-582; 1952 Code Section 46-582; 1949 (46) 466.

SECTION 56-5-4970.

Sirens, whistle, or bell on authorized emergency vehicles.

Any authorized emergency vehicle may be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the Department of Public Safety, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which latter event the driver of such vehicle shall sound such siren when necessary to warn pedestrians and other drivers of the approach thereof.

HISTORY: 1962 Code Section 46-583; 1952 Code Section 46-583; 1949 (46) 466.

SECTION 56-5-4975.

Operation of vehicle upfitted but no longer licensed as an ambulance; removal of exterior equipment and markings; penalties.

(A) It is unlawful for a person to operate a vehicle that is upfitted as an ambulance or no longer permitted and licensed as an ambulance pursuant to Article 1, Chapter 61, Title 44, unless the vehicle's exterior equipment and markings including, but not limited to, emergency lights, sirens, and decals that distinguish it as an ambulance are removed. A person who violates this subsection, except as provided in subsections (B) and (C), is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(B) A person who operates a vehicle in violation of subsection (A) with the intent to commit a felony, or in the commission of a felony, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(C) A person who operates a vehicle in violation of subsection (A) with the intent to commit a terrorist act, or in the commission of a terrorist act, is guilty of a felony and, upon conviction, must be fined ten thousand dollars and imprisoned for a mandatory minimum of ten years, no part of which may be suspended nor probation granted. For purposes of this section, "terrorist act" means activities that:

(1) involve acts dangerous to human life, which are a violation of the criminal laws of this State;

(2) appear to be intended to:

(a) intimidate or coerce a civilian population;

(b) influence the policy of a government by intimidation or coercion; or

(c) affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(3) occur primarily within the territorial jurisdiction of this State.

(D) The provisions of this section do not apply to:

(1) eleemosynary or not-for-profit organizations that operate an ambulance that is no longer permitted and licensed and whose exterior markings have been removed for use in parades, fundraising activities, and other official functions;

(2) a person operating a vehicle that is going from the place of purchase to his home or his fixed place of business;

(3) a person operating a vehicle going to a location for the purpose of removing the vehicle's exterior equipment or markings; or

(4) a person operating an antique vehicle as defined by Section 56-3-2210.

HISTORY: 2009 Act No. 5, Section 1, eff May 6, 2009.

SECTION 56-5-4980.

Theft alarm signal.

It is permissible but not required that any commercial vehicle be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

HISTORY: 1962 Code Section 46-584; 1952 Code Section 46-584; 1949 (46) 466.

SECTION 56-5-4990.

Mirrors.

Every motor vehicle which is so constructed or loaded as to obstruct the driver's view to the rear thereof from the driver's position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of such vehicle.

HISTORY: 1962 Code Section 46-591; 1952 Code Section 46-591; 1949 (46) 466.

SECTION 56-5-5000.

Windows unobstructed; windshield wipers.

No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, sidewings or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which shall be so constructed as to be controlled or operated by the driver of the vehicle. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

HISTORY: 1962 Code Section 46-592; 1952 Code Section 46-592; 1949 (46) 466.

SECTION 56-5-5010.

Safety glass in motor vehicles.

No person shall sell any new motor vehicle nor shall any new motor vehicle be registered unless such vehicle is equipped with safety glass wherever glass is used in doors, windows, and windshields. The foregoing provisions shall apply to all passenger-type motor vehicles, including passenger buses and school buses. But in respect to trucks, including truck tractors, the requirements as to safety glass shall apply to all glass used in doors, windows, and windshields in the drivers' compartments of such vehicles.

The Department of Motor Vehicles shall not register any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glass, and the department may thereafter suspend the registration of any motor vehicle so subject to this section which it finds is not so equipped until it is made to conform to the requirements of this section.

HISTORY: 1962 Code Section 46-593; 1952 Code Section 46-593; 1949 (46) 466; 1993 Act No. 181, Section 1451; 1996 Act No. 459, Section 198.

SECTION 56-5-5015.

Sunscreen devices.

(A) No person may operate a motor vehicle that is required to be registered in this State on any public highway, road, or street that has a sunscreen device on the windshield, the front side wings, and side windows adjacent to the right and left of the driver and windows to the rear of the driver that do not meet the requirements of this section. If no after-factory installed sunscreen device has been added to the window surface, the provisions of this section regarding light transmittance do not apply.

(B) A sunscreening device must be nonreflective and may not be red, yellow, or amber in color. A sunscreening device may be used only along the top of the windshield and may not extend downward beyond the AS1 line. If the AS1 line is not visible, no sunscreening device may be applied to the windshield.

(C) A single sunscreening device may be installed on the side wings or side windows, or both, located at the immediate right and left of the driver and the side windows behind the driver. The sunscreening device must be nonreflective and the combined light transmission of the sunscreening device with the factory or manufacturer installed sunscreening material must not be less than twenty-seven percent.

(D)(1) A sunscreening device to be applied to the rear-most window must be nonreflective and have a light transmission of not less than twenty percent. If a sunscreening device is used on the rear-most window, one right and one left outside rearview mirror is required.

(2) Beginning January 1, 1993, a single sunscreening device to be applied to the rear-most window must be nonreflective and the combined light transmission of the sunscreening device with the factory or manufacturer installed sunscreening material must not be less than twenty-seven percent. If a sunscreening device is used on the rear-most window, one right and one left outside rearview mirror is required.

(3) A motor vehicle with a sunscreening device which complied with the requirements of item (1) at the time of installation is not considered to be in violation of this section on January 1, 1993, so long as the original sunscreen device is in place.

(E) Each vehicle equipped with an after-factory sunscreening device, whether installed by a consumer or professional window tinter, at all times must bear a certificate of compliance. The certificate of compliance must be of a size and form prescribed by the Department of Public Safety. Each certificate of compliance must be properly attached to the vehicle on the inside and lower right hand corner of each window containing an after-factory installed sunscreen device and must contain the following information:

- (1) the percentage of light transmission allowed by the sunscreening device;
- (2) the identity of the installer by name, address, and telephone number; and
- (3) date of installation.

(F) Sunscreening devices offered for sale or use in South Carolina must include instructions with the product or material for proper installation. The manufacturer of the sunscreen device offered for sale or use in South Carolina must provide the certificate of compliance specified in subsection (E) and instructions for affixing it to the sunscreen device.

(G) No person may:

- (1) offer for sale or for use any sunscreening product or material for motor vehicle use not in compliance with this section;
- (2) install any sunscreening product or material on vehicles titled for use on public roads without permanently affixing the certificate of compliance specified in this section.

A professional window tinter who violates the provisions of subsections (E) or (G) is guilty of a misdemeanor triable in magistrate's court and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than thirty days, or both, for each offense. A consumer who violates the provisions of subsection (E) or (G) is guilty of a misdemeanor triable in magistrate's court and, upon conviction, must be fined not less than two hundred dollars or imprisoned not more than thirty days for each offense.

(H) The provisions of this section do not apply to:

- (1) a motor vehicle registered in this State in the name of a person, or the person's legal guardian, who has an affidavit signed by a physician or an optometrist licensed to practice in this State that states that the person has a physical condition that makes it necessary to equip the motor vehicle with sunscreening material which would be of a light transmittance or luminous reflectance in violation of this section. The affidavit must be in the vehicle at all times during its operation and must be produced at the request of a law enforcement officer. The affidavit must be updated every two years; or
 - (2) a law enforcement vehicle used regularly to transport a canine trained for law enforcement purposes.
- (I) The light transmittance requirement of this section applies to windows behind the driver on pickup trucks, but does not apply to

windows behind the driver on other trucks, buses, trailers, mobile homes, multipurpose passenger vehicles, and recreational vehicles.

(J) As used in this section:

- (1) "Sunscreening device" means a film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.
- (2) "Light transmission" means the ratio of the amount of total visible light to pass through a product or material to the amount of the total light falling on the product or material.
- (3) "Luminous reflectant" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or materials.
- (4) "Nonreflective" means a product or material primarily designed to absorb light rather than to reflect it.
- (5) "Multipurpose passenger vehicle" means a vehicle with motive power designed to carry ten persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.
- (6) "Motor home" means a vehicular unit designed to provide temporary living quarters built into and an integral part of or permanently attached to a self-propelled motor vehicle chassis.
- (7) "Truck" means a vehicle with motive power designed primarily for the transportation of property or special purpose equipment.
- (8) "Bus" means a vehicle with motive power designed for carrying more than ten persons.
- (9) "Manufacturer" means a person engaged in the manufacturing or assembling of sunscreening products or materials designed to be used in conjunction with vehicle glazing materials for the purpose of reducing the effects of the sun.
- (10) "Recreational vehicle" means a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping, or travel purposes, and is used solely as a family/personal conveyance.
- (11) "AS1" means a glazing material position marking as defined in 49 Code of Federal Regulations, Section 571.205, Subsection S5.1.1.
- (12) "Trailer" means every vehicle without motive power designed to carry persons or property, and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.
- (13) "Professional window tinter" means a person who installs sunscreening devices for profit.

(K) A person who owns or operates a motor vehicle in violation of the provisions of this section is guilty of a misdemeanor triable in magistrate's court and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days.

HISTORY: 1978 Act No. 484; 1981 Act No. 139, Section 1; 1983 Act No. 88; 1988 Act No. 532, Section 12; 1990 Act No. 411, Section 1; 1992 Act No. 462, Section 1; 1996 Act No. 459, Section 246A; 2002 Act No. 339, Section 40.

SECTION 56-5-5020.

Mufflers.

Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke and no person shall use a muffler cutout, bypass or similar device upon a motor vehicle upon a highway. The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes and smoke.

HISTORY: 1962 Code Section 46-601; 1952 Code Section 46-601; 1949 (46) 466.

SECTION 56-5-5030.

Devices to emit smoke screen, noisome gases, or odors prohibited.

It shall be unlawful for any person to attach to any motor vehicle any device to emit from the exhaust pipe or any other part of such vehicle any smoke screen, noisome gases or odors. It shall be unlawful for any person to drive upon any highway or to have in his possession any motor vehicle to which is attached or unattached or in which is transported any device or substantial part of a device, attached or unattached, used in whole or in part for any smoke screen or any noisome gases or odors. It shall be unlawful for any person to use or operate in this State any device attached to any motor vehicle so as to emit from such device any smoke screen, noisome gases or odors. Any person violating any of the foregoing provisions of this section shall be guilty of a misdemeanor and upon conviction shall be imprisoned for not less than six months nor more than two years or fined not less than two hundred dollars nor more than five hundred dollars, in the discretion of the court, and his driver's license shall be forthwith revoked for a period of two years.

Any motor vehicle possessed or operated by any person in violation of this section shall be forfeited to the county in which such conviction is had. But the rights of innocent owners of mortgages shall be protected. Any such motor vehicle so forfeited may be redeemed by the owner upon the payment to the county treasurer of a sum of money agreed upon by the governing body and the sheriff of such county.

HISTORY: 1962 Code Section 46-602; 1952 Code Section 46-602; 1949 (46) 466; 1960 (51) 1602; 1962 (52) 2179.

SECTION 56-5-5040.

Tires.

Every motor vehicle, trailer or semitrailer operated upon the highways shall be equipped with tires of sufficient size and in sufficient number to distribute the wheel loads on the road surface so as to avoid damage to the highway, and all such tires shall be in a safe operating condition. Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery. No person shall operate or move on any highway any motor vehicle, trailer or semitrailer having any metal tire in contact with the roadway. No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber (or other resilient material) which

projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway and except also that it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety, because of snow, ice or other conditions tending to cause a vehicle to skid. It shall also be permissible to use upon any vehicle for increased safety, regular and snow tires with studs which project beyond the tread of the traction surface of the tire not more than one sixteenth of an inch when compressed.

HISTORY: 1962 Code Section 46-611; 1952 Code Section 46-611; 1949 (46) 466; 1968 (55) 2518.

SECTION 56-5-5050.

Toilets or other devices hazardous to health.

No motor vehicle, trailer or semitrailer shall be equipped with an open toilet or other device that may be hazardous from a health and sanitation standpoint.

HISTORY: 1962 Code Section 46-612; 1952 Code Section 46-612; 1949 (46) 466.

SECTION 56-5-5060.

Certain vehicles must carry flares and other warning devices.

No person shall operate any motor truck, passenger bus or truck tractor upon any highway outside of the corporate limits of municipalities at any time from a half hour after sunset to half hour before sunrise unless there shall be carried in such vehicle the following equipment, except as provided in Section 56-5-5070:

(1) At least three flares or three red electric lanterns, each of which shall be capable of being seen and distinguished at a distance of five hundred feet under normal atmospheric conditions at nighttime. Each flare (liquid-burning pot torch) shall be capable of burning for not less than twelve hours in a five-mile-per-hour wind velocity and capable of burning in any air velocity from zero to forty miles per hour. Every such flare shall be substantially constructed so as to withstand reasonable shocks without leaking. Every such flare shall be carried in the vehicle in a metal rack box. Every such red electric lantern shall be capable of operating continuously for not less than twelve hours and shall be substantially constructed so as to withstand reasonable shock without breakage.

(2) At least three red-burning fusees unless red electric lanterns are carried. Every fusee shall be made in accordance with specifications of the Bureau of Explosives, New York, and so marked and shall be capable of burning at least fifteen minutes.

(3) At least two red cloth flags, not less than twelve inches square, with standards to support them.

HISTORY: 1962 Code Section 46-621; 1952 Code Section 46-621; 1949 (46) 466.

SECTION 56-5-5070.

Red electric lanterns shall be carried in vehicles transporting inflammable liquids or gases.

No person shall operate at the time and under the conditions stated in Section 56-5-5060 any motor vehicle used in the transportation of inflammable liquids in bulk or transporting compressed inflammable gases unless there shall be carried in such vehicle three red electric lanterns meeting the requirements stated in Section 56-5-5060, and there shall not be carried in any such vehicle any flare, fusee or signal produced by a flame.

HISTORY: 1962 Code Section 46-622; 1952 Code Section 46-622; 1949 (46) 466.

SECTION 56-5-5080.

Alternative warning device; portable reflector units.

As an alternative it shall be deemed a compliance with Sections 56-5-5060 and 56-5-5070 in the event the person operating any motor vehicle described therein shall carry in such vehicle three portable reflector units on standards of a type approved by the Department of Public Safety. No portable reflector unit shall be approved unless it is so designed and constructed as to include two reflectors, one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within five hundred to fifty feet under normal atmospheric conditions at nighttime when directly in front of lawful upper beams of head lamps.

HISTORY: 1962 Code Section 46-623; 1952 Code Section 46-623; 1949 (46) 466.

SECTION 56-5-5090.

Display of warning devices when vehicle disabled.

Whenever any motor truck, passenger bus, truck tractor, trailer, semitrailer or pole trailer is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles, the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway, except as provided in Section 56-5-5100:

(1) A lighted fusee shall be immediately placed on the roadway at the traffic side of the motor vehicle unless electric lanterns are displayed; and

(2) Within the burning period of the fusee and as promptly as possible three lighted flares (pot torches) or three electric lanterns shall be placed on the roadway as follows: One at a distance of approximately one hundred feet in advance of the vehicle, one at a distance of approximately one hundred feet to the rear of the vehicle, each in the center of the lane of traffic occupied by the disabled vehicle, and one at the traffic side of the vehicle approximately ten feet rearward or forward thereof.

HISTORY: 1962 Code Section 46-624; 1952 Code Section 46-624; 1949 (46) 466.

SECTION 56-5-5100.

Display of warning devices when disabled vehicle is carrying inflammable liquids or gases.

Whenever any vehicle used in the transportation of inflammable liquids in bulk or transporting compressed inflammable gases is disabled upon a highway at any time or place mentioned in Section 56-5-5090, the driver of such vehicle shall display upon the roadway the following lighted warning devices: One red electric lantern shall be immediately placed on the roadway at the traffic

side of the vehicle and two other red electric lanterns shall be placed in the front and rear of the vehicle in the same manner as prescribed in Section 56-5-5090 for flares.

When a vehicle of a type specified in this section is involved, the use of flares, fusees or any signal produced by flame as warning signals is prohibited.

HISTORY: 1962 Code Section 46-625; 1952 Code Section 46-625; 1949 (46) 466.

SECTION 56-5-5110.

Display of flags when vehicle disabled in daytime.

Whenever any vehicle of a type referred to in Sections 56-5-5090 and 56-5-5100 is disabled upon the traveled portion of a highway or the shoulder thereof, outside of any municipality, at any time when the display of fusees, flares or electric lanterns is not required, the driver of such vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle and one at a distance of approximately one hundred feet to the rear of the vehicle.

HISTORY: 1962 Code Section 46-626; 1952 Code Section 46-626; 1949 (46) 466.

SECTION 56-5-5120.

Alternative warning devices.

In the alternative it shall be deemed a compliance with Sections 56-5-5090, 56-5-5100 or 56-5-5110 in the event three portable reflector units on standards of a type approved by the Department of Public Safety are displayed at the times and under the conditions specified in said sections, either during the daytime or at nighttime, and such portable reflector units shall be placed on the roadway in the locations as described with reference to the placing of electric lanterns and lighted flares.

HISTORY: 1962 Code Section 46-627; 1952 Code Section 46-627; 1949 (46) 466.

SECTION 56-5-5130.

Requirements as to flares, fusees, and other warning devices.

The flares, fusees, lanterns and flags to be displayed as required in Sections 56-5-5090 to 56-5-5110 shall conform with the requirements of Section 56-5-5060 applicable thereto.

HISTORY: 1962 Code Section 46-628; 1952 Code Section 46-628; 1949 (46) 466.

SECTION 56-5-5140.

Vehicles transporting explosives.

Any person operating any vehicle transporting any explosive as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section. Such vehicle shall be marked or placarded on each side and the rear with the word "Explosive" in letters not less than eight inches high or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "Danger" in white letters six inches high. Every such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use and placed at a convenient point on the vehicle so used.

The Department of Public Safety shall promulgate such additional regulations governing the transportation of explosives and other dangerous articles by vehicles upon the highways as it shall deem advisable for the protection of the public.

HISTORY: 1962 Code Section 46-629; 1952 Code Section 46-629; 1949 (46) 466.

SECTION 56-5-5150.

Use of safety devices when towing vehicles.

When a vehicle is towing another vehicle on a public road or highway, the towing vehicle must be attached to the towed vehicle by a safety chain, cable, or equivalent device in addition to the regular drawbar, tongue, trailer hitch, or other connection. The safety connections or attachments must be of sufficient strength to maintain connection of the towed vehicle to the pulling vehicle under all conditions while the towed vehicle is being pulled by the towing vehicle. The provisions of this section do not apply to vehicles using a hitch known as a fifth wheel and kingpin assembly.

HISTORY: 1984 Act No. 455.

ARTICLE 37

Condition of Vehicles

SECTION 56-5-5310.

Condition of vehicle and vehicle equipment.

No person shall drive or move on any highway any vehicle unless the equipment thereon is in good working order and adjustment as required in this chapter and the vehicle is in such safe mechanical condition as not to endanger the driver or other occupant or any person upon the highway.

HISTORY: 1962 Code Section 46-641; 1952 Code Section 46-641; 1949 (46) 466; 1965 (54) 649.

ARTICLE 39

Disposition of Abandoned Motor Vehicles on Highways

SECTION 56-5-5620.

Duty of sheriffs and police officers to remove vehicles; storage; personnel, equipment, and facilities for removing and storing.

(a) It shall be the duty of every police officer having knowledge of an abandoned motor vehicle to seize it and have it removed for safekeeping to such place as may be designated by the sheriff of the county, or the chief of police of the municipality, in which it was found, who shall be charged with its custody and disposition as provided in this article.

(b) A sheriff or chief of police may employ his own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving and storing abandoned motor vehicles.

HISTORY: 1962 Code Section 46-490.12; 1972 (57) 2459; 1974 (58) 2103.

SECTION 56-5-5630.

Notice to owners and lienholders; payment for release of vehicle; liability of lienholders; stolen vehicles.

(A)(1) For purposes of this article, "vehicle" means a motor vehicle, trailer, mobile home, watercraft, or any other item or object that is subject to towing and storage, and applies to any vehicle in custody at the time of the enactment of this section. "Vehicle" includes:

- (a) items that are towed and left in the possession of a towing, storage, garage, or repair facility;
- (b) contents contained in the vehicle; and
- (c) personal property affixed to the vehicle.

(2) When an abandoned vehicle has been taken into custody, the towing company and storage facility having towed and received the vehicle shall notify by registered or certified mail, return receipt requested, the last known registered owner of the vehicle and all lienholders of record that the vehicle has been taken into custody. Notification of the owner and all lienholders by registered or certified mail, return receipt requested, or certified mail with electronic tracking constitutes notification for purposes of this section. This notification must satisfy the notification requirements contained in Section 29-15-10. The notice must:

- (a) give a description of the year, make, model, and identification number of the vehicle;
- (b) set forth the location where the vehicle is being held;
- (c) inform the owner and all lienholders of the right to reclaim the vehicle within thirty days beginning the day after the notice is mailed by registered or certified mail, return receipt requested, or certified mail with electronic tracking upon payment of all towing, preservation, the storage charges allowable pursuant to Section 29-15-10(B), notification, publication, and court costs resulting from placing the vehicle in custody; and
- (d) state that the failure of the owner and all lienholders to exercise their right to reclaim the vehicle within the time provided is considered a waiver by the owner and lienholders of all rights, title, and interest in the vehicle and is considered as their consent to the sale of the vehicle at a public auction.

If a vehicle has been towed pursuant to the provisions of this section, the towing company and storage facility must accept as payment for the release of the vehicle the same manner of payment that they would accept if the owner of the vehicle had requested his vehicle towed.

(B) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles. This notice must be within the time requirements prescribed for notice by registered or certified mail, return receipt requested, or certified mail with electronic tracking, and must have the same contents required for a notice by registered or certified mail.

(C) A lienholder is not subject to a criminal penalty imposed by law in this State for abandonment unless the vehicle is abandoned by the lienholder or his agent or if a false statement or report to a law enforcement officer is made as provided by Section 16-17-722. The owner of a vehicle which has been stolen, whether or not the vehicle was subsequently abandoned, is liable for:

- (1) actual recovery and towing charges; and
- (2) only the storage costs allowable pursuant to Section 29-15-10(B).

The law enforcement agency must, within two business days after the vehicle's towing, notify the owner that the vehicle has been recovered, provide the owner with the location of the vehicle, and explain that daily storage charges may begin to accrue.

A vehicle is considered to be stolen when the registered owner notifies a police officer and files a report which is accepted and placed on the records of the sheriff or chief of police as a stolen vehicle. The law enforcement agency that requested the tow must provide the towing company and storage facility, at no cost to the towing company and storage facility, the owner's name and address. A law enforcement agency is not liable for any costs or fees associated with the towing and storage of a vehicle as provided by this section.

(D) The court may order restitution from a person convicted of stealing a vehicle to cover the costs associated with the recovery, towing, and storage of the vehicle.

HISTORY: 1962 Code Section 46-490.13; 1972 (57) 2459; 1989 Act No. 159, Section 1; 2002 Act No. 195, Section 5; 2003 Act No. 71, Section 4; 2004 Act No. 269, Section 3; 2022 Act No. 233 (H.3729), Section 3, eff June 17, 2022.

Effect of Amendment

2022 Act No. 233, Section 3, in (A), deleted the undesignated paragraph following (1)(c), which related to storage costs for vehicles at the time of the enactment of this section not exceeding sixty days, in (2), in the second sentence, substituted "by registered or certified mail, return receipt requested, or certified mail with electronic tracking" for "by certified or registered mail, return receipt requested," and rewrote (c); in (B), in the third sentence, inserted ", return receipt requested, or certified mail with electronic tracking,"; and in (C), in (2), substituted "only the storage costs allowable pursuant to Section 29-15-10(B)" for "storage costs that accrue beginning seven days after the vehicle was towed", and in the first undesignated paragraph following (2), substituted "charges may begin to accrue" for "will begin to accrue if the vehicle is not reclaimed within seven days of the towing date".

SECTION 56-5-5635.

Law enforcement towing and storage procedures; notification of registered owner; disposition of vehicle and personal property.

(A) Notwithstanding another provision of law, a law enforcement officer who directs that a vehicle be towed for any reason, whether on public or private property, must use the established towing procedure for his jurisdiction. A request by a law

enforcement officer resulting from a law enforcement action including, but not limited to, a vehicle collision, vehicle breakdown, or vehicle recovery incident to an arrest, is considered a law enforcement towing for purposes of recovering costs associated with the towing and storage of the vehicle unless the request for towing is made by a law enforcement officer at the direct request of the owner or operator of the vehicle.

(B) Within ten days following a law enforcement's towing request, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop must provide to the sheriff or chief of police a list describing the vehicles remaining in the possession of the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop. Within ten days of receipt of this list, the sheriff or chief of police must provide to the towing company or storage facility, the current owner's name, address, and a record of all lienholders along with the make, model, and identification number or a description of the vehicle at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop having towed or received the vehicle must notify by registered or certified mail, return receipt requested, or certified mail with electronic tracking the last known registered owner and all lienholders of record that the vehicle has been taken into custody, pursuant to Section 29-15-10.

(C) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must provide notice by one publication in one newspaper of general circulation in the area from which the vehicle was abandoned which is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles.

(D)(1) Before a vehicle is sold, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must apply to the appropriate titling facility for the name and address of any owner or lienholder. The appropriate titling facility may include, but is not limited to:

(a) the Department of Motor Vehicles;

(b) a vendor authorized by the DMV to provide real-time access to title and lienholder information;

(c) if the vehicle is not titled in South Carolina, the titling governmental entity in the state in which the vehicle was last titled as provided by a search of the National Motor Vehicle Title Information System (NMVTIS);

(d) if the vehicle is not titled in South Carolina, a vendor authorized by the state in which the vehicle was last titled to provide real-time access to the most current title and lienholder information; or

(e) the Department of Natural Resources.

(2) For nontitled vehicles, where the owner's name is known, a search must be conducted through the Secretary of State's Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the vehicle has an out-of-state registration, an application must be made to that state's appropriate titling facility. When the vehicle is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may apply to the sheriff or chief of police in the jurisdiction where the vehicle is stored to determine the state where the vehicle is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the vehicle's identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the name of the state in which the vehicle is titled.

(E) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop that has towed and stored a vehicle has a lien against the vehicle and may have the vehicle sold at public auction pursuant to Section 29-15-10. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may hold the license tag of any vehicle until all towing and the storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold.

(F) After the vehicle is in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the owner of the vehicle as demonstrated by providing a certificate of registration has one opportunity to remove from the vehicle any personal property not attached to the vehicle. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.

(G) When a law enforcement agency stores a vehicle at a law enforcement facility, the agency must follow the notification procedures contained in this section and submit vehicle information to a magistrate in the county where the vehicle is stored to provide for the sale of the vehicle at public auction. A law enforcement agency is exempt from paying filing fees in any matter related to the towing and storing of a vehicle.

HISTORY: 2003 Act No. 71, Section 1; 2004 Act No. 269, Section 4; 2022 Act No. 233 (H.3729), Section 4, eff June 17, 2022. Effect of Amendment

2022 Act No. 233, Section 4, rewrote the section.

SECTION 56-5-5640.

Sale of unclaimed vehicles; disposition of proceeds.

If an abandoned vehicle has not been reclaimed pursuant to Section 56-5-5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to Section 29-15-10. The vehicle's purchaser shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a magistrate's order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The Office of Court

Administration shall design a uniform magistrate's order of sale for purposes of this section, Section 56-5-5670, and Section 56-5-5945, and shall make the order available for distribution to the magistrates. The magistrate's order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher or secondary metals recycler for demolition, wrecking, or dismantling, and in such case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle allowed under Section 29-15-10(B) which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to Section 29-15-10 must be reimbursed up to the amount of the auction sale price from the vehicle's sale proceeds. The remaining sale proceeds must be held for the vehicle's owner or entitled lienholder for ninety days. The magistrate shall notify the vehicle's owner and all lienholders by certified or registered mail, return receipt requested, that the vehicle's owner or lienholder has ninety days to claim the proceeds from the vehicle's sale. If the vehicle's proceeds are not collected within ninety days from the day after the notice to the vehicle's owner and all lienholders is mailed, then the vehicle's proceeds must be deposited in the county or municipality's general fund.

HISTORY: 1962 Code Section 46-490.14; 1972 (57) 2459; 2002 Act No. 195, Section 1; 2003 Act No. 71, Section 5; 2004 Act No. 269, Section 5; 2012 Act No. 242, Section 6, eff December 15, 2012; 2022 Act No. 233 (H.3729), Section 5, eff June 17, 2022.

Effect of Amendment

2022 Act No. 233, Section 5, in the fifth sentence, inserted "allowed under Section 29-15-10(B)" following "storing the vehicle".

SECTION 56-5-5650.

Claims of and awards to persons damaged by sale of vehicle.

For a period not in excess of two years after the payment of any sum into the general fund of any county or municipality on account of the sale of any abandoned motor vehicle, governing bodies of the respective counties or municipalities shall hear and determine claims of any persons claiming to be damaged by the sale of any such vehicle and shall make awards to owners or lienholders as their interests may appear, but in no event shall the awards be in excess of the net amount received by the county or municipality from the sale of the vehicle. The decision of the county or municipal governing body in connection with any such claim shall be final.

HISTORY: 1962 Code Section 46-490.15; 1972 (57) 2459.

SECTION 56-5-5670.

Duties of demolishers; disposal of vehicle to demolisher or secondary metals recycler; records; penalties.

(A) For purposes of this section, "vehicle" has the same meaning as defined by Section 56-5-120 and includes, but is not limited to, a "trailer", as defined by Section 56-5-240, a "semitrailer", as defined by Section 56-5-250, and a "pole trailer", as defined by Section 56-5-260.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity's name. The person or entity shall provide the vehicle's title certificate to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title to the Department of Motor Vehicles for cancellation.

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid magistrate's order of sale in lieu of a title certificate, if the person or entity purchases the vehicle at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate's order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the magistrate's order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates' orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a magistrate's order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid sheriff's disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity's property or into the person or entity's possession and the vehicle does not meet the requirements of subsection (E)(1). The person or entity shall provide the sheriff's disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle is located for a disposal authority certificate to dispose of the vehicle to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity's name and address, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle has been abandoned upon the person or entity's property or into the person or entity's possession, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed pursuant to Section 56-5-5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the sheriff's disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff's disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs' disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a sheriff's disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler without a title certificate, magistrate's order of sale, or sheriff's disposal authority certificate, if:

(a) the vehicle is abandoned upon the person or entity's property or into the person or entity's possession, or if the person or entity is the owner of the vehicle and the vehicle's title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

(i) is lawfully in the person or entity's possession;

(ii) is twelve model years old or older;

(iii) does not have a valid registration plate affixed; and

(iv) has no engine or is otherwise totally inoperable.

(2) The person or entity shall complete and sign a form affirming that the vehicle complies with the requirements of subsection

(E)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle was a stolen vehicle.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place.

(F) A demolisher or secondary metals recycler who purchases or otherwise acquires nonferrous metals, as defined by Section 16-17-680, shall comply with and is subject to the provisions of Section 16-17-680.

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle parts with a total weight of twenty-five pounds or more purchased or

received by the demolisher in the course of business. These records must contain, at a minimum:

- (a) the demolisher or secondary metals recycler's name and address;
- (b) the name of the demolisher or secondary metals recycler's employee entering the information;
- (c) the name and address of the person or entity from whom the vehicle or vehicle parts, as applicable, were purchased or received;
- (d) a photo or copy of the person's driver's license or other government issued picture identification card that legibly shows the person's name and address. If the vehicle or vehicle parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity's agent's driver's license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or entity's agent's identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;
- (e) the date when the purchases or receipts occurred;
- (f) the year, make, model, and identification number of the vehicle or vehicle parts, as applicable and if ascertainable, along with any other identifying features; and
- (g) a copy of the title certificate, magistrate's order of sale, sheriff's disposal authority certificate, or an original form affidavit, as applicable.

(2) The records must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler's property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(H)(1) A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who falsifies any information on an application, form, or affidavit required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties, the Department of Motor Vehicles' director, or the director's designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director's designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle used to transport a vehicle or vehicle parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.

(I) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a form affidavit to be used for the disposal of vehicles to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolishing industry, secondary metals recycling industry, the trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director's designee.

HISTORY: 1962 Code Section 46-490.17; 1972 (57) 2459; 1993 Act No. 181, Section 1461; 1996 Act No. 459, Section 199; 2004 Act No. 269, Section 7; 2009 Act No. 26, Section 7, eff June 2, 2009; 2012 Act No. 242, Section 8, eff June 18, 2012; December 15, 2012.

Editor's Note

Section 56-5-120 was reserved by 2017 Act No. 89, Section 17, effective November 19, 2018. For the definition of "vehicle", see Section 56-1-10.

ARTICLE 40

Disposition of Motor Vehicles by a Salvage Pool Operator Subject to an Insurance Claim

SECTION 56-5-5710.

Disposition of a motor vehicle by a salvage pool operator.

(A) As contained in this section, "salvage pool operator" means a person who engages in the business of selling salvage motor vehicles at auction, including wholesale auction.

(B) This section applies only to a salvage pool operator who, on request of an insurance company, takes possession of a motor vehicle that is the subject of an insurance claim and the insurance company subsequently:

- (1) denies coverage with respect to the motor vehicle; or
- (2) does not otherwise take ownership of the motor vehicle.

An insurance company described in this subsection shall notify the salvage pool operator of the denial of the claim regarding the motor vehicle or other disposition of the motor vehicle. The insurance company must include in the notice the name and address of the owner of the motor vehicle and the lienholder, if any.

(C) Before the thirty-first day after receiving notice under subsection (B), a salvage pool operator shall notify the owner of the motor vehicle and any lienholder that:

(1) the owner or lienholder must remove the motor vehicle from the salvage pool operator's possession at the location specified in the notice to the owner and any lienholder no later than the thirtieth day after the date the notice is mailed and if removed during this time period, there will be no charges assessed against the owner of the vehicle save the actual costs of providing the notice described herein; and

(2) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle as described in subsection (D).

(D) The salvage pool operator may include in the costs described in subsection (C)(2) only costs actually incurred by the salvage pool operator that have not been reimbursed by a third party or are not subject to being reimbursed by a third party, such as costs of notices, title searches, and towing and other costs incurred with respect to the motor vehicle. The costs described in subsection (C)(2):

- (1) may not include charges for storage or impoundment of the motor vehicle for the first thirty days that the vehicle is stored with the salvage pool operator but may include a reasonable fee for every day of storage thereafter until the vehicle is disposed of; and
- (2) may be deducted only from the proceeds of a sale of the motor vehicle.

(E) The notice required of a salvage pool operator under this section must be sent by registered or certified mail, return receipt requested or by a private delivery service which is acceptable to the Internal Revenue Service.

(F) If a motor vehicle is not removed from a salvage pool operator's possession before the thirty-first day after the date notice is mailed to the motor vehicle's owner and any lienholder under subsection (C), the salvage pool operator may obtain from the department:

- (1) a salvage vehicle title for a salvage motor vehicle; or
- (2) a nonreparable vehicle title for a nonreparable motor vehicle.

(G) An application for a title under subsection (F) must:

- (1) be submitted to the department on a form prescribed by the department; and
- (2) include evidence that the notice was sent as required by subsection (C) to the motor vehicle owner and any lienholder.

(H) A title issued under this section must be issued in the name of the salvage pool operator.

(I) The department shall issue the appropriate title to a person authorized to apply for the title under this section if the department determines that the application is complete and complies with applicable law.

(J) On receipt of a title under this section, the salvage pool operator shall sell the motor vehicle and retain from the proceeds of the sale the costs incurred by the salvage pool operator as permitted by subsection (D) along with the cost of titling and selling the motor vehicle. The salvage pool operator shall pay any excess proceeds from the sale, first to lienholders in order of priority to satisfy the liens and the remainder, if any, must be sent to the owner in the same manner as provided for in subsection (E).

(K) If the previous owner of the motor vehicle and the lienholder, if any, cannot be identified or located, or the owner does not respond to the notice sent to the owner in the manner provided for in subsection (E), any excess proceeds from the sale of the motor vehicle under subsection (J) shall escheat to the State of South Carolina. The proceeds shall be administered by the Comptroller General and must be disposed of in the manner provided by law.

HISTORY: 2021 Act No. 27 (H.3101), Section 1, eff October 25, 2021.

ARTICLE 41

Disposition of Abandoned or Derelict Motor Vehicles on Public or Private Property

SECTION 56-5-5810.

Definitions.

For the purposes of this article and Article 39:

(a) "Officer" means any state, county, or municipal law enforcement officer, including county and municipal code enforcement and sanitation officers.

(b) "Abandoned vehicle" means a vehicle required to be registered in this State if operated on a public highway in this State that is left unattended on a highway for more than forty-eight hours, or a vehicle that has remained on private or other public property for a period of more than seven days without the consent of the owner or person in control of the property.

(c) "Derelict vehicle" means a vehicle required to be registered in this State if operated on a public highway in this State:

(1) whose certificate of registration has expired and the registered owner no longer resides at the address listed on the last certificate of registration on record with the Department of Motor Vehicles; or

(2) whose motor or other major parts have been removed so as either to render the vehicle inoperable or the operation of which would violate Section 56-5-4410; or

- (3) whose manufacturer's serial plates, motor vehicle identification numbers, license number plates, and any other means of identification have been removed so as to nullify efforts to locate or identify the registered owner; or
- (4) whose registered owner of record disclaims ownership or releases his rights thereto; or
- (5) which is more than eight years old and does not bear a current registration.
- (d) "Demolisher" means any person, firm, or corporation whose business is to convert a vehicle into processed scrap or scrap metal or otherwise to wreck or dismantle such a vehicle.
- (e) "Colored tag" means any type of notice affixed to an abandoned or derelict vehicle advising the owner or the person in possession that it has been declared an abandoned or derelict vehicle and will be treated as such. The tag shall be of sufficient size to be easily discernable and shall contain such information as the Department of Public Safety deems necessary to carry out the provisions of this article.
- (f) "Demolisher" means any person whose business is to convert a vehicle into processed scrap or scrap metal for recycling purposes or otherwise to wreck or dismantle vehicles.
- (g) "Salvage yard" means a business or a person who holds a license issued by the State required of all retailers, possesses ten or more derelict vehicles, and regularly engages in buying or selling used vehicle parts.

HISTORY: 1962 Code Section 46-490.22; 1974 (58) 2103; 1993 Act No. 181, Section 1462; 1996 Act No. 459, Section 200; 2008 Act No. 308, Section 1, eff upon approval (became law without the Governor's signature on June 12, 2008).

SECTION 56-5-5820.

Abandoned and derelict vehicles as hazard to health and welfare.

Abandoned and derelict vehicles constitute a hazard to the health and welfare of the people in the State in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well-being of children and other citizens. It is, therefore, in the public interest that the present accumulation of abandoned and derelict vehicles be eliminated and that the future abandonment of such vehicles be prevented.

HISTORY: 1962 Code Section 46-490.21; 1974 (58) 2103; 1996 Act No. 459, Section 201.

SECTION 56-5-5840.

Abandoned and derelict vehicles subject to removal and disposal.

All abandoned and derelict vehicles shall be subject to removal from public or private property and disposed of in accordance with the provisions of this article.

HISTORY: 1962 Code Section 46-490.24; 1974 (58) 2103; 1996 Act No. 459, Section 202.

SECTION 56-5-5850.

Tagging and removal of unattended vehicles; disposition.

(A) When any vehicle is left unattended on a highway or on other public or private property without the consent of the owner or person in control of the property, an officer may place a colored tag on the vehicle which is notice to the owner, the person in possession of the vehicle, or any lienholder that it may be considered to be derelict or abandoned and is subject to forfeiture to the State.

(B) The colored tag serves as the only legal notice that the vehicle will be moved to a designated place to be sold if the vehicle is not removed by the owner or person in control of the vehicle. The vehicle must be removed within the following times from the date the tag is placed on the vehicle:

(1) forty-eight hours if it is located on a highway, or

(2) seven days if it is located on other public or private property.

(C) A vehicle that has had at least two colored tags previously placed on it is an abandoned vehicle for purposes of this article and may be removed immediately by a law enforcement agency to a designated place to be sold.

(D) Abandoned or derelict vehicles must be disposed of pursuant to Sections 29-15-10 and 56-5-5635.

HISTORY: 1962 Code Section 46-490.25; 1974 (58) 2103; 1993 Act No. 181, Section 1464; 1996 Act No. 459, Section 203; 2004 Act No. 269, Section 8; 2009 Act No. 26, Section 8, eff June 2, 2009.

SECTION 56-5-5870.

Contract for collection of vehicles and related services; collecting areas.

The Department of Public Safety, or any county or municipality may contract with any federal, other state, county, or municipal authority or private enterprise for tagging, collection, storage, transportation, or any other services necessary to prepare derelict or abandoned vehicles for recycling or other methods of disposal. Publicly-owned properties, when available, shall be provided as temporary collecting areas for the motor vehicles defined herein.

HISTORY: 1962 Code Section 46-490.27; 1974 (58) 2103; 1993 Act No. 181, Section 1466; 1996 Act No. 459, Section 204.

SECTION 56-5-5880.

Right of entry on property to enforce article; criminal or civil liability arising out of enforcement.

All officers, employees, and agents of any person under contract with the Department of Public Safety, county, or municipality, are authorized to go on private property for the purposes of enforcing this article. No agent or employee of any federal, state, county, or municipal government or other political subdivision, no person or occupant of the premises from which any derelict or abandoned motor vehicle shall be removed, nor any person or firm contracting for the removal of or disposition of any such motor vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provisions of this article unless such person is guilty of willfulness, wantonness, or recklessness.

HISTORY: 1962 Code Section 46-490.28; 1974 (58) 2103; 1996 Act No. 459, Section 205.

SECTION 56-5-5890.

Property may not be willfully damaged.

In removing the abandoned and derelict vehicles, the enforcing agency will do so without wilfully harming or damaging the property on which the vehicles are located.

HISTORY: 1962 Code Section 46-490.29; 1974 (58) 2103; 1996 Act No. 459, Section 206.

SECTION 56-5-5900.

Lienholders and owners of stolen vehicles not subject to penalties and charges.

No lienholder shall be subject to any penalty imposed by law in this State for abandonment unless the vehicle is abandoned by the lienholder or his agent or servant. No owner of a vehicle which has been stolen and thereafter abandoned shall be liable for any charges or penalties imposed herein. A vehicle shall be deemed to be stolen when the owner notifies a law enforcement officer of this or another state, and such report is accepted and carried on the records of the agency receiving the report as a stolen vehicle.

HISTORY: 1962 Code Section 46-490.30; 1974 (58) 2103; 1996 Act No. 459, Section 207.

SECTION 56-5-5910.

Unlawful to tamper with, remove or destroy colored tags.

It shall be unlawful for any person to tamper with, remove or destroy any colored tag placed on any vehicle in compliance with this article and any person found guilty of this provision shall, upon conviction, be subject to a fine not exceeding five hundred dollars.

HISTORY: 1962 Code Section 46-490.31; 1974 (58) 2103; 1996 Act No. 459, Section 208.

SECTION 56-5-5920.

Article not applicable to certain vehicles.

The provisions of this article shall not apply to vehicles housed or protected from the elements, those classified as antiques and registered pursuant to Sections 56-3-2210 and 56-3-2220, those exempted from registration pursuant to Section 56-3-120, those vehicles reported as stolen in accordance with Section 56-5-5900, unless any such vehicle presents an immediate safety or health hazard or constitutes a nuisance.

HISTORY: 1962 Code Section 46-490.32; 1974 (58) 2103; 1996 Act No. 459, Section 209.

SECTION 56-5-5940.

Seizure, sale or disposal of vehicle in violation of article constitutes conversion.

(a) Seizure, sale, or disposal of an abandoned or derelict motor vehicle in a manner inconsistent with the provisions of this article shall constitute conversion for which the owner shall have redress in any court of competent jurisdiction.

(b) Any person or unit of government upon whose property or in whose possession is found an abandoned or derelict vehicle may apply to the sheriff or chief of police of the jurisdiction in which the vehicle is located to implement the procedures outlined in this article, and the sheriff or chief of police shall tag the vehicle and dispose of the vehicle pursuant to this chapter.

HISTORY: 1962 Code Section 46-490.34; 1974 (58) 2103; 1996 Act No. 459, Section 210.

SECTION 56-5-5945.

Duties of demolishers; disposal of vehicle; title requirements; records; penalties.

(A) For purposes of this section, "vehicle" has the same meaning as defined by Section 56-5-120, and includes, but is not limited to, a "trailer", as defined by Section 56-5-240, a "semitrailer", as defined by Section 56-5-250, and a "pole trailer", as defined by Section 56-5-260.

(B)(1) Except as provided by subsections (C), (D), and (E), a person or entity may not dispose of a vehicle to a demolisher or secondary metals recycler without a valid title certificate for the vehicle in the person or entity's name. The person or entity shall provide the vehicle's title certificate to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the certificate of title to the Department of Motor Vehicles for cancellation.

(3) The Department of Motor Vehicles shall issue forms and regulations governing the surrender of certificates of title as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a title certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(C)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid magistrate's order of sale in lieu of a title certificate, if the person or entity purchases the vehicle at a public auction pursuant to Section 56-5-5640. The person or entity shall provide the magistrate's order of sale to the demolisher or secondary metals recycler.

(2) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the magistrate's order of sale to the Department of Motor Vehicles.

(3) The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this subsection and Section 56-5-5640, and shall make the order available for distribution to the magistrates. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of magistrates' orders of sale as appropriate.

(4) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a magistrate's order of sale pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(D)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler with a valid sheriff's disposal authority certificate in lieu of a title certificate, if the vehicle is abandoned upon the person or entity's property or into the person or entity's possession and the vehicle does not meet the requirements of subsection (E)(1). The person or entity shall provide the sheriff's disposal authority certificate to the demolisher or secondary metals recycler.

(2) The person or entity shall apply to the sheriff of the jurisdiction in which the vehicle is located for a disposal authority certificate to dispose of the vehicle to a demolisher or secondary metals recycler. The application must provide, at a minimum, the person or entity's name and address, the year, make, model, and identification number of the vehicle, if ascertainable, along with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment. The person or entity shall execute an affidavit stating that the facts alleged are true and that no material fact has been withheld. If the sheriff determines that the application is executed in proper form, and the application demonstrates that the vehicle has been abandoned upon the person or entity's property or into the person or entity's possession, the notification procedures set forth in Section 56-5-5630 must be followed. If the vehicle is not reclaimed pursuant to Section 56-5-5630, the sheriff shall give the applicant a certificate of authority to dispose of the vehicle to a demolisher or secondary metals recycler. A disposal authority certificate may contain multiple listings.

(3) The demolisher or secondary metals recycler is not required to obtain a certificate of title for the vehicle in the demolisher or secondary metals recycler's own name. After the vehicle has been demolished, processed, or changed so that the vehicle physically is no longer a vehicle, the demolisher or secondary metals recycler shall surrender the sheriff's disposal authority certificate to the Department of Motor Vehicles.

(4) The South Carolina Law Enforcement Division shall design a uniform sheriff's disposal authority certificate for purposes of this subsection and shall make the certificate available for distribution to the sheriffs. The Department of Motor Vehicles shall issue forms and regulations governing the surrender of sheriffs' disposal authority certificates as appropriate.

(5) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a sheriff's disposal authority certificate pursuant to this subsection may wreck, dismantle, demolish, or otherwise dispose of the vehicle after the transaction has taken place. The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations.

(E)(1) A person or entity may dispose of a vehicle to a demolisher or secondary metals recycler without a title certificate, magistrate's order of sale, or sheriff's disposal authority certificate, if:

(a) the vehicle is abandoned upon the person or entity's property or into the person or entity's possession, or if the person or entity is the owner of the vehicle and the vehicle's title certificate is faulty, lost, or destroyed; and

(b) the vehicle:

(i) is lawfully in the person or entity's possession;

(ii) is twelve model years old or older;

(iii) does not have a valid registration plate affixed; and

(iv) has no engine or is otherwise totally inoperable.

(2) The person or entity shall complete and sign a form affirming that the vehicle complies with the requirements of subsection

(E)(1). The demolisher or secondary metals recycler shall maintain the original form affidavit in the transaction records as required by this section.

(3) The Department of Motor Vehicles shall develop a form affidavit for purposes of this subsection and shall make the form affidavit available for distribution to the demolishers and secondary metals recyclers.

(4) Prior to completion of the transaction, the demolisher or secondary metals recycler shall verify with the Department of Motor Vehicles whether the vehicle has been reported stolen. The Department of Motor Vehicles shall develop an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen. The Department of Motor Vehicles shall not charge a demolisher or secondary metals recycler a fee for verifying whether a vehicle has been reported stolen. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has been reported stolen, the demolisher or secondary metals recycler shall not complete the transaction and shall notify the appropriate law enforcement agency. The demolisher or secondary metals recycler is under no obligation to apprehend the person attempting to sell the vehicle. If the Department of Motor Vehicles indicates to the demolisher or secondary metals recycler that the vehicle has not been reported stolen, the demolisher or secondary metals recycler may proceed with the transaction. In such case, the demolisher or secondary metals recycler is not criminally or civilly liable if the vehicle later turns out to be a stolen vehicle, unless the demolisher or secondary metals recycler had some other knowledge that the vehicle was a stolen vehicle.

(5) The demolisher or secondary metals recycler shall report the vehicle to the National Motor Vehicle Title Information System in compliance with federal laws and regulations at the time of the transaction or no later than the end of the day of the transaction. A demolisher or secondary metals recycler who reports vehicles to the National Motor Vehicle Title Information System through a third party consolidator and complies with the requirements of this item if the demolisher or secondary metals recycler reports the vehicle to the third party consolidator so that the third party consolidator is able to transmit the vehicle information to the National Motor Vehicle Title Information System in compliance with federal laws and regulations no later than the end of the day of the transaction.

(6) A demolisher or secondary metals recycler who purchases or otherwise acquires a vehicle with a form affidavit pursuant to this subsection shall not wreck, dismantle, demolish, or otherwise dispose of the vehicle until at least three business days after the transaction has taken place.

(F) A demolisher or secondary metals recycler who purchases or otherwise acquires nonferrous metals, as defined by Section 16-17-680, shall comply with and is subject to the provisions of Section 16-17-680.

(G)(1) A demolisher or secondary metals recycler shall keep an accurate and complete record of all vehicles purchased or received by the demolisher or secondary metals recycler in the course of business. A demolisher, but not a secondary metals recycler, also shall keep an accurate and complete record of all vehicle parts with a total weight of twenty-five pounds or more purchased or received by the demolisher in the course of business. These records must contain, at a minimum:

(a) the demolisher or secondary metals recycler's name and address;

(b) the name of the demolisher or secondary metals recycler's employee entering the information;

(c) the name and address of the person or entity from whom the vehicle or vehicle parts, as applicable, were purchased or received;

(d) a photo or copy of the person's driver's license or other government issued picture identification card that legibly shows the person's name and address. If the vehicle or vehicle parts, as applicable, are being purchased or received from an entity, the demolisher or secondary metals recycler shall obtain a photo or copy of the entity's agent's driver's license or other government issued picture identification card. If the demolisher or secondary metals recycler has a photo or copy of the person or entity's agent's identification on file, the demolisher or secondary metals recycler may reference the identification on file without making a photocopy for each transaction;

(e) the date when the purchases or receipts occurred;

(f) the year, make, model, and identification number of the vehicle or vehicle parts, as applicable and if ascertainable, along with any other identifying features; and

(g) a copy of the title certificate, magistrate's order of sale, sheriff's disposal authority certificate, or an original form affidavit, as applicable.

(2) The records must be kept open for inspection by any law enforcement officer at any time during normal business hours. All vehicles on the demolisher or secondary metals recycler's property or otherwise in the possession of the demolisher or secondary metals recycler must be available for inspection by any law enforcement officer at any time during normal business hours.

(3) Records required by this section must be kept by the demolisher or secondary metals recycler for at least one year after the transaction to which it applies. A demolisher or secondary metals recycler may maintain records in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(H)(1) A person who violates the provisions of this section for a first offense is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars for each offense not to exceed five thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than sixty days, or both. Each violation constitutes a separate offense. For a second or subsequent offense, the person is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars for each offense not to exceed ten thousand dollars for the same set of transactions or occurrences, or imprisoned for not more than three years, or both. Each violation constitutes a separate offense.

(2) A person who falsifies any information on an application, form, or affidavit required by this section is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than five thousand dollars, or imprisoned for not less than one year nor more than three years, or both.

(3) In lieu of criminal penalties, the Department of Motor Vehicles' director, or the director's designee, may issue an administrative fine not to exceed one thousand dollars for each violation, whenever the director, or the director's designee, after a hearing, determines that a demolisher or secondary metals recycler has unknowingly and unwilfully violated any provisions of this section. The hearing and any administrative review must be conducted in accordance with the procedure for contested cases under the Administrative Procedures Act. The proceeds from the administrative fine must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of implementing this section.

(4) A vehicle used to transport a vehicle or vehicle parts, as applicable, illegally disposed of in violation of this section may be seized by law enforcement and is subject to forfeiture; provided, however, that no vehicle is subject to forfeiture unless it appears that the owner or other person in charge of the vehicle is a consenting party or privy to the commission of the crime, and a forfeiture of the vehicle encumbered by a security interest is subject to the interest of the secured party who had no knowledge of or consented to the act. The seizure and forfeiture must be accomplished in accordance with the provisions of Section 56-29-50.

(I) The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a form affidavit to be used for the disposal of vehicles to demolishers or secondary metals recyclers, the development of an electronic system for demolishers and secondary metals recyclers to use to verify at the time of a transaction whether a vehicle has been reported stolen, and assisting in the development of forms and regulations pursuant to this section. The working group must consist of representatives from the demolishing industry, secondary metals recycling industry, trucking industry, law enforcement agencies, and other relevant agencies, organizations, or industries as determined by the director, or the director's designee.

HISTORY: 1996 Act No. 459, Section 211; 2009 Act No. 26, Section 9, eff June 2, 2009; 2012 Act No. 242, Section 9, eff June 18, 2012; December 15, 2012.

SECTION 56-5-5950.

Penalties for abandoning vehicle.

A person who abandons a vehicle either on public or private property shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars, and shall pay all costs of having such abandoned vehicle removed, stored, and sold as provided for in Section 56-5-5850. All such vehicles shall be removed and disposed of in accordance with Section 56-5-5850.

HISTORY: 1962 Code Section 46-490.35; 1974 (58) 2103; 1996 Act No. 459, Section 212.

ARTICLE 43

Enforcement; Traffic Violations Procedure

SECTION 56-5-6110.

Parties to a crime.

Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be a crime, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense and every person who falsely, fraudulently, forcibly or wilfully induces, causes, coerces, requires, permits or directs another to violate any provisions of this chapter is likewise guilty of such offense.

HISTORY: 1962 Code Section 46-682; 1952 Code Section 46-682; 1949 (46) 466.

SECTION 56-5-6120.

Offenses by persons owning or controlling vehicles.

It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

HISTORY: 1962 Code Section 46-683; 1952 Code Section 46-683; 1949 (46) 466.

SECTION 56-5-6130.

Parents and guardians shall not permit children and wards to violate chapter.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter.

HISTORY: 1962 Code Section 46-684; 1952 Code Section 46-684; 1949 (46) 466.

SECTION 56-5-6150.

Trial jurisdiction of municipal courts.

All municipal courts of the State may try and determine criminal cases involving violations of this chapter occurring within the respective limits of such municipalities when the penalty prescribed by this chapter for such violations does not exceed thirty days' imprisonment nor one hundred dollars' fine and may have trial jurisdiction over such criminal cases the same as magistrates.

HISTORY: 1962 Code Section 46-685; 1952 Code Section 46-685; 1949 (46) 466.

SECTION 56-5-6160.

Evidence of conviction inadmissible in civil action.

No evidence of conviction of any person for any violation of this chapter shall be admissible in any court in any civil action.

HISTORY: 1962 Code Section 46-686; 1952 Code Section 46-686; 1949 (46) 466.

SECTION 56-5-6170.

Enforcement.

The Department of Public Safety shall administer and enforce the provisions of this chapter with respect to State highways, and law enforcement officers generally shall also enforce this chapter within their respective jurisdictions. No police officer in investigating a traffic accident shall necessarily deem the fact that an accident has occurred as giving rise to the presumption that a violation of a law has occurred. Arrests and criminal prosecution for violation of this chapter shall be based upon evidence of a violation of the law.

HISTORY: 1962 Code Section 46-687; 1952 Code Section 46-687; 1949 (46) 466.

SECTION 56-5-6190.

General penalty for violations of chapter.

It is a misdemeanor for any person to violate any of the provisions of this chapter unless such violation is by this chapter or other law of this State declared to be a felony.

Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 46-689; 1952 Code Section 46-689; 1949 (46) 466.

SECTION 56-5-6200.

Disposition of fines and forfeitures.

All fines collected as penalties for violation of this chapter and bond or bail forfeitures shall be paid over by the magistrate or person collecting them to the county treasurer of the county in which such fines and bond or bail forfeitures are collected, except that when such fines or bond or bail forfeitures are collected by municipal police officers and municipal courts the amounts so collected shall be paid over to the city treasurer of the municipality.

HISTORY: 1962 Code Section 46-690; 1952 Code Section 46-690; 1950 (46) 2313.

SECTION 56-5-6210.

Officers shall receive no part of fines or forfeitures.

No municipal police officer, rural policeman, magistrate's constable, sheriff, deputy sheriff, highway patrolman or other police officer shall receive as compensation any portion of any fine imposed or bond or bail forfeiture for violations of the highway traffic laws of the State.

HISTORY: 1962 Code Section 46-691; 1952 Code Section 46-691; 1950 (46) 2313.

SECTION 56-5-6220.

Entry of guilty plea, forfeiture of bail posted, or entry of plea of nolo contendere to have same effect as conviction after trial. Notwithstanding any other provision of law, the entry of any plea of guilty, the forfeiture of any bail posted or the entry of plea of nolo contendere for a violation of the traffic laws of this State or any political subdivision thereof shall have the same effect as a conviction after trial under the provisions of such traffic laws. Provided, however, that in any such case where bail is posted by the defendant, no forfeiture of such bail shall become effective until ten days following the date of arrest nor shall the defendant be required to plead prior to the elapse of such ten-day period. Provided, further that the provisions of this section shall not be construed to prohibit a defendant from voluntarily entering a plea or forfeiting bail within the ten-day period.

HISTORY: 1976 Act No. 482.

SECTION 56-5-6230.

Notification of Department of Motor Vehicles upon payment of fine or forfeiture of bond.

Any magistrate's court, municipal court, or other court of competent jurisdiction must notify the Department of Motor Vehicles when any person charged with a traffic violation in such court, upon conviction, or other plea has paid the fine therefor, or forfeited the bond previously posted.

HISTORY: 1984 Act No. 478, Section 2; 1996 Act No. 459, Section 213.

SECTION 56-5-6240.

Forfeiture, confiscation, and disposition of vehicles seized for conviction of DUS or DUI; notice to registered owner; request for hearing; return of vehicle.

(A) In addition to the penalties for a person convicted of a fourth or subsequent violation within the last five years of operating a motor vehicle while his license is canceled, suspended, or revoked (DUS), or a third or subsequent violation within the last ten years of operating a motor vehicle while under the influence of intoxicating liquor or drugs (DUI), the person must have the motor vehicle he drove during this offense forfeited as provided in subsections (B) and (C) if the person is the registered owner or a resident of the household of the registered owner. The vehicle must be confiscated by the arresting officer or other law enforcement officer of that agency at the time of arrest. The officer shall deliver it immediately to the sheriff, chief of police, or the authorized agent of the sheriff or chief of police, in the jurisdiction where the motor vehicle was confiscated. The sheriff, chief of police, or the authorized agent of the sheriff or chief of police shall by certified mail notify the registered owner of the confiscation within seventy-two hours. Upon notification of the confiscation, the registered owner has ten days to request a hearing before the presiding judge of the judicial circuit or his designated hearing officer. The hearing must be held within ten days from the date of receipt of the request. The purpose of the hearing is to determine if there is a preponderance of the evidence that (1) the use of the vehicle on the occasion of the arrest was not expressly or impliedly authorized, or (2) the registered owner did not know that the driver did not possess a valid license. If the requisite showing is made, the vehicle must be returned to the registered owner. The vehicle confiscated pursuant to this section may be returned to the registered owner upon petition to the court by the law enforcement agency confiscating the vehicle if the criminal charge has not been disposed of within twelve months of the date of confiscation. If the registered owner of the vehicle does not remove the vehicle from law enforcement's possession within ten days of service of the court order allowing the return, law enforcement may dispose of the vehicle as provided in subsection (C). The sheriff or chief of police in possession of the vehicle must provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(B) If a person fails to file an appeal within ten days after his conviction or plea of guilty or nolo contendere to the offenses in subsection (A), the sheriff or chief of police shall initiate an action in the circuit court of the county in which the vehicle was confiscated to accomplish forfeiture by giving notice pursuant to subsection (C) to registered owners, lienholders of record, and other persons claiming an interest in the vehicle subject to forfeiture and by giving these persons an opportunity to appear at a hearing and show why the vehicle should not be forfeited and disposed of as provided in subsection (C). The failure of the lienholder to appear at the hearing does not in any way alter or affect the claim of a lienholder of record. Forfeiture of a vehicle is subordinate in priority to all valid liens and encumbrances. The court, after hearing, shall order that the vehicle be forfeited to the sheriff or chief of police and sold in the manner provided in subsection (C), or returned to the registered owner. The court shall order a vehicle returned to the registered owner if it is shown by a preponderance of the evidence that (1) the use of the vehicle on the occasion of arrest was not expressly or impliedly authorized, or (2) the registered owner did not know that the driver did not possess a valid driver's license. Otherwise, the court shall order the vehicle forfeited and disposed of in the manner provided in subsection (C).

(C) A forfeited vehicle with a fair market value of more than five hundred dollars must be disposed of pursuant to Section 56-5-5640 for abandoned vehicles, except that any remaining proceeds from the sale must be deposited in the general fund of the county or municipality. If the fair market value of the vehicle is less than five hundred dollars, it must be sold as scrap to the highest bidder after first receiving at least two bids.

(D) If the registered owner, new purchaser, or lienholder believes the towing, preservation, and storage costs are excessive, he may petition the magistrate in the jurisdiction where the vehicle was taken into custody to determine the fair market price of the services.

(E) Nothing contained in this section shall alter a contractual obligation in an existing insurance policy.

HISTORY: 1988 Act No. 532, Section 26; 1992 Act No. 465, Section 1; 1998 Act No. 434, Section 13; 1999 Act No. 115, Section 1; 2002 Act No. 195, Section 2.

SECTION 56-5-6250.

Determination of prior convictions; sentence.

When an arrest is made under the provisions of this chapter, the arresting officer must make every effort to determine prior convictions under this chapter. In no instance is sentence to be imposed on a defendant until the court is satisfied prior convictions are properly considered as a part of the sentence.

HISTORY: 1988 Act No. 532, Section 27.

ARTICLE 45

Applicability of South Carolina Uniform Act Regulating Traffic to Private Roads

SECTION 56-5-6310.

Application of chapter to private roads upon owner's consent.

The provisions of Chapters 1, 3, 5, 7, 9, and 10 of Title 56 shall be applicable to private roads if the owner, including any corporation or homeowners' association holding title to community roads and excluding those only holding easements over such roads, shall file a written consent stating that the undersigned is the owner of the private roads shown on an attached plat and consents to the application of the provisions of this chapter for purposes of highway safety on such private roads. When the road is owned by two abutting owners, both shall consent to the application of this chapter. In the event there are more than two owners of the road, the provisions of this chapter shall apply when a majority of those owners of the total front footage abutting such road shall consent thereto. The consent shall be executed with the same formalities as a deed and with the plat shall be filed with the clerk of court or register of deeds for the county in which the private road is located and with the sheriff of such county. No derivation clause shall be required. Such filing shall not constitute a dedication to the public of such roads nor shall it constitute permission by the owner for the public to use such roads. The written consent shall become effective thirty days from the date it is filed with the clerk of court or register of deeds.

HISTORY: 1978 Act No. 518 Section 1; 2005 Act No. 68, Section 5, eff May 23, 2005.

SECTION 56-5-6320.

Termination of consent.

The consent may be terminated by filing a notice of termination with the clerk of court or register of deeds and the sheriff in the same manner as is provided in Section 56-5-6310 for the consent of the owners. The same percentage of owners shall be required for termination as is required for consent; provided, however, that the heirs, successors or assigns of owners may exercise such right of termination. The termination shall be executed with the same formalities as a deed and shall make reference to the recordation of the original consent and plat. Termination of consent shall become effective thirty days from the date it is filed with the clerk of court or register of deeds.

HISTORY: 1978 Act No. 518 Section 2.

SECTION 56-5-6330.

Termination shall not affect roads otherwise covered by Act.

The termination shall not affect those portions of this chapter which apply to private roads irrespective of the provisions of this article.

HISTORY: 1978 Act No. 518 Section 3.

SECTION 56-5-6340.

Establishment of speed limits and traffic control signs.

The speed limits and location of traffic control signs on private roads subjected to the Uniform Act Regulating Traffic pursuant to Section 56-5-6310 shall be established as follows:

(a) The owner of the private roads or both owners, or a majority of the owners, as the case may be, shall submit proposed speed limits and proposed locations for traffic control signs to the sheriff of the county in which the roads are situate and shall obtain the sheriff's written approval of such speed limits and traffic control signs. Such approval shall be filed with the clerk of court or register of deeds and the affected roads then posted by signs identical or similar to those used on public roads.

(b) After filing with the clerk or register such speed limits and traffic control signs shall become effective as soon as they are posted on signs and thereafter may be enforced by the State Highway Patrol, officers of the sheriff's department and state constables appointed by the Governor, in addition to any other persons having authority to take out warrants or make arrests.

HISTORY: 1978 Act No. 518 Section 4.

SECTION 56-5-6350.

Application of article to certain private roads.

Nothing contained in this article shall affect the application of this chapter to private roads in any county which complied with any laws in effect prior to the effective date of this article but such roads shall be governed by the provisions of this article as it applies to termination.

HISTORY: 1978 Act No. 518 Section 5.

ARTICLE 47

Child Passenger Restraint System

SECTION 56-5-6410.

Child passenger restraint systems; age and weight as basis for required restraining system; standards.

(A) Every driver of a motor vehicle (passenger car, pickup truck, van, or recreational vehicle) operated on the highways and streets of this State when transporting a child under eight years of age upon the public streets and highways of the State must properly secure the child in the vehicle as follows:

- (1) An infant or child under two years of age must be properly secured in a rear-facing child passenger restraint system in a rear passenger seat of the vehicle until the child exceeds the height or weight limit allowed by the manufacturer of the child passenger restraint system being used.
- (2) A child at least two years of age or a child under two years of age who has outgrown his rear-facing child passenger restraint system must be secured in a forward-facing child passenger restraint system with a harness in a rear passenger seat of the vehicle until the child exceeds the highest height or weight requirements of the forward-facing child passenger restraint system.
- (3) A child at least four years of age who has outgrown his forward-facing child passenger restraint system must be secured by a belt-positioning booster seat in a rear seat of the vehicle until he can meet the height and fit requirements for an adult safety seat belt as described in item (4). The belt-positioning booster seat must be used with both lap and shoulder belts. A booster seat must not be used with a lap belt alone.
- (4) A child at least eight years of age or at least fifty-seven inches tall may be restrained by an adult safety seat belt if the child can be secured properly by an adult safety seat belt. A child is properly secured by an adult safety seat belt if:
- (a) the lap belt fits across the child's thighs and hips and not across the abdomen;
 - (b) the shoulder belt crosses the center of the child's chest and not the neck; and
 - (c) the child is able to sit with his back straight against the vehicle seat back cushion with his knees bent over the vehicle's seat edge without slouching.
- (5) For medical reasons that are substantiated with written documentation from the child's physician, advanced nurse practitioner, or physician assistant, a child who is unable to be transported in a standard child passenger safety restraint system may be transported in a standard child passenger safety restraint system designed for his medical needs.
- Any child restraint system of a type sufficient to meet the physical standards prescribed by the National Highway Traffic Safety Administration at the time of its manufacture is sufficient to meet the requirements of this article.
- (B) For the purposes of this section, any portion of a recreational vehicle that is equipped with temporary living quarters shall be considered a rear passenger seat.

HISTORY: 1983 Act No. 2 Section 1; 1988 Act No. 532, Section 16; 1999 Act No. 115, Section 12; 2001 Act No. 65, Section 1; 2017 Act No. 78 (H.3864), Section 1, eff May 19, 2017.

Effect of Amendment

2017 Act No. 78, Section 1, rewrote the section, revising the age, weight, and position of a child who must be secured in a child passenger restraint system and providing exceptions when medically necessary.

SECTION 56-5-6420.

Transportation of children in the front seat of a motor vehicle.

If a motor vehicle lacks a rear passenger seat or if all of its rear seating positions are occupied by children under eight years of age, a child under eight years of age may be transported in the front seat of the motor vehicle if the child is secured properly in an appropriate child passenger safety restraint system or belt-positioning booster seat as described in Section 56-5-6410(1), (2), or (3).

HISTORY: 1983 Act No. 2 Section 1; 1988 Act No. 532, Section 17; 2017 Act No. 78 (H.3864), Section 2, eff May 19, 2017.

Effect of Amendment

2017 Act No. 78, Section 2, rewrote the section, providing that a child under eight years of age may be transported in the front seat of a motor vehicle under certain circumstances.

SECTION 56-5-6440.

Persons and vehicles excepted from article.

The provisions of this article do not apply to:

- (1) Taxi drivers.
- (2) Drivers of emergency vehicles when operating in an emergency situation.
- (3) Church, day care and school bus drivers.
- (4) Public transportation operators.
- (5) Commercial vehicles.

HISTORY: 1983 Act No. 2 Section 1.

SECTION 56-5-6445.

Applicability of chapter.

The provisions of this article apply to all motor vehicles equipped with safety belts.

HISTORY: 1988 Act No. 532, Section 19.

SECTION 56-5-6450.

Penalty for violation of article; waiver of fine.

A person who violates the provisions of this article, upon conviction, must be fined not more than one hundred fifty dollars. The court shall waive the fine against a person who, before, or upon the appearance date on the summons, supplies the court with evidence of acquisition, purchase, or rental of a child restraint system meeting the requirements of this article.

HISTORY: 1983 Act No. 2 Section 1; 2005 Act No. 147, Section 1, eff 6 months after approval (became law without the Governor's signature on June 9, 2005); 2006 Act No. 273, Section 1, eff May 9, 2006.

SECTION 56-5-6460.

Violation of article does not constitute negligence.

A violation of this article shall not constitute negligence, per se, contributory negligence nor be admissible as evidence in any trial of

any civil action.

HISTORY: 1983 Act No. 2 Section 1.

SECTION 56-5-6470.

Enforcement after June 30, 1984.

After June 30, 1984, any person violating the provisions of Article 47 of Chapter 5 of Title 56 may be, when apprehended, issued a summons, to appear in court for the violation, but no person shall at any time be placed under arrest or taken into custody for such a violation, other than upon a warrant issued for failure to appear in court in accordance with the summons or upon failure to pay a fine duly imposed by a court upon conviction.

HISTORY: 1983 Act No. 2 Section 1.

ARTICLE 48

Safety Belts

SECTION 56-5-6510.

Definitions.

As used in this article:

(1) "Motor vehicle" means a passenger car, truck, van, or recreational vehicle required to be equipped with safety belts by Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208), manufactured after July, 1966.

(2) "Driver" means a person who drives or is in actual physical control of a motor vehicle.

HISTORY: 1989 Act No. 148, Section 47(A).

SECTION 56-5-6520.

Mandatory use of seat belt.

The driver and every occupant of a motor vehicle, when it is being operated on the public streets and highways of this State, must wear a fastened safety belt which complies with all provisions of federal law for its use. The driver is charged with the responsibility of requiring each occupant seventeen years of age or younger to wear a safety belt or be secured in a child restraint system as provided in Article 47 of this chapter. However, a driver is not responsible for an occupant seventeen years of age or younger who has a driver's license, special restricted license, or beginner's permit and who is not wearing a seat belt; such occupant is in violation of this article and must be fined in accordance with Section 56-5-6540.

HISTORY: 1989 Act No. 148, Section 47(A); 2001 Act No. 65, Section 2.

SECTION 56-5-6525.

Limits on use of checkpoints or roadblocks to enforce this article.

(A) The Department of Public Safety or any other law enforcement agency must not use a "Click It or Ticket" campaign or a similar endeavor of systematic checkpoints or roadblocks as a law enforcement tool where the principal purpose is to detect and issue a ticket to a violator of the provisions of this article on either a primary or secondary basis.

(B) A person must not be issued a citation at any checkpoint established to stop all drivers on a certain road for a period of time for removing their seatbelts in order to retrieve documentation that must be produced at the checkpoint.

HISTORY: 2001 Act No. 65, Section 3; 2005 Act No. 147, Section 2, eff 6 months after approval (became law without the Governor's signature on June 9, 2005).

SECTION 56-5-6530.

Exceptions.

The provisions of this article do not apply to:

(1) a driver or occupant who possesses a written verification from a physician that he is unable to wear a safety belt for physical or medical reasons;

(2) medical or rescue personnel attending to injured or sick individuals in an emergency vehicle when operating in an emergency situation as well as the injured or sick individuals;

(3) school, church, or day care buses;

(4) public transportation vehicles except taxis;

(5) occupants of vehicles in parades;

(6) United States mail carriers;

(7) an occupant for which no safety belt is available because all belts are being used by other occupants;

(8) a driver or occupants in a vehicle not originally equipped with safety belts.

HISTORY: 1989 Act No. 148, Section 47(A); 2001 Act No. 65, Section 4; 2005 Act No. 147, Section 3, eff 6 months after approval (became law without the Governor's signature on June 9, 2005).

SECTION 56-5-6540.

Penalty; nature of offense; issuance of citations at checkpoints; admissibility as evidence of negligence in civil action; searches; probable cause that violation has occurred; trial; appeals.

(A) A person who is adjudicated to be in violation of the provisions of this article must be fined not more than twenty-five dollars, no part of which may be suspended. No court costs, assessments, or surcharges may be assessed against a person who violates a provision of this article. A person must not be fined more than fifty dollars for any one incident of one or more violations of the provisions of this article. A custodial arrest for a violation of this article must not be made, except upon a warrant issued for failure to appear in court when summoned or for failure to pay an imposed fine. A violation of this article does not constitute a criminal offense. Notwithstanding Section 56-1-640, a violation of this article must not be:

(1) included in the offender's motor vehicle records maintained by the Department of Motor Vehicles or in the criminal records maintained by SLED; or

(2) reported to the offender's motor vehicle insurer.

(B) A law enforcement officer must not issue a citation to a driver or a passenger for a violation of this article when the stop is made in conjunction with a driver's license check, safety check, or registration check conducted at a checkpoint established to stop all drivers on a certain road for a period of time, except when the driver is cited for violating another motor vehicle law. The driver and any passenger shall be required to buckle up before departing the checkpoint and should the driver or the passenger refuse, then the person refusing may be charged with a primary violation.

(C) A violation of this article is not negligence per se or contributory negligence, and is not admissible as evidence in a civil action.

(D) A vehicle, driver, or occupant in a vehicle must not be searched, nor may consent to search be requested by a law enforcement officer, solely because of a violation of this article.

(E) A law enforcement officer must not stop a driver for a violation of this article except when the officer has probable cause that a violation has occurred based on his clear and unobstructed view of a driver or an occupant of the motor vehicle who is not wearing a safety belt or is not secured in a child restraint system as required by Article 47 of this chapter.

(F) A person charged with a violation of this article may admit or deny the violation, enter a plea of nolo contendere, or be tried before either a judge or a jury. If the trier of fact is convinced beyond a reasonable doubt that the person was not wearing a safety belt at the time of the incident, the penalty is a civil fine pursuant to Section 56-5-6540. If the trier of fact determines that the State has failed to prove beyond a reasonable doubt that the person was not wearing a safety belt, no penalty shall be assessed.

(G) A person found to be in violation of this article may bring an appeal to the court of common pleas pursuant to Section 18-3-10 or Section 14-25-95.

HISTORY: 1989 Act No. 148, Section 47(A); 2001 Act No. 65, Section 5; 2005 Act No. 147, Section 4, eff 6 months after approval (became law without the Governor's signature on June 9, 2005).

SECTION 56-5-6550.

No points against license for violation.

No points provided for in Section 56-1-720 or any other provision of law may be assessed for a violation of this article.

HISTORY: 1989 Act No. 148, Section 47(A).

SECTION 56-5-6560.

Collection of motor vehicle stop data regarding age, gender, and race of driver; development of database; reports.

(A) Any time a motor vehicle is stopped by a state or local law enforcement officer without a citation being issued or an arrest being made, the officer who initiated the stop must complete a data collection form designed by the Department of Public Safety that must include information regarding the age, gender, and race or ethnicity of the driver of the vehicle. This information may be gathered and transmitted electronically under the supervision of the department which shall develop and maintain a database storing the information collected. The department must promulgate rules and regulations with regard to the collection and submission of the information gathered.

(B) The Department of Public Safety shall develop and maintain a database for the information submitted to the department under subsection (A) and prepare a report to be posted on the department's website regarding motor vehicle stops using the collected information.

(C) The General Assembly shall have the authority to withhold any state funds or federal pass-through funds from any state or local law enforcement agency that fails to comply with the requirements of this section.

(D) This section must be reviewed by the Senate Transportation Committee and the House of Representatives Education and Public Works Committee during the 2010 Session of the General Assembly. The committees must make recommendations of appropriate changes, if any, to this section before the end of the 2010 Session.

HISTORY: 2005 Act No. 147, Section 5, eff 6 months after approval (became law without the Governor's signature on June 9, 2005), except requirements relating to the Department of Public Safety take effect July 1, 2006, and requirements relating to local law enforcement take effect July 1, 2007.

SECTION 56-5-6565.

Safety belt education programs.

(A) The Department of Public Safety shall develop and implement education programs designed to create awareness of the state's safety belt laws and to increase safety belt use in rural and ethnically diverse areas throughout the State. The Department of Public Safety, when securing consultant, contractor, and subcontractor services for developing and implementing programs related to safety belt laws, shall select providers that have experience working with the communities the provider is procured to target. The Department of Public Safety shall confer with members of the targeted communities for input on the development of effective safety education programs and on the identification of providers that have the appropriate experience with the targeted communities.

(B) The Department of Transportation may develop additional programs to promote safety belt use or may coordinate with the Department of Public Safety to fund and carry out the programs jointly. If there is coordination between the two departments, the Department of Public Safety has final authority on all issues including, but not limited to, program content and dissemination, allocation of funds, and procurement procedures.

(C) The Department of Public Safety may use available federal funds or private sector contributions to meet the requirements of subsection (A). The General Assembly may provide funds to supplement federal or private sector funds used by the Department of Public Safety or the Department of Transportation to develop and implement the programs described in subsection (A). The General

Assembly shall provide the Department of Public Safety the funds necessary to meet the requirements of subsection (A), if federal or private sector funds are unavailable.

HISTORY: 2005 Act No. 147, Section 6, eff 6 months after approval (became law without the Governor's signature on June 9, 2005).

Title 56 - Motor Vehicles

CHAPTER 7

Traffic Tickets

SECTION 56-7-10.

Use of uniform traffic ticket; vesting of jurisdiction; forms; utilization of electronic devices.

(A) There will be a uniform traffic ticket used by all law enforcement officers in arrests for traffic offenses and for the following additional offenses:

- (1) Interfering with Police Officer Serving Process Section 16-5-50;
- (2) Dumping Trash on Highway/Private Property Section 16-11-700;
- (3) Indecent Exposure Section 16-15-130;
- (4) Disorderly Conduct Section 16-17-530;
- (5) Damaging Highway Section 57-7-10;
- (6) Place Glass, Nails, etc. on Highway Section 57-7-20;
- (7) Obstruction of Highway by Railroad Cars, etc. Section 57-7-240;
- (8) Signs Permitted on Interstate Section 57-25-140;
- (9) Brown Bagging Section 61-5-20;
- (10) Drinking Liquors in Public Conveyance Section 61-13-360;
- (11) Poles Dragging on Highway Section 57-7-80;
- (12) Open Container Section 61-9-87;
- (13) Purchase or Possession of Beer or Wine by a Person Under Age Section 63-19-2440;
- (14) Purchase or Possession of Alcoholic Liquor by a Person Under Age Twenty-One Section 63-19-2450;
- (15) Unlawful Possession and Consumption of Alcoholic Liquors Section 61-5-30;
- (16) Sale of Beer or Wine on Which Tax Has Not Been Paid Section 61-9-20;
- (17) Falsification of Age to Purchase Beer or Wine Section 61-9-50;
- (18) Unlawful Purchase of Beer or Wine for a Person Who Cannot Legally Buy Section 61-9-60;
- (19) Unlawful Sale or Purchase of Beer or Wine, Giving False Information as to Age, Buying Beer or Wine Unlawfully for Another Section 61-9-85;
- (20) Employment of a Person Under the Age of Twenty-One as an Employee in Retail or Wholesale or Manufacturing Liquor Business Section 61-13-340;
- (21) Failure to Remove Doors from Abandoned Refrigerators Section 16-3-1010;
- (22) Malicious Injury to Animals or Personal Property Section 16-11-510;
- (23) Timber, Logs, or Lumber Cutting, Removing, Transporting Without Permission, Valued at Less Than Fifty Dollars Section 16-11-580;
- (24) Littering Section 16-11-700;
- (25) Larceny of a Bicycle Valued at Less Than One Hundred Dollars Section 16-13-80;
- (26) Shoplifting Section 16-13-110;
- (27) Cock Fighting Section 16-17-650;
- (28) Ticket Scalping Section 16-17-710;
- (29) Domestic Violence, second and third degree Section 16-25-20;
- (30) Glue Sniffing Section 44-53-1110;
- (31) Trespassing Section 16-11-755;
- (32) Trespassing Section 16-11-600;
- (33) Trespassing Section 16-11-610;
- (34) Trespassing Section 16-11-620;
- (35) Negligent Operation of Watercraft; Operation of Watercraft While Under Influence of Alcohol or Drugs Section 50-21-110;
- (36) Negligence of Boat Livery to Provide Proper Equipment and Registration Section 50-21-120;
- (37) Interference with Aids to Navigation or Regulatory Markers or Operation of Watercraft in Prohibited Area Section 50-21-170;
- (38) Operation of Watercraft Without a Certificate of Title Section 50-23-190;
- (39) Parking on Private Property without Permission Section 16-11-760;
- (40) Certificate of Veterinary Inspection; Requirement for Out-of-State Livestock or Poultry Section 47-4-60;
- (41) Inhibition of Livestock Inspection Section 47-4-120;
- (42) Imported Swine Section 47-6-50;
- (43) Operating Equine Sales Facility or Livestock Market Without Permit Section 47-11-20;
- (44) Liability of Person Removing Livestock for Slaughter Section 47-11-120;
- (45) Notice to Disinfect Section 47-13-310;
- (46) Quarantine of Livestock or Poultry Section 47-4-70;
- (47) Unlawful for Horse to Enter State Unless Tested Section 47-13-1350;
- (48) Quarantine of Exposed Horses Section 47-13-1360;
- (49) Proof of Test Required for Public Assembly of Horses Section 47-13-1370;
- (50) False Certificates Section 47-13-1390;

- (51) Unlawful to Feed Garbage to Swine Section 47-15-20;
- (52) Notification Required from Certain Persons Disposing of Garbage Section 47-15-40;
- (53) Sale of Uninspected Meat and Meat Products Section 47-17-60;
- (54) Sale of Uninspected Poultry and Poultry Product Section 47-19-70;
- (55) Misrepresenting Service Animals Section 47-3-980.

(B) In addition to the offenses contained in subsection (A), a uniform traffic ticket may be used in an arrest for a misdemeanor offense within the jurisdiction of magistrates court that has been freshly committed or is committed in the presence of a law enforcement officer.

(C) No other ticket may be used for these offenses. The service of the uniform traffic ticket shall vest all traffic, recorders', and magistrates' courts with jurisdiction to hear and to dispose of the charge for which the ticket was issued and served. This ticket will be designed by the department and approved by the Attorney General within thirty days of submission by the department. A law enforcement agency may utilize computers and other electronic devices to issue uniform traffic citations and store information resulting from the issuance of a traffic citation if this method of issuing a citation has been approved by the Department of Public Safety.

HISTORY: 1962 Code Section 46-871; 1967 (55) 203; 1971 (57) 474; 1980 Act No. 353, Section 1; 1984 Act No. 467; 1985 Act No. 158, Section 1; 1987 Act No. 185 Section 2; 1993 Act No. 181, Section 1468; 1996 Act No. 459, Section 214; 2003 Act No. 54, Section 2; 2005 Act No. 68, Section 1, eff May 23, 2005; 2013 Act No. 78, Section 1, eff June 13, 2013; 2015 Act No. 58 (S.3), Pt II, Section 8, eff June 4, 2015; 2019 Act No. 44 (S.281), Section 2, eff May 16, 2019.

Editor's Note

2019 Act No. 44, preamble, provides as follows:

"Whereas, service animals that are properly trained to assist persons with disabilities play a vital role in establishing independence for such persons; and

"Whereas, the term "service animal" has a distinct meaning in the law. A service animal means an animal that is trained for the purposes of assisting or accommodating the sensory, mental, or physical disability of a disabled person. Under the law, the provision of emotional support, well-being, comfort, or companionship does not constitute the work or tasks of a service animal; and

"Whereas, no vest, other marking, or documentation is required for an animal to qualify as a service animal, nor are such vests, markings, or documentation a reliable indication of whether an animal is, by law, a service animal. People sometimes erroneously think that a therapy animal, an emotional support animal, or any animal wearing a vest or having any other type of marking is a service animal as defined by law; and

"Whereas, there is an increasing number of occurrences in which people exploit the confusion related to service animals and attempt to bring an animal into a place that it would otherwise not be allowed to enter by passing off the pet, therapy animal, or emotional support animal as a service animal, either by oral misrepresentation, placement of a vest or other marking on the animal, or presentation of a "certificate", despite knowing that it is not a service animal; and

"Whereas, some companies mislead individuals into believing that they will be entitled to the rights or privileges for individuals with disabilities with service animals if they buy the company's vests or obtain some type of certificate. These misrepresentations, in some cases, are unlawful deceptive trade practices and compound the confusion around service animals; and

"Whereas, commendably, federal and state laws require places of public accommodation, including airports, restaurants, theaters, stores, hospitals, and more, to allow any animal that is presented as a service animal into the place of public accommodation. These same places of public accommodation face a dilemma if someone enters the premises and intentionally misrepresents his animal as a service animal; and

"Whereas, when people try to falsely represent a nonservice animal as a service animal, business owners and other places of public accommodation become increasingly distrustful that the animals being represented to them as service animals are, in fact, service animals. Misrepresentation of service animals delegitimizes the program and makes it harder for persons with disabilities to gain unquestioned acceptance of their legitimate, properly trained, and essential service animals. Now, therefore, [Text of Act]."

Effect of Amendment

2019 Act No. 44, Section 2, in (A), inserted the (1) to (54) identifiers and removed the column formatting, and added (55), relating to misrepresenting service animals.

SECTION 56-7-12.

Verification of insurance coverage upon issuance of traffic ticket; form; penalty.

(A) When the operator or owner of an individual private passenger automobile as defined in Section 38-77-30(5.5) is issued a traffic ticket for a moving violation by a law enforcement officer, he may be furnished a written request form to be completed by him and his insurance company or the agent issuing the policy to verify liability insurance coverage. The form must be prescribed by the Department of Motor Vehicles and the Department of Public Safety.

(B) The completed and verified form must be returned by the operator or owner to the local law enforcement agency issuing the traffic ticket within fifteen days from the date he receives it. Failure to return the form verified in the proper manner is prima facie evidence that the vehicle was uninsured.

(C) The director or his designee of the department shall waive the reinstatement fee or per diem fine, or both, imposed upon the owner or operator of the motor vehicle pursuant to this section for his failure to complete and return the insurance verification form if he has liability insurance coverage when determined to be uninsured by the department. The Department of Motor Vehicles shall document its reasons for waiving the fees or fines in the records of the department.

(D) No person knowingly may furnish or aid another in the submission of false or misleading information in the completed and verified form. A person who knowingly furnishes or aids another in submitting false or misleading information regarding the verification of liability insurance is subject to the penalties in Section 56-10-260.

(E) This section applies only to owners and operators of motor vehicles registered under the laws of South Carolina.

(F) Motor vehicles determined to be uninsured under this section are subject to Sections 56-10-240 and 56-10-245.

(G) The operator of the motor vehicle shall present the written request form for verification of liability insurance coverage to the owner of the vehicle. Failure by the operator to give the form to the owner is prima facie evidence that the operator knowingly furnished false and misleading information to the department.

However, the form must have the following sentence on its face in bold type, all capitals, and large print: "THE OWNER OR OPERATOR OF A MOTOR VEHICLE WHO IS ISSUED THIS FORM SHALL COMPLETE AND RETURN THE FORM TO THE ISSUING AGENCY WITHIN FIFTEEN DAYS OR IS SUBJECT TO A TWO HUNDRED DOLLAR REINSTATEMENT FEE AND FIVE DOLLAR A DAY FINE PURSUANT TO SOUTH CAROLINA LAW. IF YOU ARE NOT THE OWNER OF THE MOTOR VEHICLE, YOU SHALL PRESENT THIS FORM TO THE OWNER OR YOU ARE SUBJECT TO FINE AND IMPRISONMENT." The officer shall read aloud this sentence to the owner or operator of the motor vehicle upon furnishing the written request form to verify liability insurance coverage.

HISTORY: 1993 Act No. 113, Section 2; 1996 Act No. 459, Section 215.

SECTION 56-7-15.

Use of uniform traffic ticket for offense committed in officer's presence; domestic violence arrests and incident report.

(A) The uniform traffic ticket, established pursuant to the provisions of Section 56-7-10, may be used by law enforcement officers to arrest a person for an offense that has been freshly committed or is committed in the presence of a law enforcement officer if the punishment is within the jurisdiction of magistrates court and municipal court. A law enforcement agency processing an arrest made pursuant to this section must furnish the information to the State Law Enforcement Division as required in Chapter 3, Title 23.

(B) An officer who effects an arrest, by use of a uniform traffic ticket, for a violation of Chapter 25, Title 16 or Section 16-13-110 shall complete and file an incident report immediately following the issuance of the uniform traffic ticket.

(C) The issuance of a uniform traffic ticket alleging the violation of Section 56-5-2770 is not subject to the provisions of this section.

HISTORY: 1990 Act No. 601, Section 1; 2003 Act No. 92, Section 5; 2005 Act No. 166, Section 15, eff January 1, 2006; 2013 Act No. 78, Section 2, eff June 13, 2013; 2014 Act No. 274 (H.5014), Section 5, eff June 9, 2014.

SECTION 56-7-20.

Unique identifying numbers on tickets; colors and number of copies; electronic tickets.

Each ticket shall have a unique identifying number. Each printed copy must be labeled at the bottom with the purpose of the copy. A handwritten traffic ticket must consist of four copies, one of which must be blue and must be given to the vehicle operator who is the alleged traffic violator; one of which must be yellow and must be dispatched to the Department of Motor Vehicles for its records and for audit purposes; one of which must be white and must be dispatched to the police agency of which the arresting officer is a part; and one of which must be green and must be retained by the trial officer for his records. An electronic traffic ticket must consist of at least one printed copy that must be given to the vehicle operator who is the alleged traffic violator and as many as three additional printed copies if needed to communicate with the Department of Motor Vehicles, the police agency, and the trial officer. Tickets may be collected electronically, but must be transmitted to the Department of Motor Vehicles electronically. Data transmissions to the Department of Motor Vehicles must be made pursuant to the Department of Motor Vehicles' electronic specifications.

HISTORY: 1962 Code Section 46-872; 1967 (55) 203; 1980 Act No. 353, Section 2; 1993 Act No. 181, Section 1469; 2005 Act No. 68, Section 2, eff May 23, 2005; 2009 Act No. 1, Section 1, eff April 7, 2009; 2016 Act No. 185 (H.3685), Section 1, eff January 1, 2017.

SECTION 56-7-30.

Printing and ordering traffic tickets; forwarding to court and Department of Motor Vehicles within three business days of issuance to offender; forwarding of disposition information; electronic tickets.

(A) The Department of Public Safety shall have the traffic tickets printed. Law enforcement agencies shall order tickets from the Department of Public Safety and shall record the identifying numbers of the tickets received by them. The cost of the tickets must be paid by the law enforcement agency. The court's copy must be forwarded by the law enforcement agency to the appropriate court and electronically to the Department of Motor Vehicles within three business days of issuance to the offender. After final trial court action or nolle prosequi, disposition information must be forwarded electronically to the Department of Motor Vehicles by the appropriate court within five business days of the trial date.

(B) A law enforcement agency that issues uniform traffic tickets in an electronic format as provided in Section 56-7-10 may generate a printed copy of this ticket by using an in-car data terminal or hand held device. A copy of the ticket must be given to the offender. The court's copy must be forwarded by the law enforcement agency to the appropriate court, in a format as prescribed by the South Carolina Judicial Department, and electronically to the Department of Motor Vehicles within three business days of issuance to the offender. Data transmissions to the Department of Motor Vehicles must be made pursuant to the Department of Motor Vehicles' and the South Carolina Judicial Department's electronic systems specifications.

HISTORY: 1962 Code Section 46-873; 1967 (55) 203; 1980 Act No. 353, Section 3; 1993 Act No. 181, Section 1470; 2005 Act No. 68, Section 3, eff May 23, 2005; 2016 Act No. 185 (H.3685), Section 2, eff January 1, 2017.

SECTION 56-7-35.

Uniform traffic ticket for speeding or disregarding traffic control device; incident to and contemporaneous with traffic stop; delivery; use of photographic evidence; exception for toll collection violation.

(A)(1) A law enforcement officer who issues a uniform traffic ticket for a violation of a local ordinance or traffic laws relating to speeding must do so incident to and contemporaneous with a traffic stop.

(2) A copy of the citation must be given directly to the offender by the law enforcement officer issuing the citation at the time of the traffic stop for the offense.

(3) A law enforcement agency may not utilize the United States mail, a parcel delivery service, electronic means, or otherwise to send to the operator or owner of a motor vehicle or motorcycle, as defined in Section 56-3-20, a uniform traffic citation alleging a violation of a local ordinance or the traffic laws relating to speeding. This subsection does not prohibit the law enforcement agency from sending the operator or owner an additional copy of a uniform citation that was issued to the operator or owner during the traffic stop for the offense upon request of the operator or owner.

(4) A uniform traffic citation alleging the violation of a local ordinance or the traffic laws relating to speeding may not be issued based in whole or in part upon photographic evidence, whether gathered in conjunction with radar speed detection devices and whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence. This section does not prohibit the use of photographic or video evidence at any hearing related to the offense to corroborate the testimony of a law enforcement officer who personally observed the offense.

(B)(1) A law enforcement officer who issues a uniform traffic ticket for a violation of a local ordinance or the traffic laws relating to disregarding a traffic control device must do so incident to and contemporaneous with a traffic stop.

(2) A copy of the citation must be given directly to the offender by the law enforcement officer issuing the citation at the time of the traffic stop for the offense.

(3) A law enforcement agency may not utilize the United States mail, a parcel delivery service, electronic means, or otherwise to send to the operator or owner of a motor vehicle or motorcycle, as defined in Section 56-3-20, a uniform traffic citation alleging a violation of a local ordinance or the traffic laws relating to disregarding traffic control devices. This subsection does not prohibit the law enforcement agency from sending the operator or owner an additional copy of a uniform citation that was issued to the operator or owner during the traffic stop for the offense upon request of the operator or owner.

(4) A uniform traffic citation alleging the violation of a local ordinance or the traffic laws relating to disregarding traffic control devices may not be issued based in whole upon photographic evidence, whether the camera or other electronic device capturing the photographic evidence was attended or unattended at the time it captured the photographic evidence. This section does not prohibit the use of photographic or video evidence at any hearing related to the offense to corroborate the testimony of a law enforcement officer who personally observed the offense.

(C) The provisions of this section do not apply to:

(1) toll collection; or

(2) issuance of a uniform traffic citation alleging the violation of Section 56-5-2770.

HISTORY: 2011 Act No. 65, Section 1, eff June 17, 2011; 2014 Act No. 274 (H.5014), Section 4, eff June 9, 2014.

SECTION 56-7-40.

Penalty for failure to account for ticket, use of nonuniform ticket, or failure to forward ticket.

Any person intentionally violating the provisions of Section 56-7-10 or 56-7-30 shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than two hundred fifty dollars nor more than fifteen hundred dollars or imprisoned for not more than six months, or both, for each ticket unaccounted for, or each use of a nonuniform ticket, or each failure to timely electronically forward the Department of Motor Vehicles a copy of the ticket. If the failure to account for a ticket, or the use of a nonuniform ticket, or the failure to timely forward the Department of Motor Vehicles a copy of the ticket is inadvertent or unintentional, such misuse shall be triable in magistrates court and, upon conviction, shall be punishable by a fine of not more than one hundred dollars.

HISTORY: 1962 Code Section 46-874; 1967 (55) 203; 1980 Act No. 353, Section 4; 2016 Act No. 185 (H.3685), Section 3, eff January 1, 2017.

SECTION 56-7-50.

Nonapplicability to certain agencies.

The provisions of this chapter shall not apply to the South Carolina Department of Natural Resources or to any of its agents.

HISTORY: 1985 Act No. 158, Section 2; 1993 Act No. 181, Section 1471.

SECTION 56-7-70.

Law enforcement officer identification upon stopping a driver.

When a law enforcement officer stops a driver for a violation of the motor vehicle laws, he shall present his law enforcement badge or other appropriate identification to the driver immediately upon approaching him and before questioning.

HISTORY: 1990 Act No. 598, Section 1.

SECTION 56-7-80.

County or municipal uniform ordinance summons.

(A) Counties and municipalities are authorized to adopt by ordinance and use an ordinance summons as provided herein for the enforcement of county and municipal ordinances. Upon adoption of the ordinance summons, any county or municipal law enforcement officer or code enforcement officer is authorized to use an ordinance summons. Any county or municipality adopting the ordinance summons is responsible for the printing, distributing, monitoring, and auditing of the ordinance summons to be used

by that entity.

(B) The uniform ordinance summons may not be used to perform a custodial arrest. No county or municipal ordinance which regulates the use of motor vehicles on the public roads of this State may be enforced using an ordinance summons.

(C) An ordinance summons must cite only one violation per summons and must contain at least the following information:

- (1) the name and address of the person or entity charged;
- (2) the name and title of the issuing officer;
- (3) the time, date, and location of the hearing;
- (4) a description of the ordinance the person or entity is charged with violating;
- (5) the procedure to post bond; and
- (6) any other notice or warning otherwise required by law.

The ordinance summonses must be consecutively and discretely numbered. The ordinance summonses must be audited as part of the annual independent audit required in Section 4-9-150 for counties and in Section 5-7-240 for municipalities, and a separate copy of each audit must be furnished to the chief administrative officer of the county or municipality, as appropriate.

(D) Service of a uniform ordinance summons vests all magistrates' and municipal courts with jurisdiction to hear and dispose of the charge for which the ordinance summons was issued and served.

(E) Any law enforcement officer or code enforcement officer who serves an ordinance summons must allow the person served to proceed without first having to post bond or to appear before a magistrate or municipal judge. Acceptance of an ordinance summons constitutes a person's recognizance to comply with the terms of the summons.

(F) Any person who fails to appear before the court as required by an ordinance summons, without first having posted such bond as may be required or without having been granted a continuance by the court, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days. Any law enforcement agency processing an arrest made pursuant to this subsection must furnish such information to the State Law Enforcement Division as required by Chapter 3 of Title 23.

(G) This statute does not prohibit a county or municipality from enforcing ordinances by means otherwise authorized by law.

HISTORY: 1992 Act No. 328, Section 1.

Title 56 - Motor Vehicles

CHAPTER 9

Motor Vehicle Financial Responsibility Act

ARTICLE 1

General Provisions

SECTION 56-9-10.

Short title.

This chapter may be cited as the "Motor Vehicle Financial Responsibility Act".

HISTORY: 1962 Code Section 46-701; 1952 (47) 1853; 1974 (58) 2718.

SECTION 56-9-20.

Definitions.

The following words and phrases when used in this chapter shall, for the purposes of this chapter have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) "Insured motor vehicle": A motor vehicle as to which there is bodily injury liability insurance and property damage liability insurance, meeting all of the requirements of item (5) of this section, or as to which a bond has been given or cash or securities delivered in lieu of such insurance or as to which the owner has qualified as a self-insurer in accordance with the provisions of Section 56-9-60;

(2) "Judgment": Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of service, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages;

(3) "License": Any license, temporary instruction permit or temporary license issued under the laws of this State pertaining to the licensing of persons to operate vehicles;

(4) "Motor vehicle": Every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles but excepting traction engines, road rollers, farm tractors, tractor cranes, power shovels, mopeds, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails;

(5) "Motor vehicle liability policy": An owner's or an operator's policy of liability insurance that fulfills all the requirements of Sections 38-77-140 through 38-77-230, certified as provided in Section 56-9-550 or 56-9-560 as proof of financial responsibility and issued, except as otherwise provided in Section 56-9-560, by an insurance carrier duly authorized to transact business in this State, to or for the benefit of the person or persons named therein as insured, and any other person, as insured, using the vehicle described therein with the express or implied permission of the named insured, and subject to the following special conditions:

(a) Contents of motor vehicle liability policy. The motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all of the provisions of this chapter.

(b) Provisions deemed incorporated in such policy. Every motor vehicle liability policy is subject to the following provisions, which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by the motor vehicle liability policy occurs;

(2) The policy may not be cancelled or annulled as to the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage;

(3) No Statement made by the insured or on his behalf and no violation of the policy shall defeat or void the policy;

(4) The satisfaction by the insured of a judgment for the injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage;

(5) The insurance carrier shall have the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in Section 38-77-140; and

(6) The policy, written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

(c) What policy need not cover. The motor vehicle liability policy need not insure any liability under the Workers' Compensation Law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of the motor vehicle, nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(d) Additional coverage permitted. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and the excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants this excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this article.

(e) Additional permissible provisions. Any motor vehicle liability policy may provide:

- (1) That the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter; and
- (2) For the prorating of the insurance thereunder with other valid and collectible insurance.
- (f) Requirements may be met by several policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.
- (g) Legal binder deemed to meet requirements. Any legal binder issued pending the issuance of a motor vehicle liability policy shall be considered as fulfilling the requirements for such policy.
- (h) Notice required to cancel certified policy; cancellation by subsequent policy. When an insurance carrier has certified a motor vehicle liability policy under Sections 56-9-550 or 56-9-560, the insurance so certified shall not be cancelled or terminated until at least ten days after a notice of cancellation or termination of the insurance certified shall be filed with the Department of Motor Vehicles, except that a policy subsequently procured and certified shall at 12:01 A. M., on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.
- (i) Other required policies unaffected. This chapter shall not be held to apply to or affect policies of automobile insurance against liability insuring public carriers or policies which may be required by any other law of this State, any law or ordinance of any municipality or any law or regulation of the United States or any of its agencies, and those policies, if they contain an agreement or are endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.
- (j) Chapter inapplicable to policies covering use by employees, etc., of vehicles not owned by insured. This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by the persons in the insured's employ or on his behalf of motor vehicles not owned by the insured;
- (6) "Nonresident": Every person who is not a resident of this State;
- (7) "Nonresident operating privilege": The privilege conferred upon a nonresident by the laws of this State pertaining to the operation by him of a motor vehicle or the use of a motor vehicle owned by him in this State;
- (8) "Operator": Every person who is in actual physical control of a motor vehicle, whether or not licensed as an operator or chauffeur under the laws of this State;
- (9) "Owner": A person who holds the legal title of a motor vehicle, or, in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be considered the owner for the purposes of this chapter;
- (10) "Person": Every natural person, firm, copartnership, association or corporation;
- (11) "Proof of financial responsibility": Proof of ability to respond to damages for liability, as provided in Section 38-77-150, or, on account of accidents occurring after the effective date of this proof, arising out of the ownership, maintenance, or use of a motor vehicle in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to this limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;
- (12) "Registration": Registration certificates and registration or license plates issued under the laws of this State pertaining to the license and registration of motor vehicles;
- (13) "State": Any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada; and
- (14) "Uninsured motor vehicle": Any motor vehicle which is not an insured motor vehicle as defined in item (1) of this section.
- (15) "Uninsured Motorist Fund" means a fund established for fees collected by the director of the Department of Motor Vehicles from registration of uninsured vehicles.

HISTORY: 1962 Code Section 46-702; 1952 (47) 1853; 1959 (51) 567; 1963 (53) 523; 1977 Act No. 80 Section 1; 1986 Act No. 528, Section 12; 1987 Act No. 155, Sections 18-21; 1993 Act No. 181, Section 1472; 1996 Act No. 459, Section 246A; 1997 Act No. 154, Section 1; 2003 Act No. 73, Section 18; 2013 Act No. 47, Section 2, eff January 1, 2014; 2023 Act No. 51 (S.549), Sections 6, 7, eff May 18, 2023.

Effect of Amendment

2023 Act No. 51, Section 6, in (1), substituted "item (5)" for "item (7)".

2023 Act No. 51, Section 7, in (14), substituted "item (1)" for "item (3)".

SECTION 56-9-30.

Chapter inapplicable to certain motor vehicles.

This chapter does not apply with respect to any motor vehicle owned by the United States, this State, or any political subdivision of this State or any municipality therein, nor, except for Section 56-9-590, does it apply with respect to any motor vehicle which is subject to other laws of this State which require their owners to carry insurance or to place security in a manner which would make those owners carry insurance or place security in addition to the amounts required by this chapter.

HISTORY: 1962 Code Section 46-704; 1952 (47) 1853; 1977 Act No. 80 Section 2; 1987 Act No. 155, Section 16.

SECTION 56-9-40.

Rights of conditional vendors, chattel mortgagees, or lessors not affected.

This chapter shall not affect the rights of any conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the

name of another as owner who becomes subject to the provisions of this chapter.

HISTORY: 1962 Code Section 46-705; 1952 (47) 1853.

SECTION 56-9-50.

Sale of vehicle when registration suspended not affected.

This chapter shall not prevent the owner of a motor vehicle, the registration of which has been suspended under this chapter, from effecting a bona fide sale of the motor vehicle to another person whose rights or privileges are not suspended under this chapter nor prevent the registration of the motor vehicle by the transferee.

HISTORY: 1962 Code Section 46-706; 1952 (47) 1853.

SECTION 56-9-60.

Self-insurers for motor vehicles; determination of financial responsibility.

(A) A person or company who has more than twenty-five motor vehicles registered in his name may qualify as a self-insurer provided that the department is satisfied that the person or company is able to pay any judgments obtained against the person or company. Upon not less than ten days' notice, the department may issue a staff determination canceling self-insurer status when the requirements for the status no longer are met. The notice must provide that a person aggrieved by the staff determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The person or company must submit the following information to the department for it to determine financial responsibility:

(1) a copy of the applicant's latest financial statement prepared by a certified public accountant licensed to do business in South Carolina, indicating that the applicant has a positive net worth;

(2) a current list of all vehicles registered in applicant's name;

(3) the applicant's procedural guidelines for processing claims; and

(4) the applicant must have a net worth of at least twenty million dollars or the department may require the applicant to deposit in a segregated self-insured claims account the sum of three thousand dollars for each vehicle to be covered by the self-insurer's certificate. Eighty percent must be cash or an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the federal reserve system, and the remaining twenty percent may be satisfied by the "quick sale" appraised value of real estate located in the State, as certified by a licensed appraiser. The three thousand dollar a vehicle amount may not decrease more than thirty percent in any given certificate year.

(B) A person or company that qualifies as a self-insurer, pursuant to this section, may issue certificates of insurance only on the vehicles registered in the applicant's name.

HISTORY: 1962 Code Section 46-709; 1952 (47) 1853; 1992 Act No. 492, Section 1; 1996 Act No. 331, Section 1; 2006 Act No. 241, Section 1, eff March 15, 2006; 2008 Act No. 279, Section 8, eff October 1, 2008.

SECTION 56-9-80.

General penalties for violations of chapter.

Any person who shall violate any provision of this chapter, for which no penalty is otherwise provided, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 46-712; 1952 (47) 1853.

SECTION 56-9-90.

Chapter as no bar to other remedies.

Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

HISTORY: 1962 Code Section 46-707; 1952 (47) 1853.

SECTION 56-9-100.

Chapter is supplemental and cumulative.

This chapter shall in no respect be considered as a repeal of any other provision contained in this Title or the motor vehicle laws of this State but shall be construed as supplemental and cumulative thereto.

HISTORY: 1962 Code Section 46-708; 1952 (47) 1853; 1959 (51) 567.

SECTION 56-9-110.

Reserved.

HISTORY: Former Section, titled Retroactive application of chapter, had the following history: 1962 Code Section 46-713; 1952 (47) 1853. Reserved by 2017 Act No. 89, Section 28, eff November 19, 2018.

SECTION 56-9-120.

Construction.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact substantially identical legislation.

HISTORY: 1962 Code Section 46-703; 1952 (47) 1853.

ARTICLE 3

Administration and Enforcement

SECTION 56-9-330.

Department of Motor Vehicles shall furnish abstracts of operating records; abstracts inadmissible as evidence.

(1) The Department of Motor Vehicles, upon request and the payment of a fee, shall furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, which abstract must also fully designate the motor vehicles,

if any, registered in the name of that person, and, if there is no record of any conviction of that person for violating any laws relating to the operation of a motor vehicle or of any injury or damage caused by that person, the department shall so certify. The department, upon request and the payment of a reasonable fee, shall furnish a monthly listing by magnetic or other electronic media of all driver's license numbers that had driving violations posted on their records during the previous month. These abstracts are not admissible as evidence in any action for damages or criminal proceedings arising out of motor vehicle accidents.

(2) The department shall, upon request, and the payment of a fee furnish any person a copy of a vehicle accident report. Revenue generated by the fee imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1962 Code Section 46-717; 1952 (47) 1853; 1976 Act No. 738 Section 9; 1985 Act No. 201, Part II, Section 57; 1989 Act No. 148, Section 2; 1996 Act No. 459, Section 216; 2016 Act No. 275 (S.1258), Section 77.A, eff July 1, 2016.

SECTION 56-9-340.

Surrender of license and registration; failure to surrender.

Any person (a) whose license and registration has been suspended as provided in this chapter, (b) whose policy of insurance or bond, when required under this chapter, has been canceled or terminated, or (c) who has neglected to furnish other proof upon request of the Department of Motor Vehicles shall immediately return his license and registration to the department. If any person fails to return to the department his license or registration as provided in this section, the department may secure possession by a commissioned highway patrolman.

Any person wilfully failing to return his license or registration as required in this section must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for thirty days and, upon conviction if a second offense, be fined two hundred dollars or imprisoned for thirty days, or both, and for a third and subsequent offenses must be imprisoned for not less than forty-five days nor more than six months.

Only convictions which occurred within five years including and immediately preceding the date of the last conviction constitute prior convictions within the meaning of this section.

HISTORY: 1962 Code Section 46-718; 1952 (47) 1853; 1988 Act No. 532, Section 20.

ARTICLE 4

Security Following Motor Vehicle Accidents

SECTION 56-9-350.

Verification of insurance coverage form to be issued following certain accidents; effect of failure to return form; uninvestigated accidents.

The operator or owner of a motor vehicle involved in an accident resulting in property damage of four hundred dollars or more, or in bodily injury or death, must be furnished a written request form at the time of the accident, or as soon after the accident as possible, by the investigating officer for completion and verification of liability insurance coverage, the form to be in a manner prescribed by the Department of Motor Vehicles and the Department of Public Safety.

The completed and verified form must be returned by the operator or owner to the Department of Motor Vehicles within fifteen days from the date the form was delivered by the officer. Failure to return the form, verified in the proper manner, is prima facie evidence that the vehicle was uninsured.

The operator or owner of a motor vehicle involved in an accident resulting in property damage of four hundred dollars or more, or in bodily injury or death, which was not investigated by a law enforcement officer shall furnish to the Department of Motor Vehicles a written report and verification of liability insurance coverage, the proof to be in a manner prescribed by the Department.

HISTORY: 1978 Act No. 467 Section 1; 1988 Act No. 665, Section 2.

SECTION 56-9-351.

Deposit of security by owner following accident; suspension of license, registrations, and notice.

Within sixty days of receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to the property of any one person in the amount of two hundred dollars or more, the Department of Motor Vehicles shall suspend the license of each operator or driver if he is the owner of the motor vehicle involved in the accident and all registrations of each owner of a motor vehicle involved in the accident. If the operator or driver is a nonresident, the privilege of operating a motor vehicle within this State and the privilege of the use within this State of a motor vehicle owned by him is suspended unless the operator, driver or owner, or both, deposits security in a sum not less than two hundred dollars or an additional amount as the department may specify that will be sufficient to satisfy a judgment that may be recovered for damages resulting from the accident which may be recovered against the operator or owner. Notice of the suspension must be sent by the department to the operator and owner at least ten days before the effective date of the suspension and shall state the amount required as security.

HISTORY: 1978 Act No. 467 Section 1; 1992 Act No. 510, Section 1.

SECTION 56-9-352.

Exceptions.

Section 56-9-351 shall not apply to any of the following:

(1) The operator or owner if the owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident;

(2) The operator, if not the owner of the motor vehicle, if there was in effect at the time of the accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

(3) The operator or owner if the liability of the operator or owner for damages resulting from the accident is, in the judgment of the

Department of Motor Vehicles, covered by any other form of liability insurance policy or bond;

(4) Any person qualifying as a self-insurer under Section 56-9-60 of this chapter;

(5) The operator or owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such owner or operator;

(6) The owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating the motor vehicle without his permission, express or implied;

(7) If, before the date that the Department would otherwise suspend the license and registration or nonresident's operating privilege under Section 56-9-351, there shall be filed with the Department evidence satisfactory to it that the person who would otherwise have to file security (a) has been released from liability, (b) has been finally adjudicated not to be liable, (c) has executed a warrant for confession of judgment, payable when and in such installments as the parties have agreed to or (d) has executed a duly acknowledged written agreement, providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accidents;

(8) The owner of any legally parked vehicle when struck by another vehicle;

(9) Any person operating a motor vehicle owned by his employer while he is operating the vehicle in the scope of his employment.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-353.

Type and terms of policy or bond.

No policy or bond shall be effective under Sections 56-9-351 and 56-9-352 unless issued by an insurance company or surety company licensed and authorized by the South Carolina Department of Insurance to do business in this State, except that if the motor vehicle was not registered in this State or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond or the most recent renewal thereof, the policy or bond shall not be effective under Sections 56-9-351 and 56-9-352 unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Department of Motor Vehicles to accept service on its behalf of notice of process in any action upon the policy or bond arising out of the accident. Every policy or bond must be subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and subject to this limit for one person, to a limit of not less than fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

HISTORY: 1978 Act No. 467 Section 1; 2013 Act No. 47, Section 3, eff January 1, 2014.

SECTION 56-9-354.

Conditions for renewal of suspended license, registration, and operating privilege.

The license and registration and nonresident's operating privilege suspended as provided in Section 56-9-351 shall, except as otherwise provided for in Section 56-9-361, remain suspended and shall not be renewed nor shall any license or registration be issued to him until:

(1) He shall deposit or there shall be deposited on his behalf the security required under Section 56-9-351;

(2) Two years shall have elapsed following the date of the accident and evidence satisfactory to the Department of Motor Vehicles has been filed with it that during that period no action for damages arising out of the accident has been instituted; or

(3) Evidence satisfactory to the Department has been filed with it of a release from liability, a final adjudication of nonliability, a warrant for confession of judgment or a duly acknowledged written agreement, in accordance with item (7) of Section 56-9-352; provided, however, in the event there shall be any default in the payment of any installment under any confession of judgment, then, upon notice of default, the Department shall suspend the license and registration or nonresident's operating privilege of the person defaulting, which shall not be restored until the entire amount provided for in confession of judgment has been paid; and provided, further, that in the event there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon notice of default, the Department shall suspend the license and registration or nonresident's operating privilege of the person defaulting, which shall not be restored unless and until (a) he deposits and thereafter maintains security as required under Section 56-9-351 in the amount the Department may determine or (b) two years shall have elapsed following the date when the security was required and during that period no action upon the agreement has been instituted in a court in this State.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-355.

Driver or owner involved in accident may not obtain license or registration without compliance with article.

In the event the driver or the owner of a vehicle of a type subject to registration under the laws of this State, involved in an accident within this State, has no license or registration in this State, such driver shall not be allowed a license nor shall such owner be allowed to register any vehicle in this State until he has complied with the requirements of this article to the same extent that would be necessary if, at the time of the accident, he had held a license or been the owner of a vehicle registered in this State.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-356.

Transmittal of record of nonresident's suspension to officials in nonresident's state.

When a nonresident's operating privilege is suspended pursuant to Section 56-9-351 or 56-9-354, the Department of Motor Vehicles shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration

certificates in the state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in Section 56-9-357.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-357.

Suspension of resident's license and registration upon notice of suspension in another state.

Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident under circumstances which would require the Department of Motor Vehicles to suspend a nonresident's operating privilege had the accident occurred in this State, the Department shall suspend the license of such resident if he was the driver and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-358.

Limit on security required; deposit.

The security required under this article shall be in the form and in the amount that the Department of Motor Vehicles may require but in no case in excess of the limits specified in Section 56-9-353 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person on whose behalf the deposit is made and, at any time while the deposit is in the custody of the Department or State Treasurer, the person depositing it may, in writing, amend the specifications of the persons on whose behalf the deposit is made to include additional persons; but a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-359.

Reduction of amount of security.

The Department of Motor Vehicles may at any time reduce the amount of security ordered in any case if, in its judgment, the amount ordered is excessive. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative, notwithstanding the provisions of Section 56-9-360. In no case shall the Department reduce the amount of security to a sum less than two hundred dollars.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-360.

Security to be in custody of State Treasurer; applications to which security may be put; return.

Security deposited in compliance with the requirements of this article shall be placed by the Department of Motor Vehicles in the custody of the State Treasurer and shall be applicable only to the payment of judgments rendered against the persons on whose behalf the deposit was made for damages arising out of the accident in question in an action at law begun not later than two years after the date of the accident or within two years after the date of deposit of any security under item (3) of Section 56-9-354, and this deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the Department has been filed with it that there has been a release from liability, a final adjudication of nonliability, a warrant for confession of judgment or a duly acknowledged agreement, in accordance with item (7) of Section 56-9-352 or whenever, after the expiration of two years from the date of the accident or within two years after the date of deposit of any security under item (3) of Section 56-9-354, the Department shall be given reasonable evidence that there is no action pending and no judgment rendered in the action left unpaid.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-361.

Employment of suspended driver as operator of vehicle; employer's proof of financial responsibility.

Whenever any person whose license would otherwise have been suspended for failure to deposit security required pursuant to this article is, or later becomes, an operator in the employ of another owner, the Department of Motor Vehicles may in its discretion, notwithstanding any provisions in this chapter to the contrary, allow such person to retain his license to operate a vehicle of another owner, in the pursuit of such employment, if the employer-owner of the vehicle shall have furnished proof of financial responsibility covering the operation of any vehicle which such person may be permitted to operate. The Department shall designate the restrictions imposed pursuant to this section on that person's license.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-362.

Actions or findings of Department of Motor Vehicles and security as not constituting evidence of negligence.

Neither the action taken by the Department of Motor Vehicles pursuant to this article, the findings, if any, of the Department upon which action is based nor the security filed as provided in this article shall be referred to in any way or be any evidence of the negligence of due care of either party at the trial of any action at law to recover damages.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-363.

Forms and affidavits substantiating claims for damages; driver's license suspension hearings; appeals.

The Department of Motor Vehicles may in the administration of this article prescribe such form as it may deem necessary and

require individuals to file sworn affidavits substantiating any claims for damages should the need arise. Any person whose driving privilege becomes subject to suspension or is suspended under the provisions of this article may request a contested case hearing with the Office of Motor Vehicle Hearings prior to the suspension or within thirty days after written notice of the suspension in order that he might prove that no reasonable possibility exists that a civil court might enter a judgment against him as a result of the accident in question. Any person aggrieved by the decision of the hearing officer following the hearing may file an appeal with the Administrative Law Court in accordance with its appellate rules.

HISTORY: 1978 Act No. 467 Section 1; 2006 Act No. 381, Section 9, eff June 13, 2006; 2008 Act No. 279, Section 9, eff October 1, 2008.

ARTICLE 5

Proof of Financial Responsibility

SECTION 56-9-410.

Courts shall report nonpayment of judgments to Department of Motor Vehicles.

Whenever any person fails within sixty days to satisfy any judgment, it shall be the duty of the clerk of court, or of the judge of a court which has no clerk, in which any judgment is rendered within this State to forward to the Department of Motor Vehicles immediately after the expiration of sixty days a certified copy of the judgment.

HISTORY: 1962 Code Section 46-735; 1952 (47) 1853.

SECTION 56-9-420.

Report to home state of nonpayment of judgment against nonresident.

If the defendant named in any certified copy of a judgment reported to the Department of Motor Vehicles is a nonresident, the Department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

HISTORY: 1962 Code Section 46-736; 1952 (47) 1853.

SECTION 56-9-430.

Suspension of driver's license or privilege and registration for nonpayment of judgment; special restricted driver's licenses.

(A) The Department of Motor Vehicles upon receipt of a certified copy of judgment shall suspend the license and registration and any nonresident's operating privilege of any person against whom the judgment was rendered, except as otherwise provided in Sections 56-9-440 to 56-9-460 and 56-9-490.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-737; 1952 (47) 1853; 1999 Act No. 115, Section 9; 2001 Act No. 79, Section 2.J.

SECTION 56-9-440.

Suspension of driver's license or privilege and registration for nonpayment of judgment; exception when judgment creditor consents.

If the judgment creditor consents in writing, in the form which the Department of Motor Vehicles may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, this may be allowed by the Department for six months from the date of the consent and thereafter until the consent is revoked in writing, notwithstanding default in the payment of the judgment or any installment thereof prescribed in Section 56-9-490, if the judgment debtor furnishes proof of financial responsibility.

HISTORY: 1962 Code Section 46-738; 1952 (47) 1853.

SECTION 56-9-450.

Suspension of driver's license or privilege and registration for nonpayment of judgment; exception when insurance coverage proved.

Any person whose license, registration or nonresident's operating privilege has been suspended or is about to be suspended or shall become subject to suspension under the provisions of this article may be relieved from the effect of the judgment as prescribed in this article by filing with the Department of Motor Vehicles an affidavit stating that at the time of the accident upon which the judgment has been rendered the affiant was insured, that the insurer is liable to pay the judgment and the reason, if known, why the insurance company has not paid the judgment. He shall also file the original policy of insurance or a certified copy thereof, if available, and other documents which the Department may require to show that the loss, injury or damage for which the judgment was rendered was covered by the policy of insurance. If the Department is satisfied from these papers that the insurer was authorized to issue the policy of insurance at the time and place of issuing the policy and that the insurer is liable to pay the judgment, at least

to the extent and for the amounts required in this chapter the Department shall not suspend the license or registration or nonresident's operating privilege or if already suspended shall reinstate them.

HISTORY: 1962 Code Section 46-739; 1952 (47) 1853.

SECTION 56-9-460.

Permitting driver subject to suspension to operate vehicle of employer.

Whenever any person whose license would otherwise have been suspended for failure to satisfy a judgment as provided in Section 56-9-430 is, or later becomes, an operator in the employ of another owner, the Department of Motor Vehicles may in its discretion, notwithstanding any provisions in this chapter to the contrary, allow such person to retain his license to operate a vehicle of another owner in the pursuit of such employment, if the employer-owner of the vehicle shall have furnished proof of financial responsibility covering the operation of any vehicle which such person may be permitted to operate. The Department shall designate the restrictions imposed pursuant to this section on that person's license.

HISTORY: 1962 Code Section 46-740; 1952 (47) 1853.

SECTION 56-9-470.

Suspension to continue until judgment paid and financial responsibility proved; effect of discharge in bankruptcy.

The license, registration and nonresident's operating privilege shall, except as otherwise provided in Section 56-9-460, remain suspended and shall not be renewed nor shall any license or registration be thereafter issued in the name of that person, including that person if not previously licensed, until every judgment is satisfied in full or to the extent provided in Section 56-9-480 and until the person gives proof of financial responsibility, subject to the exemptions stated in Sections 56-9-440 to 56-9-460 and 56-9-490. A discharge in bankruptcy following the rendering of any judgment shall not relieve the judgment debtor from any of the requirements of this article.

HISTORY: 1962 Code Section 46-741; 1952 (47) 1853.

SECTION 56-9-480.

Satisfaction of judgments; payments sufficient to satisfy requirements.

Judgments referred to in this article must, for the purpose of this article only, be considered satisfied:

- (1) when twenty-five thousand dollars has been credited upon any judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;
- (2) when, subject to the limit of twenty-five thousand dollars because of bodily injury to or death of one person, the sum of fifty thousand dollars has been credited upon any judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or
- (3) when twenty-five thousand dollars has been credited upon any judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident must be credited in reduction of the amounts provided for in this section.

HISTORY: 1962 Code Section 46-742; 1952 (47) 1853; 1959 (51) 567; 1987 Act No. 155, Section 7; 2013 Act No. 47, Section 4, eff January 1, 2014.

SECTION 56-9-490.

Installment payment of judgment; effect of default.

A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments, and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may order and fix the amounts and times of payment of the installments.

The Department of Motor Vehicles shall not suspend a license, registration or nonresident's operating privilege and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment when the judgment debtor gives proof of financial responsibility and obtains an order permitting the payment of the judgment in installments and while the payment of any installment is not in default.

In the event the judgment debtor fails to pay any installment as specified by the order, then upon notice of the default the Department shall suspend the license, registration or nonresident's operating privilege of the judgment debtor until the judgment is satisfied, as provided in this article.

HISTORY: 1962 Code Section 46-743; 1952 (47) 1853.

SECTION 56-9-500.

Suspension of registration upon suspension or revocation of license; continuation of suspensions until financial responsibility proved.

Whenever the Department of Motor Vehicles, under any law of this State, suspends or revokes the license of any person upon receiving a record of conviction or forfeiture of bail and in all cases where the Department suspends or revokes the driver's license of any person under lawful authority possessed by the Department, except in those cases provided for in Section 56-1-270, in which case the license only shall be suspended and not the registration, the Department shall also suspend the registration for all motor vehicles registered in the name of that person, except that it shall not suspend the registration, unless otherwise required by law, if that person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by him. The license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to that person nor shall any motor vehicle be thereafter registered in the name of that person until permitted under the motor vehicle laws of this State and not then until he shall give and thereafter

maintain proof of financial responsibility.

When such responsibility is provided for under the provisions of Section 56-9-550, certification shall be furnished by the insurance company to the Department within fifteen days.

HISTORY: 1962 Code Section 46-744; 1952 (47) 1853; 1958 (50) 1662; 1962 (52) 1975; 1974 (58) 2718.

SECTION 56-9-505.

Waiver of financial responsibility requirements upon proof of payment of property tax.

An individual whose driver's license or motor vehicle registration has been suspended for failure to pay property taxes may request that the Department of Motor Vehicle waive the financial responsibility requirements provided for in Chapter 9 of Title 56, upon providing proof to the department that such taxes have been paid.

HISTORY: 1996 Act No. 459, Section 217.

SECTION 56-9-510.

Suspension or revocation of nonresident's operating privilege upon conviction to continue until financial responsibility proved.

Whenever the Department of Motor Vehicles suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, this privilege shall remain suspended or revoked unless that person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

HISTORY: 1962 Code Section 46-745; 1952 (47) 1853.

SECTION 56-9-520.

Denial of license or registration upon certain convictions until financial responsibility proved.

If a person is not licensed but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, for operating a motor vehicle upon the highways without being licensed to do so or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to that person and no motor vehicle shall continue to be registered or thereafter be registered in his name until he shall give and thereafter maintain proof of financial responsibility.

HISTORY: 1962 Code Section 46-746; 1952 (47) 1853.

SECTION 56-9-530.

Special exception for certain first convictions for driving without driver's license.

Notwithstanding any provision of law to the contrary, any person who has never been issued a license to operate a motor vehicle on the highways of the State of South Carolina and who has been convicted one time of operating a motor vehicle on the highways of the State without a license while driving an insured vehicle shall not, by reason of that fact alone, be required to prove financial responsibility.

In addition, any person who has his driving privilege revoked pursuant to Section 56-1-510 is not, by reason of that fact alone, required to furnish proof of financial responsibility.

HISTORY: 1962 Code Section 46-746.1; 1963 (53) 501; 1988 Act No. 559, Section 2.

SECTION 56-9-540.

Methods of proving financial responsibility.

Proof of financial responsibility when required under this chapter may be given by filing:

- (1) A certificate of insurance as provided in Section 56-9-550 or Section 56-9-560;
- (2) A bond as provided in Section 56-9-570; or
- (3) A certificate of deposit of money or securities as provided in Section 56-9-580.

HISTORY: 1962 Code Section 46-747; 1952 (47) 1853.

SECTION 56-9-550.

Certificate or notice of insurance as proof; contents, terms, and cancellation.

Proof of financial responsibility may be furnished by filing with the Department of Motor Vehicles the written certificate or notice by magnetic or electronic media in a manner satisfactory to the department of any insurance carrier authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or notice shall give the date of the motor vehicle liability policy, which must be the same as the effective date of the certificate or notice and shall designate by explicit description or by appropriate reference all motor vehicles covered, unless the policy is issued to a person who is not the owner of a motor vehicle. The policy must be written for a minimum term of six months. A certificate or notice of insurance shall remain in full force and effect for a period of at least ninety days unless the certificate or notice is canceled by the insurance company for some reason other than nonpayment of premium. Should a certificate or notice of insurance be canceled after ninety days for nonpayment of premium, the insurance company issuing the certificate or notice immediately shall notify the department that the reason for cancellation is for nonpayment of premium. Should a certificate or notice of insurance be canceled for any reason other than for nonpayment of premium, the insurance company issuing the certificate or notice immediately shall notify the department that the cancellation is not for nonpayment of premium. The department may refuse acceptance of the certificate or notice of insurance required under this section if the certificate or notice is filed:

- (1) by an agent or company found to be in violation of any of the provisions of this chapter; or
- (2) for a person who previously has had a certificate or notice canceled for nonpayment of premium, unless the policy under which the certificate or notice is issued is certified to be noncancellable for a period of one year for nonpayment of premium.

No motor vehicle may be or may continue to be registered in the name of a person required to file proof of financial responsibility

unless the motor vehicle is designated in the certificate or notice.

HISTORY: 1962 Code Section 46-748; 1952 (47) 1853; 1959 (51) 567; 1977 Act No. 80 Section 3; 1992 Act No. 427, Section 1. SECTION 56-9-560.

Certificate of insurance as proof; certificate furnished by nonresident; effect of default by unauthorized insurer.

The nonresident owner of a motor vehicle not registered in this State may give proof of financial responsibility by filing with the Department of Motor Vehicles written certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in the certificate is registered or, if the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided the certificate otherwise conforms with the provisions of this chapter, and the Department shall accept it upon condition that the insurance carrier complies with the following provisions with respect to the policies certified:

(1) The insurance carrier shall execute a power of attorney authorizing the Department to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State; and

(2) The insurance carrier shall agree in writing that the policies shall be construed to conform with the laws of this State relating to the terms of motor vehicle liability policies issued in this State.

If any insurance carrier not authorized to transact business in this State, which has qualified to furnish proof of financial responsibility, defaults in any of these undertakings or agreements, the Department shall not thereafter accept as proof any certificate of that carrier whether formerly filed or thereafter tendered as proof, so long as the default continues.

HISTORY: 1962 Code Section 46-749; 1952 (47) 1853.

SECTION 56-9-570.

Bond as proof; qualifications of sureties; bond as lien on real estate of individual sureties; action on bond.

Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this State or a bond with at least two individual sureties, each owning real estate within this State and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge of a court of record, which bond shall be conditioned for payment of the amounts specified in item (13) of Section 56-9-20. The bond shall be filed with the Department of Motor Vehicles and shall not be cancelable except after ten days' written notice to the Department. The bond shall constitute a lien in favor of the State upon the real estate scheduled of any surety. Such lien shall exist in favor of any holder of a final judgment against the person who has filed the bond for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damage because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after the bond was filed, upon the filing of notice to that effect by the Department in the office of the proper clerk of court of the county or city where the real estate shall be located. Any surety scheduling real estate security shall furnish satisfactory evidence of title and the nature and extent of all encumbrances thereon and the value of the surety's interest therein in the manner which the judge of the court of record may require. The notice filed by the Department shall, in addition to other matters which are considered to be pertinent by the Department, contain a legal description of the real estate scheduled, the name of the holder of the record title, the amount for which it stands as security and the name of the person in whose behalf proof is being made. Upon the filing of the notice, the clerk of court shall retain it as part of the records of the court and shall enter upon the record the date and hour of filing, the name of the surety, the name of the titleholder of record, the description of the real estate and a notation that a lien is charged on the real estate pursuant to the notice filed under this section.

If a judgment rendered against the principal on the bond shall not be satisfied within sixty days after it has become final, the judgment creditor may for his own use and benefit and at his sole expense bring an action in the name of the State against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who executed the bond. An action to foreclose any lien upon real estate scheduled by any surety under the provisions of this section shall be brought in the same manner as is provided for the foreclosure of real estate mortgages in this State.

HISTORY: 1962 Code Section 46-750; 1952 (47) 1853.

SECTION 56-9-580.

Certificate of deposit of cash or securities as proof; amount; deposit held to satisfy judgment.

Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him thirty-five thousand dollars in cash or securities such as may legally be purchased by savings banks or for trust funds of a market value of thirty-five thousand dollars. The State Treasurer may not accept the deposit and issue a certificate therefor and the Department of Motor Vehicles may not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

The deposit must be held by the State Treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against the person making the deposit for damages, including damage for care and loss of service, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the deposit was made. Money or securities deposited are not subject to attachment or execution unless the attachment or execution arises out of a suit for damages which this chapter covers.

HISTORY: 1962 Code Section 46-750.1; 1952 (47) 1853; 1960 (51) 1584; 1977 Act No. 80 Section 4; 1987 Act No. 155, Section 8. SECTION 56-9-590.

Owner may give proof for employee or member of household; restrictions on license.

Whenever any person required to give proof of financial responsibility under this chapter is, or later becomes, an operator in the employ of any owner or is, or later becomes, a member of the immediate family or household of the owner, the Department of Motor Vehicles shall accept proof given by the owner in lieu of proof by the other person to permit that person to operate a motor vehicle for which the owner has given proof as provided in this chapter. The Department shall designate the restrictions imposed by this section on that person's license.

HISTORY: 1962 Code Section 46-750.2; 1952 (47) 1853.

SECTION 56-9-600.

Substitution of other adequate proof.

The Department of Motor Vehicles shall consent to the cancellation of any bond or certificate of insurance or the Department shall direct and the State Treasurer shall return the money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

HISTORY: 1962 Code Section 46-750.3; 1952 (47) 1853.

SECTION 56-9-610.

Other proof may be required; suspension pending filing of proof.

Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the Department of Motor Vehicles shall require other proof as required by this chapter and shall suspend the license and registration or the nonresident's operating privilege pending the filing of other proof.

HISTORY: 1962 Code Section 46-750.4; 1952 (47) 1853.

SECTION 56-9-620.

Cancellation or return of proof; waiver of requirements of filing proof.

The Department of Motor Vehicles shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the Department shall waive the requirement of filing proof, in any of the following events:

(1) At any time after three years from the date the proof was required when, during the three year period preceding the request, the Department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration, or nonresident's operating or registration privilege of the person by or for whom the proof was furnished;

(2) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(3) In the event the person who has given proof surrenders his license and registration to the Department;

Provided, however, the Department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by the proof is then pending or any judgment upon this liability is then unsatisfied or in the event the person who has filed the bond or deposited the money or securities has, within one year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of these facts or that he has been released from all of his liability or has been finally adjudicated not to be liable for the injury or damage shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Department.

HISTORY: 1962 Code Section 46-750.5; 1952 (47) 1853; 1959 (51) 567; 1978 Act No. 467 Section 2.

SECTION 56-9-630.

Re-establishment of cancelled or returned proof.

Whenever any person whose proof has been cancelled or returned under item (3) of Section 56-9-620 applies for a license or registration within a period of three years from the date proof was originally required, this application shall be refused unless the applicant shall re-establish the proof for the remainder of the three year period.

HISTORY: 1962 Code Section 46-750.6; 1952 (47) 1853; 1959 (51) 567; 1963 (53) 501.

Title 56 - Motor Vehicles

CHAPTER 10

Motor Vehicle Registration and Financial Security

ARTICLE 1

Vehicle Financial Security and Other Matters

SECTION 56-10-10.

Security required on registered vehicles.

Every owner of a motor vehicle required to be registered in this State shall maintain the security required by Section 56-10-20 with respect to each motor vehicle owned by him throughout the period the registration is in effect. No certificate of registration may be issued or transferred to an owner by the director of the Department of Motor Vehicles unless the owner or prospective owner produces satisfactory evidence that the security is in effect, including the name of the owner's automobile liability insurer, and his signed statement, subject to this state's perjury statutes, that insurance is in place as required by this section.

HISTORY: Former 1976 Code Section 56-11-190 [1962 Code Section 46-750.110; 1974 (58) 2718; Am, 1987 Act No. 166, Section 19] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-10 by 1987 Act No. 155, Section 9; 1993 Act No. 181, Section 1473; 1994 Act No. 497, Part II, Section 121K; 1996 Act No. 459, Section 218.

SECTION 56-10-20.

Type of security required.

The security required under this chapter is a policy or policies written by insurers authorized to write such policies in South Carolina providing for at least (1) the minimum coverages specified in Sections 38-77-140 through 38-77-230 and (2) the benefits required under Sections 38-77-240, 38-77-250, and 38-77-260. However, the director or his designee may approve and accept another form of security in lieu of such a liability insurance policy if he finds that such other form of security is adequate to provide and does in fact provide the benefits required by this chapter.

HISTORY: Former 1976 Code Section 56-11-200 [1962 Code Section 46-750.120; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-20 by 1987 Act No. 155, Section 9; 1993 Act No. 181, Section 1474; 1996 Act No. 459, Section 219.

SECTION 56-10-30.

Automatic suspension of registration upon lapse or termination of security.

If at any time the security required of any person under Section 56-10-20 lapses or terminates, the certificate of registration of the motor vehicle for which the security was in effect and the owner's driving privileges are, as of the date the security lapses or terminates, automatically suspended and must remain suspended until the security is replaced.

HISTORY: Former 1976 Code Section 56-11-210 [1962 Code Section 46-750.121; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-30 by 1987 Act No. 155, Section 9; 2004 Act No. 241, Section 1.

SECTION 56-10-40.

Providers of insurance or security to notify Department of Motor Vehicles of termination or lapse; notice to person holding registration.

Every insurer writing automobile liability insurance in this State and every provider of other security approved and accepted by the director or his designee in lieu of such insurance shall notify the Department of Motor Vehicles in a manner prescribed by regulation of the lapse or termination of any such insurance or security and shall notify the department of compliance transactions required of vehicle owners under Section 56-10-650 as prescribed by regulation. These notifications must be made in a manner prescribed by the working group.

Upon receipt of any such notice of lapse or termination the department shall make a reasonable effort to notify the person that his certificate of registration and driving privileges have been suspended and shall recover the certificate from such person and the motor vehicle plate from the vehicle concerned.

HISTORY: Former 1976 Code Section 56-11-220 [1962 Code Section 46-750.122; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-40 by 1987 Act No. 155, Section 9; 1993 Act No. 181, Section 1475; 1996 Act No. 459, Section 220; 2002 Act No. 324, Section 5; 2004 Act No. 241, Section 2.

Code Commissioner's Note

2002 Act No. 324, Section 12, provides as follows:

"This act takes effect July 1, 2002; provided, however, that Section 56-10-650 and Sections 5, 6, and 9 are effective one hundred eighty days after the latter of certification by the department to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the program has been implemented and is fully prepared to accept data transmitted by the insurers or publication of final regulations by the department."

SECTION 56-10-45.

Confiscation of registration certificates and license plates.

(A) The Department of Public Safety and the Department of Motor Vehicles each may enter into agreements with other municipal and county law enforcement agencies for the collection of suspended or revoked drivers' licenses, motor vehicle registrations, and motor vehicle plates. The contracting department must assess a fifty dollar fine for each item recovered pursuant to this section in addition to any other fines assessed. Upon collection, this fine must be returned on a quarterly basis to the general fund of the municipality or county which initiated the enforcement action.

(B) All motor vehicle registration certificates, motor vehicle plates, and drivers' licenses confiscated or seized pursuant to this

section must be returned to the Department of Motor Vehicles within fifteen days.

(C) The Department of Motor Vehicles shall collect and keep the reinstatement fee as provided in Section 56-10-240 and the per diem fine as provided in Section 56-10-245 upon the reinstatement of tags confiscated by local law enforcement agencies pursuant to this section. Fines collected pursuant to Section 56-10-240, referring to the monetary penalty of a person who is guilty of a misdemeanor for wilful failure to return his motor vehicle license plates and registration, must be paid to the governing body of the local law enforcement agency confiscating the tags and deposited in the general fund of the local governing body. The director or his designee shall monthly provide information to local law enforcement agencies, upon request of the local law enforcement agency, on uninsured vehicles.

HISTORY: 1989 Act No. 148, Section 48; 1993 Act No. 113, Section 3; 1993 Act No. 181, Section 1476; 1996 Act No. 459, Section 221.

SECTION 56-10-46.

Enhanced proof of insurance requests following lapse or termination.

A person responding to the notice contained in Section 56-10-40 who purchased insurance after receiving the notice shall have his motor vehicle record noted to indicate that he will be subject to regular requests for proof of insurance from the Department of Motor Vehicles. The person shall be required to provide proof of coverage as prescribed by regulation every seven months for a period of three years.

HISTORY: 2002 Act No. 324, Section 7.

SECTION 56-10-50.

Suspension of registration not to affect title to vehicle.

No suspension of a certificate of registration hereunder affects the status of title to the motor vehicle or any property rights in such motor vehicle, but the provisions of Section 56-3-110 are applicable with respect to the operation of such motor vehicle.

HISTORY: Former 1976 Code Section 56-11-230 [1962 Code Section 46-750.123; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-50 by 1987 Act No. 155, Section 9.

ARTICLE 3

Insurance Requirements Relating to Motor Vehicle Registration

SECTION 56-10-210.

Definitions.

As used in this article:

(1) The term "insured motor vehicle" means a motor vehicle as to which there is maintained the security required by Section 56-10-20.

(2) The term "operator" means every person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(3) [Deleted]

HISTORY: Former 1976 Code Section 56-11-710 [1962 Code Section 46-750.145; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-210 by 1987 Act No. 155, Section 9; 1993 Act No. 181, Section 1477; 1996 Act No. 459, Section 246A.

SECTION 56-10-220.

Requirement that vehicle sought to be registered be insured; proof; regulations.

Every person applying for registration for a motor vehicle shall at the time of such registration and licensing declare the vehicle to be an insured motor vehicle under the penalty set forth in Section 56-10-260 and shall execute and furnish to the Department of Motor Vehicles his certificate that such motor vehicle is an insured motor vehicle, and that he will maintain insurance thereon during the registration period. The certificate must be in the form prescribed by the department with input from the Department of Insurance and the working group. The department may require any registered owner or any applicant for registration and licensing of a motor vehicle declared to be an insured motor vehicle to submit a certificate of insurance executed by an authorized agent or representative of an insurance company authorized to do business in this State. Such certificate must also be in a form prescribed by the department with input from the Department of Insurance and the working group. The Department of Motor Vehicles with input from the Department of Insurance and the working group may promulgate a regulation to require proof of insurance on new and renewal registrations which may be submitted on behalf of the applicant by the agent or insurer in a manner acceptable to the Department of Motor Vehicles.

HISTORY: Former 1976 Code Section 56-11-720 [1962 Code Section 46-750.146; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-220 by 1987 Act No. 155, Section 9; 1993 Act No. 181, Section 1478; 1996 Act No. 459, Section 222; 2004 Act No. 241, Section 3.

SECTION 56-10-225.

Proof of insurance and financial responsibility in vehicle; penalties.

(A) A person whose application for registration and licensing of a motor vehicle has been approved by the Department of Motor Vehicles must maintain in the motor vehicle at all times proof that the motor vehicle is an insured vehicle in conformity with the laws of this State and Section 56-10-510.

(B) The owner of a motor vehicle must maintain proof of financial responsibility in the motor vehicle at all times, and it must be displayed upon demand of a police officer or any other person duly authorized by law. Evidence of financial responsibility may be provided by use of a mobile electronic device in a format issued by an automobile insurer. This section does not require that an

automobile insurer issue verification concerning the existence of coverage it provides an insured in an electronic format. Information contained or stored in a mobile electronic device presented pursuant to this subsection is not subject to a search by a law enforcement officer except pursuant to the provisions of Section 17-13-140 providing for the issuance, execution, and return of a search warrant or pursuant to the express written consent of the lawful owner of the device.

(C) A person who fails to maintain the proof of insurance in his motor vehicle as required by subsection (A) is guilty of a misdemeanor and, upon conviction, is subject to the same punishment as provided by law for failure of the person driving or in control of a motor vehicle to carry the vehicle registration card and to display the registration card upon demand. However, a charge of failing to maintain proof that a motor vehicle is insured must be dismissed if the person provides proof to the court that the motor vehicle was insured on the date of the violation. Upon notice of conviction, the department shall suspend the owner's driver's license until satisfactory proof of insurance is provided. If at any time the department determines that the vehicle was without insurance coverage, the owner's registration and driving privileges will be suspended pursuant to Section 56-10-520.

HISTORY: 1997 Act No. 154, Section 22; 1999 Act No. 100, Part II, Section 103B; 2001 Act No. 90, Section 2; 2002 Act No. 324, Section 3; 2014 Act No. 128 (H.3623), Section 2, eff March 4, 2014.

SECTION 56-10-230.

Notice of termination of insurance.

Prior to the termination of insurance by cancellation or refusal to renew by the insurer notice thereof must be given as required by Sections 38-77-110 and 38-77-120.

HISTORY: Former 1976 Code Section 56-11-730 [1962 Code Section 46-750.147; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-230 by 1987 Act No. 155, Section 9.

SECTION 56-10-240.

Requirement that upon loss of insurance, insured obtain new insurance or surrender registration and plates; written notice by insurer; suspension of registration and plates; enforcement; penalties.

(A) If, during the period for which it is licensed, a motor vehicle is or becomes an uninsured motor vehicle, then the vehicle owner immediately shall obtain insurance on the vehicle or surrender the motor vehicle license plate and registration certificate issued for the motor vehicle.

(B) The Department of Motor Vehicles may not reissue a registration certificate and license plate for that vehicle until satisfactory evidence has been filed by the owner or by the insurer who gave the cancellation or refusal to renew notice to the department that the vehicle is insured. Upon receiving information to the effect that a policy is canceled or otherwise terminated on a motor vehicle registered in South Carolina, the department shall suspend the owner's driving privileges, license plate, and registration certificate and shall initiate action as required within fifteen days of the notice of cancellation to pick up the license plate and registration certificate. A person who has had his driving privileges, vehicle license plate, and registration certificate suspended by the department, but who at the time of suspension possesses liability insurance coverage sufficient to meet the financial responsibility requirements as set forth in this chapter, has the right to provide documents showing that the vehicle was actually insured during the suspension period to the department. If the department determines that the person has sufficient liability insurance coverage the suspension is voided immediately. The department shall give notice by first class mail of the cancellation or suspension of driving and registration privileges to the vehicle owner at his last known address.

(C) If the vehicle owner unlawfully refuses to surrender the suspended items as required in this article, the department through its designated agents or by request to a county or municipal law enforcement agency shall take possession of the suspended license plates and registration certificates and may not reissue the registration until proper proof of liability insurance coverage is provided and until the owner has paid a reinstatement fee of two hundred dollars. A person who voluntarily surrenders his license plates and registration certificates before their suspension shall not be charged a reinstatement fee. Revenue generated by the fee imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(D) A person wilfully failing to return his motor vehicle license plates and registration certificates as required in this section is guilty of a misdemeanor and, upon conviction, must be punished as follows:

(1) for a first offense fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for thirty days;

(2) for a second offense fined two hundred dollars or imprisoned for thirty days, or both;

(3) for a third and subsequent offense imprisoned for not less than forty- five days nor more than six months.

(E) Only convictions which occurred within ten years including and immediately preceding the date of the last conviction constitute prior convictions within the meaning of this section.

HISTORY: Former 1976 code Section 56-11-740 [1962 Code Section 46-750.148; 1974 (58) 2718; Am, 1977 Act No. 80, Section 6] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-240 by 1987 Act No. 155, Section 9; Am, 1988 Act No. 532, Section 21; 1988 Act No. 671, Section 1; 1989 Act No. 148, Section 4; 1993 Act No. 181, Section 1479; 1996 Act No. 459, Section 223; 2001 Act No. 82, Section 34; 2002 Act No. 324, Section 6; 2004 Act No. 241, Section 4; 2016 Act No. 275 (S.1258), Section 78, eff July 1, 2016; 2023 Act No. 51 (S.549), Section 3, eff May 18, 2023.

Code Commissioner's Note

2002 Act No. 324, Section 12, provides as follows:

"This act takes effect July 1, 2002; provided, however, that Section 56-10-650 and Sections 5, 6, and 9 are effective one hundred eighty days after the latter of certification by the department to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the program has been implemented and is fully prepared to accept data transmitted by the insurers or

publication of final regulations by the department."

Effect of Amendment

2023 Act No. 51, Section 3, in (A), deleted "within five days after the effective date of cancellation or expiration of his liability insurance policy" following "insurance on the vehicle or"; and rewrote (B).

SECTION 56-10-245.

Per diem fine for lapse in required coverage.

Whenever a person furnishes proof of liability insurance, or surrenders or has his registration or license tags confiscated for failure to produce proof of insurance, after the Department of Motor Vehicles receives notice of the lapse or termination of the required liability insurance, the department shall compare the effective date of the lapse or termination with the date of the proof of insurance or the date of the confiscation or surrender. If the department determines there was a lapse in the required coverage, the department shall assess, in addition to other fines or penalties imposed by the law, a per diem fine in the amount of five dollars. The fine provided for in this section and the two hundred dollar reinstatement fee pursuant to Section 56-10-240 must not be assessed if the person furnishes proof, as documented by his sworn statement, that the motor vehicle upon which the coverage has lapsed or been terminated has not been operated upon the roads, streets, or highways of this State during the lapse or termination, and the lapse or termination is due to military service or illness as documented by a signed physician's statement. The total amount of the fine provided for in this section may not exceed two hundred dollars per vehicle for a first offense. Revenue generated by the fine imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1989 Act No. 148, Section 36; 1990 Act No. 324, Section 1; 1993 Act No. 181, Section 1480; 2016 Act No. 275 (S.1258), Section 79, eff July 1, 2016; 2023 Act No. 51 (S.549), Section 4, eff May 18, 2023.

Effect of Amendment

2023 Act No. 51, Section 4, in the third sentence, deleted "of the 1976 Code" following "Section 56-10-240", and in the fourth sentence, inserted "per vehicle" following "two hundred dollars".

SECTION 56-10-250.

Unlawful to sell vehicle with suspended registration to family member.

It is unlawful for any vehicle owner to sell or otherwise dispose of any motor vehicle, for which the registration and license plates have been suspended, to any member of his family residing in the same household. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined two hundred dollars or imprisoned for thirty days, or both, and for a third and subsequent offenses must be imprisoned for not less than forty-five days nor more than six months. Only convictions which occurred within five years including and immediately preceding the date of the last conviction constitute prior convictions within the meaning of this section.

HISTORY: Former 1976 Code Section 56-11-750 [1962 Code Section 46-750.149; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-250 by 1987 Act No. 155, Section 9; Am, 1988 Act No. 532, Section 24.

SECTION 56-10-260.

False certificate or false evidence of insurance; penalties; special restricted driver's licenses.

(A) Any person who knowingly makes a false certificate as to whether a motor vehicle is an insured motor vehicle or presents to the Department of Motor Vehicles false evidence that any motor vehicle sought to be registered is insured is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined two hundred dollars or imprisoned for thirty days, or both, and for a third or subsequent offense must be imprisoned for not less than forty-five days nor more than six months. Only convictions which occurred within five years including and immediately preceding the date of the last conviction constitute prior convictions within the meaning of this section. The department shall deny, for a period of six months, registration of any motor vehicle for which a false certificate or false evidence is presented that the vehicle is insured and shall revoke, and may not thereafter reissue for a period of six months, the driver's license of any person making a false certificate or offering false evidence, and then only when all other provisions of law have been complied with by that person.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education. The department may not issue the special restricted driver's license until proof of financial responsibility has been filed.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued

that license is a violation of Section 56-1-460.

HISTORY: Former 1976 Code Section 56-11-760 [1962 Code Section 46-750.151; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-260 by 1987 Act No. 155, Section 9; Am, 1988 Act No. 532, Section 22; 1999 Act No. 115, Section 10; 2001 Act No. 79, Section 2.K; 2016 Act No. 275 (S.1258), Section 80, eff July 1, 2016.

SECTION 56-10-280.

Insurance not to be issued for period less than six months; contract or policy valid for at least sixty days; cancellation within sixty days.

(A) Contracts or policies of insurance issued to meet the financial responsibility requirements prescribed in this chapter must be issued for not less than six months. A contract or policy of insurance remains in effect at least sixty days notwithstanding a power of attorney which may purport to give the attorney-in-fact the right to effect cancellation on behalf of the insured. However, a contract or policy may be canceled within the first sixty days only under one or more of the following circumstances:

(1) a check or bank draft tendered by the insured for payment to an agent, an insurance company, or a premium finance company is returned unpaid for insufficient funds or other reason by the insured's financial institution. If the check or draft is an initial payment made by an applicant for insurance or a payment made by an insured to renew a policy, the cancellation is effective as of the policy inception or renewal date;

(2) the insured produces satisfactory proof from the Department of Motor Vehicles that he has sold or otherwise disposed of the insured vehicle or surrendered its tags and registration;

(3) the insured has secured another policy that meets the financial responsibility requirements prescribed in this chapter;

(4) the insured fails to pay when due the premium for the policy, an installment of the premium, or an installment payment under a premium service contract. The contract or policy of insurance must remain in effect for at least thirty days.

(B) This section does not prohibit refunds to the insured for cancellations after sixty days resulting from causes other than nonpayment of premium. Where an insurance company or premium finance company cancels a contract or policy pursuant to this section for nonpayment of premium under the circumstances in subsection (A) which occurs within the first sixty days, the insurance company, premium finance company, or agent may charge and collect a fifteen-dollar penalty in addition to that otherwise provided by law, and the penalty charge is not a premium charge.

HISTORY: Former 1976 Code Section 56-11-780 [1962 Code Section 46-750.154; 1974 (58) 2718] repealed by 1987 Act No. 155, Section 25, and recodified as Section 56-10-280 by 1987 Act No. 155, Section 9; Am, 1989 Act No. 148, Section 20; 1991 Act No. 146, Section 2; 1993 Act No. 181, Section 1481; 2001 Act No. 82, Section 35; 2006 Act No. 315, Section 1, eff August 1, 2006.

ARTICLE 5

Operating an Uninsured Motor Vehicle

Editor's Note

2023 Act No. 51, Section 29, provides as follows:

"SECTION 29. The Department of Motor Vehicles shall ensure that no one is registered as an uninsured motorist on the effective date of this act."

SECTION 56-10-510.

Reserved.

HISTORY: Former Section, titled Registration of uninsured motor vehicle; fee; use of fee; certificate of insurance; penalties for failure to submit certificate of insurance, had the following history: 1997 Act No. 154, Section 2; 2008 Act No. 279, Section 10, eff October 1, 2008. Reserved by 2023 Act No. 51, Section 5, eff July 1, 2024.

SECTION 56-10-520.

Operating or allowing operation of uninsured motor vehicle; misdemeanor violation; record of conviction for violations of this section; suspension of license; reinstatement fee

(A)(1) It is unlawful for a person who owns an uninsured motor vehicle licensed in this State or subject to registration in this State to operate or allow the operation of the uninsured motor vehicle in this State.

(2) It is unlawful for a person who is not the owner of an uninsured motor vehicle to operate the uninsured motor vehicle in this State if the person operating the motor vehicle knows that the motor vehicle is uninsured.

(3) A person who violates subsection (A)(1) or (2) is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined not less than one hundred dollars and not more than two hundred dollars or imprisoned for thirty days;

(b) for a second offense, must be fined two hundred dollars or imprisoned for thirty days, or both; or

(c) for a third or subsequent offense, must be imprisoned for not less than forty-five days nor more than six months.

(4) Only convictions pursuant to this section which occurred within five years, including and immediately preceding the date of the last conviction, constitute prior convictions within the meaning of this section.

(B) The Department of Motor Vehicles shall suspend the driver's license and all registration certificates and license plates of any owner of an uninsured motor vehicle upon receiving notice of a violation of this section, and the department shall not thereafter reissue the driver's license and the registration certificates and license plates issued in the name of the person until the person pays the reinstatement fee as provided in this section.

(C) The department shall suspend the driver's license of any person who is the operator but not the owner of a motor vehicle upon receiving notice of a violation of any provisions of this section, and he shall not thereafter reissue the driver's license until thirty days from the date of the order of suspension.

(D) The reinstatement fee shall be six hundred dollars until adjusted in accordance with this section. The reinstatement fee may be adjusted annually, at the beginning of the calendar year, based upon and in relation to the average rate level for private passenger automobile insurance coverages by insurers in this State. The Department of Insurance, by annual order, will set the exact fee. The Department of Insurance shall annually notify the Department of Motor Vehicles by the first business day of October of the reinstatement fee for the upcoming calendar year.

HISTORY: 1997 Act No. 154, Section 2; 2002 Act No. 324, Section 4; 2023 Act No. 51 (S.549), Section 5, eff July 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, in (A)(2), "uninsured" was substituted for "uninsured" to correct a scrivener's error.

Editor's Note

2023 Act No. 51, Section 40(B), provides as follows:

"[SECTION 40.](B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 5, rewrote the section.

SECTION 56-10-530.

Involvement in accident resulting in death, injury, or property damage when uninsured motor vehicle fee unpaid; suspension of driver's license, license plates and registration certificates; contested case hearing.

When it appears to the Department of Motor Vehicles from its records that an uninsured motor vehicle as defined in Section 56-9-20, subject to registration in the State, is involved in a reportable accident in the State resulting in death, injury, or property damage, the department shall, in addition to enforcing the applicable provisions of Section 56-10-10, et seq. suspend such owner's driver's license and all of his license plates and registration certificates until such person has complied with those provisions of law and has paid to the department a reinstatement fee as provided by Section 56-10-520. However, no order of suspension required by this section must become effective until the department has offered the person an opportunity for a contested case hearing before the Office of Motor Vehicle Hearings to show cause why the order should not be enforced. Notice of the opportunity for a contested case hearing must be included in the order of suspension. The presentation by a person subject to the provisions of this section of a certificate of insurance, executed by an agent or representative of an insurance company qualified to do business in this State, showing that on the date and at the time of the accident the vehicle was an insured motor vehicle as herein defined is sufficient bar to the suspension provided for in this section.

HISTORY: 1997 Act No. 154, Section 2; 2008 Act No. 279, Section 11, eff October 1, 2008; 2023 Act No. 51 (S.549), Section 5, eff July 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(B), provides as follows:

"[SECTION 40.](B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 5, rewrote the section.

SECTION 56-10-535.

Reserved.

HISTORY: Former Section, titled Conviction of certain traffic violations; requirement of furnishing proof of financial responsibility, had the following history: 1997 Act No. 154, Section 2. Reserved by 2023 Act No. 51, Section 5, eff July 1, 2024.

SECTION 56-10-540.

Suspension and return of driver's license, registration, certificates, and license plates and decals.

A person whose driver's license or registration certificates, or license plates and decals have been suspended as provided in this chapter and have not been reinstated shall immediately return, either in person or electronically, every such license, registration certificate, and set of license plates and decals held by him to the department. A person failing to comply with this requirement shall be guilty of a traffic infraction and, upon conviction, shall be punished as provided in Section 56-9-340, et seq.

HISTORY: 1997 Act No. 154, Section 2; 2023 Act No. 51 (S.549), Section 5, eff July 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(B), provides as follows:

"[SECTION 40.](B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 5, deleted the first undesignated paragraph, which related to proof of financial responsibility, and in the second undesignated paragraph, in the first sentence, inserted ", either in person or electronically," and substituted "department" for "director", and in the second sentence, substituted "Section 56-9-340" for "Section 56-9-310".

SECTION 56-10-550.

Deposit of funds collected in Uninsured Motorists Fund.

Except as provided in Sections 56-10-552 and 56-10-554, funds collected by the Department of Motor Vehicles under the provisions of this chapter must be placed on deposit with the State Treasurer and held in a special fund to be known as the "Uninsured Motorists Fund" to be disbursed as provided by law. The Department of Insurance as provided in Sections 38-77-151 and 38-77-154

may expend monies from such funds for the administration of Title 38.

HISTORY: 1997 Act No. 154, Section 2; 2023 Act No. 51 (S.549), Section 5, eff July 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(B), provides as follows:

"[SECTION 40.](B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 5, deleted "director of the" preceding "Department" in two places.

SECTION 56-10-551.

Cancellation or termination of insurance policy certified under this chapter; notice to department.

When any insurance policy certified under this chapter is canceled or terminated, the insurer shall report the fact to the Department of Motor Vehicles within fifteen days after the cancellation electronically or on a form prescribed by the department.

HISTORY: 1997 Act No. 154, Section 2; 2023 Act No. 51 (S.549), Section 5, eff July 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(B), provides as follows:

"[SECTION 40.](B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 5, substituted "fact to the Department of Motor Vehicles" for "fact to the director", inserted "electronically or", and substituted "department" for "director".

SECTION 56-10-552.

Uninsured Enforcement Fund; use of reinstatement fee.

(A) For each two dollars of the yearly premium for uninsured motorist coverage paid to the Department of Motor Vehicles pursuant to Section 38-73-470, one dollar twenty cents must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remaining eighty cents must be placed in a special fund, to be known as the "Uninsured Enforcement Fund", to be used by the Department of Public Safety for the purpose of enforcement and administration of Article 3, Chapter 10, Title 56.

(B) Fifty percent of the reinstatement fee as provided by Section 56-10-520 must be transferred by the Department of Public Safety and recorded to the Uninsured Enforcement Fund to be used by the Department of Public Safety as provided by subsection (A) of this section. The remaining fifty percent of the reinstatement fee as provided by Section 56-10-520 must be retained in the Uninsured Motorist Fund to be used as provided in Sections 56-10-550, 38-77-151, and 38-77-154.

HISTORY: 1997 Act No. 154, Section 2; 2012 Act No. 264, Section 6, eff June 18, 2012; 2016 Act No. 275 (S.1258), Section 81, eff July 1, 2016; 2023 Act No. 51 (S.549), Section 5, eff July 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(B), provides as follows:

"[SECTION 40.](B) SECTION 5 takes effect on the first day of the fiscal year following twelve months after approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 5, made a nonsubstantive change in (A); and in (B), in the first sentence, substituted "Section 56-10-520" for "Section 56-10-510(1)", and in the second sentence, substituted "Section 56-10-520" for "Section 56-10-510".

SECTION 56-10-553.

Reserved.

HISTORY: Former Section, titled Collection data and maintenance of statistics, had the following history: 1997 Act No. 154, Section 2; 2002 Act No. 324, Section 2. Reserved by 2023 Act No. 51, Section 5, eff July 1, 2024.

SECTION 56-10-554.

Reserved.

HISTORY: Former Section, titled Recoupment Fund; recoupment of facility assessments or losses; discontinuance of collection for recoupment of facilities losses, had the following history: 1997 Act No. 154, Section 2. Reserved by 2023 Act No. 51, Section 5, eff July 1, 2024.

ARTICLE 7

Motorist Insurance Database Program

SECTION 56-10-610.

Short title.

This article may be cited as the "Motorist Insurance Database Program Act".

HISTORY: 2002 Act No. 324, Section 1.

SECTION 56-10-615.

Information regarding cancellations; requests for proof of insurance.

The Department of Motor Vehicles shall obtain information from insurers regarding cancellations of automobile insurance policies. The department shall request proof of insurance from persons identified by the Motorist Insurance Database. A person who fails to respond to the department must be penalized as provided in Article 5 of this chapter.

HISTORY: 2002 Act No. 324, Section 8.

SECTION 56-10-620.

Definitions.

As used in this article, unless the context otherwise requires:

(1) "Contractor" means designated agent or the party with which the Department of Motor Vehicles contracts pursuant to Section 56-10-640.

(2) "Database" means the motorist insurance database described in Section 56-10-640.

(3) "Department" means the Department of Motor Vehicles.

(4) "Division" means the Department of Motor Vehicles.

(5) "Program" means the motorist insurance database program created in Section 56-10-640.

HISTORY: 2002 Act No. 324, Section 1.

SECTION 56-10-630.

Purpose of article.

(A) The General Assembly finds that the purpose of this article is to help reduce the uninsured motorist population in this State and to measure the effectiveness of the motorist insurance database established pursuant to this article.

(B) The General Assembly further recognizes that the information and data required to be disclosed by insurers in creating and maintaining the motorist insurance database is proprietary in nature. Accordingly, the parties handling this information and data must at all times maintain its confidential and proprietary nature.

(C) The motorist insurance database program is created for the purpose of establishing a database to use when verifying compliance with the motor vehicle financial security requirements in this chapter.

HISTORY: 2002 Act No. 324, Section 1.

SECTION 56-10-640.

Requirement that upon loss of insurance, insured obtain new insurance or surrender registration and plates; written notice by insurer; suspension of driving privileges, license plate and registration; appeal; enforcement; penalties.

(A)(1) The motorist insurance database program shall be administered by the Department of Motor Vehicles. Pursuant to the South Carolina Consolidated Procurement Code, the department may contract with a contractor who may provide a system of transmitting data from insurance companies. The department must solicit and receive at least two bids on the contract before awarding the contract.

(2) The department shall convene a working group chaired by the director of the department or his designee for the purpose of facilitating the implementation of the program, assisting in development of regulations, and coordinating a testing phase, and necessary changes identified in this testing phase, as prescribed by the working group, and to issue recommendations based on periodic review of the database program by the working group. The working group shall consist of five representatives of the insurance industry appointed by the Director of the Department of Insurance. The working group shall also consist of the Director of the Department of Insurance, or his designee, the Director of the Department of Motor Vehicles, or his designee, and any contractor. The working group shall issue a report to the Department of Motor Vehicles and the Department of Insurance twelve months after the program is implemented to evaluate the program's effectiveness in identifying uninsured motorists, and annually thereafter on or before October fifteenth of each year. The working group may issue recommendations for database enhancements.

(B) The Department of Motor Vehicles shall develop, in a manner prescribed by the department, a system to allow the transmission of data from insurance companies to the department.

(C) The department, with input from the Department of Insurance, and the working group shall promulgate regulations for administering and enforcing this article. The regulations shall specify the requirements that are necessary and appropriate for commercial lines of insurance, as defined in Title 38, which shall be developed with input by the Department of Insurance.

(D) The department for a fee prescribed and promulgated by regulation shall make available to insurers by subscription a monthly electronic list of newly-licensed drivers. This list must not be used for marketing, solicitation, or another purpose not specifically enumerated here. It may only be used to provide an additional method to reduce the uninsured motorist population. This monthly list of newly-licensed drivers must show the: name and gender of the driver, address, date of birth, South Carolina driver's license number, and, if available, insurance information provided in the liability certification portion of the application for a driver's license. This information may be used for:

(1) determining if a newly-licensed driver is insured;

(2) assigning a newly-licensed driver to the proper automobile insurance policy for rating purposes; and

(3) ordering a motor vehicle report on a newly-licensed driver.

HISTORY: 2002 Act No. 324, Section 1; 2004 Act No. 241, Section 5.

SECTION 56-10-650.

Suspension of owner's driving privileges and license plates of uninsured motor vehicle; notification of owner; proof of insurance.

(A) If the database indicates that a motor vehicle is not insured or if the Department of Motor Vehicles receives notification as prescribed by regulation that a vehicle may not be insured, the department shall notify the owner of the motor vehicle that he has twenty working days to provide the department with one of the following, or the owner's driving privileges and the vehicle license plates will be suspended:

(1) proof of complying coverage in accordance with Sections 56-10-10 or 56-10-220, or of self-insurance in accordance with Section 56-9-60; or

(2) proof of exemption from the financial security requirements.

(B) Verification in a manner prescribed by regulation from an insurer or agent verifying that the person had the required motor vehicle insurance coverage on the date specified is considered proof of financial responsibility for purposes of this section.

HISTORY: 2002 Act No. 324, Section 1; 2004 Act No. 241, Section 6.

Code Commissioner's Note

2002 Act No. 324, Section 12, provides as follows:

"This act takes effect July 1, 2002; provided, however, that Section 56-10-650 and Sections 5, 6, and 9 are effective one hundred eighty days after the latter of certification by the department to the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the program has been implemented and is fully prepared to accept data transmitted by the insurers or publication of final regulations by the department."

SECTION 56-10-660.

Database information disclosure; fee.

(A) The division, for a fee as prescribed and promulgated by regulation, shall disclose an individual's reported database information upon request by the following individuals and agencies only:

(1) the individual;

(2) the parent or legal guardian of an individual who is an unemancipated minor;

(3) the legal guardian of an individual who is legally incapacitated;

(4) a person who has power of attorney from the individual;

(5) a person who submits a notarized release from the individual that is dated no more than ninety days before the date the request is made;

(6) a person suffering loss or injury or against whom a claim is made for loss or injury in a motor vehicle accident in which the individual is involved, but only as part of an accident report authorized in Section 56-9-351;

(7) a state or local government agency investigating, litigating, or enforcing the person's compliance with the financial security requirements; or

(8) persons regulated under Title 38 of the 1976 Code for the purposes of paying or adjudicating claims and preventing fraud or abuse.

(B) The funds collected from this fee described by subsection (A) must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses.

(C) The State is not liable to any person for gathering, managing, or using information in the database pursuant to this article.

(D) No insurer is liable to any person for performing its duties under this article unless, and to the extent, the insurer commits a wilful and wanton act or omission.

(E) Insurers shall be required to pay only those actual costs attributed to the transmission to or retrieval of their records from the Department of Motor Vehicles, pursuant to regulations promulgated by the Department of Insurance. The funds collected from the insurers pursuant to this subsection must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray its expenses.

HISTORY: 2002 Act No. 324, Section 1; 2005 Act No. 164, Section 30, eff June 10, 2005.

SECTION 56-10-670.

Scope of article.

This article shall not supersede other actions or penalties that may be taken or imposed for violation of the financial security requirements of this chapter.

HISTORY: 2002 Act No. 324, Section 1.

Title 56 - Motor Vehicles

CHAPTER 11

Road Tax on Motor Carriers

ARTICLE 1

General Provisions

SECTION 56-11-10.

Definitions.

When used in this chapter, the term "motor carrier" means every person who operates or causes to be operated on any highways in this State road tractors, truck tractors, trucks having more than two axles, or passenger vehicles designed to seat more than twenty occupants. For the purposes of this section, the federal government, the State, counties, municipalities, churches, and any agents of them, and special mobile equipment as defined in item (11) of Section 56-3-20, must not be deemed "motor carriers".

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-20.

Enforcement of motor carrier road tax provisions; International Fuel Tax Agreement (IFTA).

The Department of Motor Vehicles and the Department of Public Safety each shall enforce this chapter with respect to the possession of correct registration and display of the proper identification marker. Notwithstanding other provisions of this chapter, the department may enter into an agreement with other states in a registration and identification marker reciprocal agreement known as the International Fuel Tax Agreement (IFTA). Qualified vehicles operating in accordance with this agreement are not required to purchase other fuel markers in member states.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-30.

Applicability of other laws to administration and enforcement of motor carrier road tax.

For the purposes of administration and enforcement of this chapter, the provisions of Title 12, wherever applicable, are adopted and made a part of this chapter.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-40.

Examination of motor carrier books and records.

The Department of Motor Vehicles, the Department of Public Safety, and their agents and representatives have the right at any reasonable time to examine the books and records of any motor carrier.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-50.

Effect of operation of motor carrier in violation of chapter.

When any person is discovered in this State operating a vehicle in violation of any of the provisions of this chapter, it is unlawful for anyone thereafter to operate the vehicle on the streets or highways in this State except to remove it from the street or highway for the purpose of parking or storing it unless and until a bond in the amount of five hundred dollars is furnished to the Department of Motor Vehicles in such form and with such surety or sureties or otherwise as it may prescribe, conditioned upon a proper registration card and identification marker being applied for within ten days and conditioned upon the payment of any taxes, penalties, or interest found to be due pursuant to this chapter.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-60.

Penalties and interest under International Fuel Tax Agreement (IFTA).

In lieu of all other penalties and interest provided by law, penalties and interest provided under the International Fuel Tax Agreement apply to all reports filed with the State as a result of the International Fuel Tax Agreement.

HISTORY: 1996 Act No. 459, Section 224.

ARTICLE 3

Registration Card and Identification Marker

SECTION 56-11-210.

Requirement of registration card and vehicle identification marker.

No motor carrier shall operate or cause to be operated in South Carolina any vehicle described in Section 56-11-10 until the motor carrier has secured from the Department of Motor Vehicles a registration card and an identification marker for each vehicle.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-220.

Temporary permit; requirements; Department of Motor Vehicles authority to promulgate regulations respecting temporary permits.

(A) A motor carrier having infrequent trips into and through the State may obtain a temporary permit good for one motor vehicle for ten consecutive days beginning and ending on the dates specified on the face of the permit. No reports are required of motor carriers only using temporary permits. Temporary permits may be issued in lieu of biennial registration required under this chapter and highway use taxes incurred during this period. The temporary permit must be carried in the vehicle for which it was issued at all times when the vehicle is in this State. The Department of Motor Vehicles may issue a temporary permit by facsimile message, letter, or telegram.

(B) The department may engage a person to issue the temporary permits if he receives the permits from the department. No person

may issue the permits unless the permits are available to the public on a twenty-four hour basis.

(C) The department shall promulgate the regulations necessary for the proper administration of this section.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-230.

Registration card and vehicle identification application forms.

The Department of Motor Vehicles shall prepare forms for use in making applications for registration cards and identification markers in accordance with this chapter, and the applicant shall furnish all the information required by such forms before a registration card or identification marker is issued.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-240.

Form and content of registration card and vehicle identification marker.

The registration card and the identification marker must be of such form as the Department of Motor Vehicles may prescribe. Each identification marker shall bear a number which must be the same as the number appearing on the registration card for the same vehicle.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-250.

Biennial application for registration card and vehicle identification marker.

A motor carrier operating motor vehicles in this State shall apply to the Department of Motor Vehicles biennially for a registration card and identification marker for each power unit it operates in this State. A person violating this section, upon conviction, must be punished as provided in Section 56-17-10.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-260.

Term of issuance of registration card and vehicle identification marker.

The registration cards and markers provided for must be issued for the period beginning April first each biennium and are valid until March thirty-first of the biennium. All identification markers remain the property of the State.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-270.

Requirement of registration in vehicle operated in state; display of identification number.

The registration card must be carried in the vehicle for which it was issued at all times when the vehicle is in this State. The identification marker must be attached or affixed to the vehicle in the place and manner prescribed by the Department of Motor Vehicles so that it is clearly displayed at all times, and it shall at all times be kept clearly legible.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-280.

Suspension or revocation of registration card or vehicle identification identification number.

In addition to the penalties herein provided, the Department of Motor Vehicles may for good cause suspend or revoke any registration card or identification marker issued pursuant to this chapter.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-290.

Penalties.

A person who operates or causes to be operated on any highway in this State any motor vehicle that does not carry a registration card required by this chapter or any motor vehicle that does not display, in the manner prescribed by this chapter or by the Department of Motor Vehicles, the identification marker required by this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars. Each day's operation in violation of this section constitutes a separate offense.

HISTORY: 1996 Act No. 459, Section 224.

ARTICLE 5

Road Tax

SECTION 56-11-410.

Imposition and calculation of tax; effect of other motor carrier taxes; Infrastructure Maintenance Trust Fund.

(A) A road tax for the privilege of using the streets and highways in this State is imposed upon every motor carrier. The tax is equivalent to the user fee imposed pursuant to Section 12-28-310, calculated on the amount of gasoline or other motor fuel used by the motor carrier in its operations within this State. Except as credit for certain taxes as provided for in this chapter, taxes imposed on motor carriers by this chapter are in addition to taxes imposed upon the carriers by any other provision of law.

(B) Notwithstanding any other provision of law, all of the road tax funds collected in excess of sixteen cents a gallon after accounting for the credit provided in Section 56-11-450, must be credited to the Infrastructure Maintenance Trust Fund.

HISTORY: 1996 Act No. 459, Section 224; 2017 Act No. 40 (H.3516), Section 3.A, eff July 1, 2017.

Effect of Amendment

2017 Act No. 40, Section 3.A, inserted the paragraph identifiers; in (A), substituted "the user fee imposed pursuant to Section 12-28-310" for "sixteen cents a gallon"; and added (B), providing that excess funds must be credited to the Infrastructure Maintenance Trust Fund.

SECTION 56-11-415.

Exemption for certain motor carriers.

For the purpose of this chapter, a motor carrier, as defined in Section 56-11-10, which operates one hundred percent of its miles within the boundaries of this State is exempt from the provisions of this chapter.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-420.

Calculation of tax as affected by reporting period; applicability of nationally recognized standards.

The amount of tax due must be calculated upon the amount of gasoline or other motor fuel used by the motor carrier in its operation within this State during the reporting period. The Department of Motor Vehicles shall develop forms to reflect the tax due in accordance with nationally recognized standards.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-430.

Submission by motor carrier of quarterly operations reports to Department of Motor Vehicles.

Every motor carrier subject to the tax imposed by this chapter shall, on or before the last day of April, July, October, and January submit to the Department of Motor Vehicles the reports of its operations during the quarter of the year ending the last day of the preceding month as the department requires. Nothing in this section may be construed to eliminate the requirement as to registration and identification markers otherwise provided by this chapter.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-440.

Payment of tax.

The tax herein imposed with respect to each calendar quarter shall be paid to the Department of Motor Vehicles at the same time the report required by this chapter is filed.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-450.

Tax credit; refunds.

(A) Every motor carrier subject to the tax imposed under this chapter is entitled to a credit on the tax equivalent to the user fee imposed pursuant to Section 12-28-310 on all gasoline or other motor fuel purchased by the carrier within this State for use in operations either within or without this State and upon which gasoline or other motor fuel the tax imposed by the laws of this State has been paid by the carrier. Evidence of the payment of the tax in such form as may be required by or is satisfactory to the Department of Motor Vehicles must be furnished by each carrier claiming the credit.

(B) When the amount of the credit exceeds the amount of the tax for which the carrier is liable for the same quarter, the excess may, under regulations of the department, be allowed as a credit on the tax for which the carrier would be otherwise liable for another quarter or quarters. The department is authorized to refund the amount of the credit herein allowed if within its discretion the refund is preferable to the credit. The refund must be made only if the carrier has fully complied with all the rules and regulations of the department and the provisions of this chapter.

HISTORY: 1996 Act No. 459, Section 224; 2017 Act No. 40 (H.3516), Section 3.B, eff July 1, 2017.

Effect of Amendment

2017 Act No. 40, Section 3.B, in (A), substituted "the user fee imposed pursuant to Section 12-28-310" for "sixteen cents per gallon".

SECTION 56-11-490.

Lien on vehicle for excise tax, penalty, and interest; legal costs.

The excise tax and penalties and interest imposed under this chapter constitutes a first preferred lien upon any motor vehicle in which fuel taxable under this chapter is used, the lien attaching at the time the vehicle is operating in this State through the use of the fuel. The lien must not be removed until the excise tax, penalties and interest, and legal costs are paid or the property subject to the lien is sold in payment thereof, and the lien is paramount to all private liens or encumbrances of whatever character and to the rights of any conditional vendor or any other holder of the legal title in or to any such motor vehicle.

HISTORY: 1996 Act No. 459, Section 224.

SECTION 56-11-500.

Use of revenue funds from tax, penalties, and interest; State Highway Fund.

As to revenue collected under this chapter or other road taxes on motor carriers, the Department of Motor Vehicles must withhold from the State Highway Fund monies not to exceed the actual or projected costs associated with administering and enforcing the provisions of this chapter. The State Treasurer and the Comptroller General shall establish accounts as necessary to facilitate the efficient and effective operation of this chapter and deposit from the State Highway Fund initial monies as may be necessary to operate this program. All remaining taxes and penalties and interest collected by the department pursuant to the provisions of this chapter must be deposited in the State Highway Fund.

HISTORY: 1996 Act No. 459, Section 224.

ARTICLE 7

International Fuel Tax Agreement

SECTION 56-11-550.

Collection and distribution of funds to International Fuel Tax Agreement (IFTA) states.

(A) Upon filing a return, the Department of Motor Vehicles may distribute funds to International Fuel Tax Agreement states before

the collection of funds from a person covered by the agreement. If the person has not remitted the funds within ninety days after being sent a collection notice, the department must revoke the authority of the person to operate in South Carolina and other states. The department may collect a person's past deficient payments by adjusting future distributions to states to which distributions previously had been made.

HISTORY: 1996 Act No. 459, Section 224.

Title 56 - Motor Vehicles

CHAPTER 14

Regulation of Manufacturers, Distributors and Dealers of Recreational Vehicles

SECTION 56-14-10.

Definitions.

As used in this chapter:

- (1) "Area of sales responsibility" means the geographical area, agreed to by the dealer and the manufacturer in the manufacturer/dealer agreement, within which area the dealer has the exclusive right to display or sell the manufacturer's new recreational vehicles of a particular line make to the retail public.
- (2) "Dealer" means any person, firm, corporation, or business entity licensed or required to be licensed under this chapter to sell new recreational vehicles to the retail public. The term includes a "recreational vehicle dealer" and a "new recreational vehicle dealer" as used in this chapter. This definition does not include:
 - (a) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;
 - (b) a public official conducting the official duty of his office;
 - (c) persons disposing of motor vehicles acquired for their own use and used in good faith and not for the purpose of avoiding the provisions of law. Any person who effects or attempts to effect the sale of more than five recreational vehicles in any calendar year is considered a dealer or wholesaler, as appropriate, for purposes of this chapter;
 - (d) finance companies or other financial institutions who sell repossessed recreational vehicles and insurance companies who sell recreational vehicles owned as an incident to payments made under policies of insurance.
- (3) "Department" means the South Carolina Department of Motor Vehicles.
- (4) "Factory campaign" means an effort on the part of a warrantor to contact recreational vehicle owners or dealers in order to address a part or equipment issue.
- (5) "Family member" means a spouse, child, grandchild, parent, sibling, niece, nephew, or the spouse thereof.
- (6) "Line make" means a specific series of recreational vehicle products that:
 - (a) are identified by a common series trade name or trademark;
 - (b) are targeted to a particular market segment, as determined by their decor, features, equipment, size, weight, and price range;
 - (c) have lengths and interior floor plans that distinguish the recreational vehicles from other recreational vehicles with substantially the same decor, equipment, features, price, and weight;
 - (d) belong to a single, distinct classification of recreational vehicle product type having a substantial degree of commonality in the construction of the chassis, frame, and body; and
 - (e) the manufacturer/dealer agreement authorizes a dealer to sell.
- (7) "Manufacturer" means any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicles.
- (8) "Manufacturer/dealer agreement" means a written agreement or contract entered into between a manufacturer and a dealer that fixes the rights and responsibilities of the parties and pursuant to which the dealer sells new recreational vehicles.
- (9) "New recreational vehicle" means a recreational vehicle that has never been sold to the retail public nor titled or registered in any state.
- (10) "Person" means a natural person, corporation, partnership, trust, or other entity, and in case of an entity, includes any other entity in which it has a majority interest or effectively controls, as well as the individual officers, directors, and other persons in active control of the activities of each such entity.
- (11) "Proprietary part" means any part manufactured by or for and sold exclusively by the manufacturer.
- (12) "Recreational vehicle" means a motorhome, travel trailer, fifth-wheel trailer, or folding camping trailer designed to provide temporary living quarters for recreational, camping, or travel use, as defined herein.
- (13) "Motorhome" means a self-propelled vehicle designed to provide temporary living quarters for recreational, camping, or travel use that complies with all applicable federal vehicle regulations. The unit must contain at least four of the following permanently installed independent life support systems which meet the NFPA 1192 Standard for Recreational Vehicles:
 - (a) a cooking facility with an on-board fuel source;
 - (b) a potable water supply system that includes at least a sink, a faucet, and a water tank with an exterior service supply connection;
 - (c) a toilet with exterior evacuation;
 - (d) a gas or electric refrigerator;
 - (e) a heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine; or
 - (f) an electric power system.
- (14) "Travel trailer" means a vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use that complies with all applicable federal vehicle regulations and is of such size and weight as to not require a special highway movement permit when towed by a motorized vehicle.
- (15) "Fifth-wheel trailer" means a vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use that complies with all applicable federal vehicle regulations and is of such size and weight as to not require a special highway movement permit when towed by a motorized vehicle equipped with a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(16) "Folding camping trailer" means a vehicle mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use that complies with all applicable federal vehicle regulations and is constructed with collapsible partial side walls that fold for towing by another vehicle.

(17) "Supplier" means any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicle parts, accessories, or components.

(18) "Transient customer" means a customer who is temporarily traveling through a dealer's area of sales responsibility.

(19) "Warrantor" means any person, firm, corporation, or business entity, including any manufacturer or supplier that provides a written warranty to the consumer in connection with a new recreational vehicle or a part, accessory, or component. The term does not include service contracts, mechanical or other insurance, or extended warranties sold for separate consideration by a dealer or other person not controlled by a manufacturer.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-20.

Persons subject to chapter and jurisdiction of courts; service of process.

Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale or has business dealings with respect to a recreational vehicle within this State shall be subject to the provisions of this chapter and shall be subject to the jurisdiction of the courts of this State upon service of process in accordance with the provisions of Chapter 9, Title 15.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-25.

Applicability to park model trailers.

This chapter does not apply to park model trailers built to American National Standards Institute (ANSI) Standard A119.5.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-30.

Recreational vehicle dealer licenses; complaints; exhibition license; fees; penalties.

(A) Before engaging in business as a recreational vehicle dealer in this State, a person first must apply to the Department of Motor Vehicles for a license. Each license issued expires on the last day of the month thirty-six months from the date of issue, the "licensing period", and must be displayed prominently at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to another person or place of business.

(B)(1) During the dealer license application process, the department shall provide all information that would be needed in an audit or a review by its agents. Upon issuing a license, the department shall be reasonable in its requests to inspect or copy a dealer's records. If a complaint has been filed against a dealer, the department must present that complaint to the dealer in writing and allow the dealer the opportunity to cure before proceeding with punitive or enforcement action. Complaints arising from alleged violations of:

(a) Section 56-37-30(B) must be cured by the dealer within sixty days of being notified of the complaint;

(b) Section 56-37-30(C) must be cured by the dealer within forty-five days of being notified of the complaint; or

(c) Section 56-37-30(D) must be cured by the dealer within thirty days of being notified of the complaint.

(2) If the department determines that the same dealer has received a similar type of complaint within twelve months of a previous complaint, the department may proceed with an enforcement action against that dealer without regard to the time period provided in this subsection.

(C) A licensed South Carolina recreational vehicle dealer may exhibit and sell recreational vehicles, as defined by Section 56-14-10, at fairs, recreational or sports shows, vacation shows, and other similar events or shows upon obtaining a temporary dealer's license in the manner required by this section. No other exhibitions may be allowed, except as may be permitted by this section. Any recreational vehicle displayed must be owned by the dealer holding the temporary license. Before exhibiting and selling recreational vehicles at temporary locations, the dealer shall first apply to the department for a license. To be eligible for a temporary license, a dealer shall hold a valid recreational vehicle dealer's license issued pursuant to this chapter. Every temporary dealer's license issued

is valid for a period not to exceed ten consecutive days and must be prominently displayed at the temporary place of business. No dealer may purchase more than six temporary licenses every twelve months. The fee for each temporary license issued is twenty dollars. A temporary license applies to only one dealer operating in a temporary location and is not transferable to any other dealer or location.

(D) The provisions of this section may not be construed as allowing the sale of any type of motor vehicles other than recreational vehicles at authorized temporary locations.

(E) A person who fails to secure either a temporary or a permanent license as required in this chapter and sells a recreational vehicle is guilty of a misdemeanor and, upon conviction, must be fined:

(1) not less than one hundred dollars or more than five hundred dollars or imprisoned for not more than thirty days for the first offense;

(2) five hundred dollars or imprisoned for not more than thirty days, or both, for the second offense; and

(3) not less than two thousand dollars or more than ten thousand dollars or imprisoned for not more than two years, or both, for the third or any subsequent offense.

(F) For purposes of this section, each unauthorized sale of a recreational vehicle where the dealer has not applied for and received a license from the department appropriate for that sale constitutes a separate offense. Nothing in this chapter may be construed to prohibit any law enforcement agency from enforcing the provisions relating to non-licensed dealers within the law enforcement agency's jurisdiction. The ticketing agency shall retain fifty percent of all fines collected pursuant to this section.

(G) Nothing in this section shall be construed to prevent a licensed recreational vehicle dealer from providing vehicles for demonstration or test driving purposes.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017; 2023 Act No. 51 (S.549), Section 15, eff January 1, 2024.
Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 15, rewrote the section.

SECTION 56-14-40.

Recreational vehicle dealer licenses; bond; duty to notify department where information given by applicant changes or license ceases operations; death of licensee.

(A) Before a license as a recreational vehicle dealer is issued, an applicant shall file an application with the department and provide information the department may require including, but not limited to, the name and addresses of individuals who own or control ten percent or more of the interest in the business.

(B)(1) Each applicant shall furnish a surety bond in the penal amount of fifty thousand dollars on a form prescribed by the department.

(2) A new bond or a proper continuation certificate must be provided to the department every twelve months during the license period. The dealer or surety, or the dealer's or surety's designee, must notify the department of any bond name or address changes during the licensing period. Notice must be provided within thirty days of a change. Proof of the bond and the proper continuation of the bond may be provided to the Department of Motor Vehicles on the same database used for vehicle insurance pursuant to Article 7, Chapter 10, Title 56.

(3) A dealer's license expires immediately upon expiration or termination of a dealer's bond, or a decrease of a dealer's bond below fifty thousand dollars.

(4) The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety.

(5) The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by an owner of a recreational vehicle, or his legal representative, by reason of fraud practiced or fraudulent representation made in connection with the sale or transfer of a recreational vehicle by a licensed recreational vehicle dealer or the dealer's agent acting for the dealer, or within the scope of employment of the agent or loss or damage suffered by reason of the violation by the dealer or his agent of any provisions of this chapter.

(6)(a) In instances of taxes or fees owed to the State that pertain solely to the process of buying, selling, titling, or registering vehicles by a recreational vehicle dealer, the department may maintain a cause of action against the dealer's surety bond and may recover damages if the owed taxes and fees are not paid in full within the time period prescribed by law. The department shall distribute the collected taxes and fees to the appropriate entity as prescribed by law.

(b) In the event of concurrent claims for the same vehicle from the owner and the State, the owner's claim prevails.

(c) This subsection does not apply to monies a recreational vehicle dealer has attempted to refund to a customer due to an error made by the dealer when the dealer can demonstrate that he has made a bona fide, good faith effort by registered or certified mail, return receipt requested, or by private delivery service acceptable to the Internal Revenue Service to ensure the customer's refund was

delivered. For purpose of this subsection, the dealer should make a bona fide, good faith effort to refund the monies due to the customer within sixty days of the date of sale.

(7) An owner or his legal representative who suffers the loss or damage has a right of action against the dealer and against the dealer's surety upon the bond and may recover damages as provided in this chapter. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for claims is limited to fifty thousand dollars on each bond and to the amount of the actual loss incurred.

(8) The surety may terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The cancellation does not affect liability incurred or accrued before the cancellation.

(C) If, during a license period, there is a change in the information a dealer gave the department in obtaining or retaining a license, the licensee must report the change to the department within thirty days on a form prescribed by the department.

(D) If a licensee ceases to be a recreational vehicle dealer, he shall notify the department within ten days and return any license and all dealer license plates.

(E) In the event of a licensee's death, the personal representative of the deceased licensee may, with the consent of the probate court and upon an application to the department, continue the operation of the business covered by the license for the remainder of the licensing period, but no longer than eighteen months after the licensee's death. At the conclusion of the license period or eighteen months after the licensee's death, the personal representative must take all actions to apply for a recreational vehicle dealer license under his name and meet all requirements for a licensed recreational vehicle dealer in order to continue operating the business.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017; 2023 Act No. 51 (S.549), Section 16, eff January 1, 2024.
Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 16, rewrote (B); in (C), substituted "license period" for "license year"; and added (E).

SECTION 56-14-50.

Requirement as to dealer's maintenance of bona fide place of business; permanent sign.

No recreational vehicle dealer may be issued or allowed to maintain a recreational vehicle dealer's license unless:

(1) The dealer maintains a bona fide place of business for selling or exchanging recreational vehicles, which must be the principal business conducted from the location. A bona fide place of business includes a permanent, enclosed building, not excluding a permanently installed mobile home containing at least ninety-six square feet of floor space, occupied by the owner or operator and easily accessible by the public, at which a permanent business of bartering, trading, or selling recreational vehicles or displaying vehicles for bartering, trading, or selling is conducted, wherein the public may contact the owner or operator at all reasonable times and in which must be kept and maintained the books, records, and files required by this chapter.

(2) The business must display a permanent sign identifying the business with letters at least six inches in height, clearly readable from the nearest major avenue of traffic.

(3) The business must have a reasonable area or lot to properly display recreational vehicles.

(4) A recreational vehicle dealer may use his license to conduct business on property adjacent to or within sight of his bona fide established place of business. The property adjacent to or within sight of his bona fide established place of business is deemed to be contiguous even if there exists a single intervening landmark such as a road or a railroad track. The property adjacent to or within sight of his bona fide established place of business must display the same permanent sign as the bona fide established place of business pursuant to item (2). The property adjacent to or within sight of his bona fide established place of business need not include a permanent, enclosed building or structure, but all records for business conducted on the property adjacent to or within sight of his bona fide established place of business must be maintained at the bona fide established place of business. Any sales transactions pursuant to this section must take place at the location of the bona fide established place of business. Dealers applying for a license pursuant to this item must provide on the dealer license application the street address of the property adjacent to or the property within sight of his bona fide place of business and affirm that the dealer has met any local requirements to lawfully conduct business at that location.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017; 2023 Act No. 51 (S.549), Section 17, eff January 1, 2024.
Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

2023 Act No. 51, Sections 34 and 40(D), provide as follows:

"SECTION 34. Dealers subject to the provisions contained in Section 56-14-50, 56-15-330, or 56-16-160 who maintain business operations on adjacent properties or properties within sight as described in the code section applicable to the dealer but who do not

meet the requirements of Section 56-14-50, 56-15-330, or 56-16-160, as applicable to the dealer and as amended by this act may be grandfathered by the Department of Motor Vehicles for the remainder of the license under which the dealer is operating as of the effective date of this act."

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 17, added (4).

SECTION 56-14-60.

Records of transfers; organization; penalties.

(A) Each recreational vehicle dealer must maintain complete records of each transaction under which a recreational vehicle is transferred for a period of not less than four years from the date of the transaction. The records must include the name and address of the person or persons from whom the recreational vehicle was acquired and the date of the transaction; a description of the vehicle, when transferred; the name and address of the person to whom the recreational vehicle was transferred; and the date of the transaction. The description of the recreational vehicle must include the vehicle identification number, make, model, type, and, if a motor home, the odometer readings at the time the recreational vehicle was transferred to and from the dealer. Upon reasonable notice, these records must be made available to the department for inspection.

(B) The records must be maintained in a reasonably organized fashion. Any records which are illegible or incapable of being accurately interpreted by either the record keeper or the department are not in compliance with this section.

(C) A dealer who fails to keep or make available to the department required records upon reasonable request, is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than two hundred dollars or imprisoned for not more than thirty days. The failure to keep or make available records on each separate recreational vehicle constitutes an offense.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-70.

Denial, suspension, or revocation of license.

The department may deny, suspend, or revoke an application or licensee for any reason prescribed in Section 56-15-350.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017; 2023 Act No. 51 (S.549), Section 18, eff January 1, 2024.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 18, rewrote the section.

SECTION 56-14-80.

Manufacturer/dealer agreement.

(A) A manufacturer or distributor may not sell a recreational vehicle in this State to or through a dealer without having first entered into a manufacturer/dealer agreement with a dealer signed by both parties.

(B) The manufacturer shall designate the area of sales responsibility exclusively assigned to a dealer in the manufacturer/dealer agreement and may not contract with another dealer for sale of the same line make in the designated area for the duration of the agreement.

(C) The area of sales responsibility may be reviewed or changed with the consent of both parties not less than twelve months after the execution of the manufacturer/dealer agreement.

(D) A recreational vehicle dealer may not sell a new recreational vehicle in this State without having first entered into a manufacturer/dealer agreement with a manufacturer or distributor signed by both parties.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-90.

Termination, cancellation, or failure to renew a manufacturer/dealer agreement; good cause; notice.

(A) A manufacturer, directly or through any authorized officer, agent, or employee, may terminate, cancel, or fail to renew a manufacturer/dealer agreement with good cause and the provisions contained in Section 56-14-110 do not apply.

(B) The manufacturer has the burden of showing good cause for terminating, canceling, or failing to renew a manufacturer/dealer agreement with a dealer.

(C) For purposes of determining whether there is good cause for the proposed action, any of the following factors may be considered:

- (1) the extent of the affected dealer's penetration in the area of sales responsibility;
- (2) the nature and extent of the dealer's investment in its business;
- (3) the adequacy of the dealer's service facilities, equipment, parts, supplies, and personnel;
- (4) the effect of the proposed action on the community;
- (5) the extent and quality of the dealer's service under recreational vehicle warranties;
- (6) the dealer's failure to follow agreed upon procedures or standards related to the overall operation of the dealership; and
- (7) the dealer's performance under the terms of its manufacturer/dealer agreement.

(D) Except as otherwise provided in this section, a manufacturer or distributor shall provide a dealer with at least ninety days prior written notice of termination, cancellation, or nonrenewal of the manufacturer/dealer agreement.

(1) The notice must state all reasons for the proposed termination, cancellation, or nonrenewal and must further state that if, within thirty days following receipt of the notice, the dealer provides to the manufacturer a written notice of intent to cure all claimed deficiencies, the dealer will then have ninety days following receipt of the original notice to rectify the deficiencies.

(2) If the deficiencies are rectified within ninety days, the manufacturer's notice is voided. If the dealer fails to provide the notice of intent to cure the deficiencies or fails to cure the deficiencies in the prescribed time period, the termination, cancellation, or nonrenewal takes effect as provided in the original notice.

(3) The notice period may be reduced to thirty days if the manufacturer's grounds for termination, cancellation, or nonrenewal are due to any of the following good cause factors:

- (a) a dealer or one of its owners being convicted of, or entering a plea of nolo contendere to, a felony;
- (b) the abandonment or closing of the business operations of the dealer for ten consecutive business days unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the dealer has no control;
- (c) a significant misrepresentation by the dealer materially affecting the business relationship;
- (d) a suspension or revocation of the dealer's license, or refusal to renew the dealer's license, by the department; or
- (e) a material violation of this chapter which is not cured within thirty days after the written notice by the manufacturer.

(4) The notice provisions contained in this subsection do not apply if the reason for termination, cancellation, or nonrenewal is the dealer's insolvency, the occurrence of an assignment for the benefit of creditors, or bankruptcy.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-100.

Termination or cancellation of manufacturer/dealer agreement with or without good cause; notice of intent to cure; burden of proof.

(A) A dealer may terminate or cancel its manufacturer/dealer agreement with or without good cause by giving the manufacturer thirty day's written notice. If the termination or cancellation is for good cause, the notice must state all reasons for the proposed termination or cancellation and must further state that if, within thirty days following receipt of the notice, the manufacturer provides to the dealer a written notice of intent to cure all claimed deficiencies, the manufacturer will then have ninety days following receipt of the original notice to rectify the deficiencies. If the deficiencies are rectified within ninety days, the dealer's notice is voided. If the manufacturer fails to provide the notice of intent to cure the deficiencies or fails to cure the deficiencies in the time period prescribed, the termination or cancellation shall take effect as provided in the original notice.

(B) If the dealer terminates, cancels, or fails to renew the manufacturer/dealer agreement without good cause, the terms of Section 56-14-110 do not apply. If the dealer terminates, cancels, or fails to renew the manufacturer/dealer agreement with good cause, Section 56-14-110 shall apply. If the dealer terminates for cause and has new and untitled inventory on hand subject to the termination then the inventory may be sold pursuant to Section 56-14-110.

(C) The dealer has the burden of showing good cause. Any of the following items shall be deemed "good cause" for the proposed termination, cancellation, or nonrenewal action by a dealer:

- (1) a manufacturer being convicted of, or entering a plea of nolo contendere to, a felony;
- (2) the business operations of the manufacturer have been abandoned or closed for ten consecutive business days, unless the closing is due to an act of God, strike, labor difficulty, or other cause over which the manufacturer has no control;
- (3) a significant misrepresentation by the manufacturer materially affecting the business relationship;
- (4) a material violation of this chapter which is not cured within thirty days after written notice by the dealer;
- (5) a declaration by the manufacturer of bankruptcy, insolvency, or the occurrence of an assignment for the benefit of creditors or bankruptcy.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-105.

Manufacturer's repurchase of new recreational vehicles and accessories.

(A) If the dealer terminates or cancels the manufacturer/dealer agreement for good cause and the manufacturer fails to cure the claimed deficiencies, the manufacturer shall, at the election of the dealer and within forty-five days after termination, cancellation, or nonrenewal, repurchase:

(1) all new, untitled recreational vehicles to which the dealer can show clear title and that were acquired from the manufacturer or distributor within twelve months before the effective date of the notice of termination, cancellation, or nonrenewal that have not been used, except for demonstration purposes, and that have not been altered or damaged, at one hundred percent of the net invoice cost, including transportation, less applicable rebates and discounts to the dealer. In the event any of the vehicles repurchased pursuant to this subsection are damaged, but do not trigger a consumer disclosure requirement, the amount due the dealer shall be reduced by the cost to repair the vehicle. Damage prior to delivery to the dealer that is disclosed at the time of delivery will not disqualify repurchase under this provision;

(2) all undamaged accessories and proprietary parts sold to the dealer for resale within the twelve months prior to termination, cancellation, or nonrenewal, if accompanied by the original invoice, at one hundred five percent of the original net price paid to the manufacturer or distributor to compensate the dealer for handling, packing, and shipping the parts; and

(3) any properly functioning diagnostic equipment, special tools, current signage, and other equipment and machinery at one hundred percent of the dealer's net cost plus freight, destination, delivery, and distribution charges and sales taxes, if any, if the items were purchased by the dealer within five years before termination, cancellation, or nonrenewal, upon the manufacturer's or distributor's request, and which the dealer meets the burden of establishing, and can no longer be used in the normal course of the dealer's ongoing business.

(B) If recreational vehicles of a line make that was subject to a terminated dealer agreement are not repurchased or required to be repurchased by the manufacturer, the dealer may continue to sell such recreational vehicles that were subject to the terminated dealer agreement and were in the dealer's inventory on the effective date of the termination until those recreational vehicles are no longer in the dealer's inventory.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-110.

Sale of business assets, stock transfer, or other change in ownership by dealer; notice; objection; succession to dealership by family member; burden of proof.

(A) If a dealer desires to make a change in ownership by the sale of the business assets, stock transfer, or otherwise, the dealer shall give the manufacturer written notice at least fifteen business days before the closing, including all supporting documentation as may be reasonably required by the manufacturer to determine if an objection to the sale may be made. In the absence of a breach by the selling dealer of its dealer agreement or this chapter, the manufacturer shall not object to the proposed change in ownership unless the prospective transferee:

(1) has previously been terminated by the manufacturer for breach of its dealer agreement;

(2) has been convicted of a felony or any crime of fraud, deceit, or moral turpitude;

(3) lacks any license required by law;

(4) does not have an active line of credit sufficient to purchase a manufacturer's product; or

(5) has undergone in the last ten years bankruptcy, insolvency, a general assignment for the benefit of creditors, or the appointment of a receiver, trustee, or conservator to take possession of the transferee's business or property.

(B) If the manufacturer objects to a proposed change of ownership, the manufacturer shall give written notice of its reasons to the dealer within ten business days after receipt of the dealer's notification and complete documentation. The manufacturer has the burden of proof with regard to its objection. If the manufacturer does not give timely notice of its objection, the change or sale shall be deemed approved.

(C) It is unlawful for a manufacturer to fail to provide a dealer an opportunity to designate, in writing, a family member as a successor to the dealership in the event of the death, incapacity, or retirement of the dealer. It is unlawful to prevent or refuse to honor the succession to a dealership by a family member of the deceased, incapacitated, or retired dealer unless the manufacturer has provided to the dealer written notice of its objections within ten days after receipt of the dealer's modification of the dealer's succession plan. In the absence of a breach of the dealer agreement, the manufacturer may object to the succession for the following reasons only:

(1) conviction of the successor of a felony or any crime of fraud, deceit, or moral turpitude;

- (2) bankruptcy or insolvency of the successor during the past ten years;
 - (3) prior termination by the manufacturer of the successor for breach of a dealer agreement;
 - (4) the successor lacks an active line of credit sufficient to purchase the manufacturer's recreational vehicles; or
 - (5) the successor lacks any license required by law.
- (D) The manufacturer has the burden of proof regarding its objection. However, a family member may not succeed to a dealership if the succession involves, without the manufacturer's consent, a relocation of the business or an alteration of the terms and conditions of the manufacturer/dealer agreement.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-120.

Warrantors; warranty labor; dealer reimbursement; warranty audits; warranty claims; violations of this chapter.

(A) Each warrantor shall:

- (1) specify in writing each of its dealer obligations, if any, for preparation, delivery, and warranty service on its products;
- (2) compensate the dealer for warranty service required of the dealer by the warrantor; and
- (3) provide the dealer the schedule of compensation to be paid and the time allowances for the performance of any work and service. The schedule of compensation must include reasonable compensation for diagnostic work as well as warranty labor.

(B) Time allowances for the diagnosis and performance of warranty labor must be reasonable for the work to be performed. In the determination of what constitutes reasonable compensation under this section, the principal factors to be given consideration shall be the actual wage rates being paid by the dealer, and the actual retail labor rate being charged by the recreational vehicle dealers in the community in which the dealer is doing business. The compensation of a dealer for warranty labor may not be less than the lowest retail labor rates actually charged by the dealer for like nonwarranty labor as long as such rates are reasonable.

(C) The warrantor shall reimburse the dealer for any warranty part at actual wholesale cost plus a minimum thirty percent handling charge and the cost, if any, of freight to return such part to the warrantor.

(D) Warranty audits of dealer records may be conducted by the warrantor on a reasonable basis, and dealer claims for warranty compensation may not be denied except for cause, such as performance of nonwarranty repairs, material noncompliance with the warrantor's published policies and procedures, lack of material documentation, fraud, or misrepresentation.

(E) The dealer shall submit warranty claims within forty-five days after completing work.

(F) The dealer immediately shall notify the warrantor verbally or in writing if the dealer is unable to perform any warranty repairs within ten days of receipt of verbal or written complaints from a consumer.

(G) The warrantor shall disapprove warranty claims in writing within forty-five days after the date of submission by the dealer in the manner and form prescribed by the warrantor. Claims not specifically disapproved in writing within forty-five days shall be construed to be approved and must be paid within sixty days of submission.

(H) It is a violation of this chapter for any warrantor to:

- (1) fail to perform any of its warranty obligations with respect to its warranted products;
- (2) fail to include, in written notices of factory campaigns to recreational vehicle owners and dealers, the expected date by which necessary parts and equipment, including tires and chassis or chassis parts, will be available to dealers to perform the campaign work. The warrantor may ship parts to the dealer to effect the campaign work, and, if such parts are in excess of the dealer's requirements, the dealer may return unused parts to the warrantor for credit after completion of the campaign;
- (3) fail to compensate any of its dealers for authorized repairs effected by the dealer on recreational vehicles or products damaged in manufacture or transit to the dealer, if the carrier is designated by the warrantor;
- (4) fail to compensate any of its dealers in accordance with the schedule of compensation provided to the dealer pursuant to this section if performed in a timely and competent manner;
- (5) intentionally misrepresent in any way to purchasers of recreational vehicles that warranties with respect to the manufacture, performance, or design of the vehicle are made by the dealer as warrantor or cowarrantor; or
- (6) require the dealer to make warranties to customers in any manner related to the manufacture of the recreational vehicle.

(I) It is a violation of this chapter for any dealer to:

- (1) fail to perform predelivery inspection functions, as specified by the warrantor, in a competent and timely manner;
- (2) fail to perform warranty service work authorized by the warrantor in a competent and reasonably timely manner on any transient customer's vehicle of a line make sold or serviced by that dealer;
- (3) fail to accurately document the time spent completing each repair, the total number of repair attempts conducted on a single unit, and the number of repair attempts for the same repair conducted on a single vehicle;
- (4) fail to notify the warrantor within ten days of a second repair attempt which impairs the use, value, or safety of the vehicle;
- (5) fail to maintain written records, including a consumer's signature, regarding the amount of time a unit is stored for the consumer's convenience during a repair; or
- (6) make fraudulent warranty claims or misrepresent the terms of any warranty.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-130.

Indemnification; violations of this chapter.

(A) Notwithstanding the terms of any manufacturer/dealer agreement, it is a violation of this chapter for:

(1) a warrantor to fail to indemnify and hold harmless its dealer against any losses or damages to the extent such losses or damages are caused by the negligence or wilful misconduct of the warrantor. A new recreational vehicle dealer may not be denied indemnification for failing to discover, disclose, or remedy a defect in the design or manufacturing of a new recreational vehicle. A new recreational vehicle dealer may be denied indemnification if the new recreational vehicle dealer fails to remedy a known and announced defect in accordance with the written instructions of a warrantor for whom the new recreational vehicle dealer is obligated to perform warranty service. A new recreational vehicle dealer shall provide to the warrantor a copy of any pending law suit or similar proceeding in which allegations are made that are covered by this subsection within ten days after receiving such suit. Notwithstanding anything to the contrary, this subsection shall continue to apply even after the new recreational vehicle is titled; and

(2) a new recreational vehicle dealer to fail to indemnify and hold harmless its warrantor against any losses or damages to the extent that the losses or damages are caused by the negligence or wilful misconduct of the new recreational vehicle dealer. A warrantor shall provide to a new recreational vehicle dealer a copy of any pending law suit or similar proceeding in which allegations are made that are covered by this subsection within ten days after receiving such suit. Notwithstanding anything to the contrary, this subsection shall continue to apply even after the new recreational vehicle is titled.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

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SECTION 56-14-140.

Procedures for new recreational vehicles damaged prior to transit to dealer.

(A) Whenever a new recreational vehicle is damaged prior to transit to the dealer or is damaged in transit to the dealer and the carrier or means of transportation has been selected by the manufacturer, the dealer shall notify the manufacturer of the damage within the timeframe specified in the manufacturer/dealer agreement and:

(1) request from the manufacturer authorization to replace the components, parts, and accessories damaged or otherwise correct the damage; or

(2) reject the vehicle within the timeframe set forth in subsection (D).

(B) If the manufacturer refuses or fails to authorize repair of such damage within ten days after receipt of notification, or if the dealer rejects the recreational vehicle because of damage, ownership of the new recreational vehicle shall revert to the manufacturer.

(C) The dealer shall exercise due care in custody of the damaged recreational vehicle, but the dealer shall have no other obligations, financial or otherwise, with respect to that recreational vehicle.

(D) The time frame for inspection and rejection by the dealer must be part of the manufacturer/dealer agreement and may not be less than two business days after the physical delivery of the recreational vehicle.

(E) Any recreational vehicle that has, at the time of delivery to the dealer, an unreasonable amount of miles on its odometer, as determined by the dealer, may be subject to rejection by the dealer and reversion of the vehicle to the manufacturer. In no instance shall a dealer deem an amount less than the distance between the dealer and the manufacturer's factory or point of distribution, plus one hundred miles, as unreasonable.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

SECTION 56-14-150.

Coercion by manufacturers prohibited.

(A) A manufacturer may not coerce or attempt to coerce a dealer to:

(1) purchase a product that the dealer did not order;

(2) enter into an agreement with the manufacturer; or

(3) enter into an agreement that requires the dealer to submit its disputes to binding arbitration or otherwise waive rights or responsibilities provided under this chapter.

(B) As used in this section, the term "coerce" includes, but is not limited to, threatening to terminate, cancel, or not renew a manufacturer/dealer agreement without good cause or threatening to withhold product lines the dealer is entitled to purchase

pursuant to the manufacturer/dealer agreement or delay product delivery as an inducement to amending the manufacturer/dealer agreement.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

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SECTION 56-14-160.

Civil actions; venue; demand for mediation; injunctions.

(A) A dealer, manufacturer, or warrantor injured by another party's violation of this chapter may bring a civil action in circuit court to recover actual damages. The court shall award attorney's fees and costs to the prevailing party in such an action. Venue for any civil action authorized by this section shall be in any county in this State in which the dealer's business is located. In an action involving more than one dealer, venue may be in any county in this State in which any dealer that is party to the action is located.

(B) Prior to bringing suit under this section, the party bringing suit for an alleged violation shall serve a written demand for mediation upon the offending party. The demand for mediation shall be served upon the other party via certified mail at the address stated within the manufacturer/dealer agreement between the parties. The demand for mediation shall contain a brief statement of the dispute and the relief sought by the party filing the demand.

(C) Within twenty days after the date a demand for mediation is served, the parties shall mutually select an independent certified mediator and meet with that mediator for the purpose of attempting to resolve the dispute. The meeting place shall be in this State in a location selected by the mediator. The mediator may extend the date of the meeting for good cause shown either party or upon stipulation of both parties.

(D) The service of a demand for mediation under this section shall toll the time for the filing of any complaint, petition, protest, or other action under this chapter until representatives of both parties have met with a mutually selected mediator for the purpose of attempting to resolve the dispute. If a complaint, petition, protest, or other action is filed before that meeting, the court shall enter an order suspending the proceeding or action until the mediation meeting has occurred and may, upon written stipulation of all parties to the proceeding or action that they wish to continue to mediate under this section, enter an order suspending the proceeding or action for as long a period as the court considers appropriate.

(E) The parties to the mediation shall bear their own costs for attorney's fees and divide equally the cost of the mediator.

(F) In addition to the remedies provided in this section and notwithstanding the existence of any additional remedy at law, a manufacturer, or warrantor, or a dealer is authorized to make application to a circuit court for the grant, upon a hearing and for cause shown, of a temporary or permanent injunction, or both, restraining any person from acting as a dealer without being properly licensed, from violating or continuing to violate any of the provisions of this chapter, or from failing or refusing to comply with the requirements of this chapter. Such injunction shall be issued without bond. A single act in violation of the provisions of this chapter shall be sufficient to authorize the issuance of an injunction.

HISTORY: 2017 Act No. 51 (S.321), Section 1, eff November 19, 2017.

Editor's Note

2017 Act No. 51, Sections 6, 7, provide:

"SECTION 6. The department is authorized to promulgate regulations for the enforcement of the provisions of Chapter 14, Title 56.

"SECTION 7. This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

Title 56 - Motor Vehicles

CHAPTER 15

Regulation of Manufacturers, Distributors, and Dealers

ARTICLE 1

General Provisions

SECTION 56-15-10.

Definitions.

As used in this chapter the following words shall, unless the text otherwise requires, have the following meanings:

(a) "Motor vehicle", means any motor driven vehicle required to be registered pursuant to Section 56-3-110. This definition does not include motorcycles, new recreational vehicles as defined in Section 56-14-10, or mopeds.

(b) "Manufacturer," any person engaged in the business of manufacturing or assembling new and unused motor vehicles.

(c) "Factory branch," a branch office maintained by a manufacturer which manufactures or assembles motor vehicles for sale to distributors or motor vehicle dealers or which is maintained for directing and supervising the representatives of the manufacturer.

(d) "Distributor branch", a branch office maintained by a distributor who or which sells or distributes new motor vehicles to motor vehicle dealers.

(e) "Factory representative," a representative employed by a manufacturer or employed by a factory branch for the purpose of making or promoting the sale of motor vehicles or for supervising, servicing, instructing or contracting with motor vehicle dealers or prospective motor vehicle dealers.

(f) "Distributor representative", a representative employed by a distributor branch or distributor.

(g) "Distributor", any person who sells or distributes new motor vehicles to motor vehicle dealers or who maintains distributor representatives within the State.

(h) "Dealer" or "motor vehicle dealer", any person who sells or attempts to effect the sale of any motor vehicle. These terms do not include:

(1) manufacturers, distributors, or wholesalers;

(2) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court;

(3) public officers while performing their official duties;

(4) persons disposing of motor vehicles acquired for their own use and so used in good faith and not for the purpose of avoiding the provisions of law. Any person who effects or attempts to effect the sale of more than five motor vehicles in any one calendar year is considered a dealer or wholesaler, as appropriate, for purposes of this chapter;

(5) finance companies or other financial institutions who sell repossessed motor vehicles and insurance companies who sell motor vehicles they own as an incident to payments made under policies of insurance; or

(6) a South Carolina dealer that conducts the auction of investment grade or collector motor vehicles not more than three days per year and that:

(a) has obtained a surety bond in the amount of one million dollars;

(b) provides this service for an entity organized under Section 501(c)(3) of the Internal Revenue Code;

(c) possesses during the event all vehicle titles unencumbered by liens; and

(d) is responsible for ensuring all taxes are paid and all vehicles have been registered and titled property.

This subitem shall not permit any other temporary retail auctions or any other retail auctions of consignment vehicles.

(i) "Franchise," an oral or written arrangement for a definite or indefinite period in which a manufacturer, distributor or wholesaler grants to a motor vehicle dealer a license to use a trade name, service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or services related thereto at wholesale, retail, leasing or otherwise.

(j) "Franchisor" a manufacturer, distributor, or wholesaler who grants a franchise to a motor vehicle dealer.

(k) "Franchisee," a motor vehicle dealer to whom a franchise is offered or granted.

(l) "Sale", shall include the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest therein or of any franchise related thereto; and any option, lease, subscription or other contract, or solicitation, looking to a sale, or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto with, or as, a bonus on account of the sale of anything shall be deemed a sale of such motor vehicle or franchise.

(m) "Fraud," shall include, in addition to its normal legal connotation, the following: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; and an intentional failure to disclose a material fact.

(n) "Person," a natural person, corporation, partnership, trust or other entity, and, in case of an entity, it shall include any other entity in which it has a majority interest or effectively controls as well as the individual officers, directors and other persons in active control of the activities of each such entity.

(o) "New motor vehicle," a motor vehicle which has not been previously sold to any person except a distributor or wholesaler or motor vehicle dealer for resale.

(p) "Wholesaler" or "motor vehicle wholesaler", any person who sells or attempts to effect the sale of any used motor vehicle exclusively to motor vehicle dealers or to other wholesalers.

(q) Reserved.

- (r) "Due cause" means a material breach by a dealer of a lawful provision of a franchise or selling agreement that is not cured within a reasonable period of time after being given prior written notice of the specific material breach.
- (s) "Material breach" means a contract violation that is substantial and significant.
- (t) "Investment grade vehicle", a motor vehicle not currently sold by a franchised motor vehicle dealer and not in current production with a value that exceeds two hundred fifty thousand dollars.
- (u) "Collector motor vehicle", a motor vehicle that is at least twenty years old.
- (v) "Charity vehicle", a donated vehicle for which the net proceeds go to charity.
- (w) "Special interest vehicle", a unique vehicle of rarity, originality, unique or special coachwork, or previous ownership of significance that is not or has not been mass produced.
- (x) "Consumer data" has the same meaning as "nonpublic personal information", as defined in 15 U.S.C. Section 6809(4), and that is collected by a dealer and provided directly to a manufacturer or third party acting on behalf of a manufacturer. "Consumer data" does not include the same or similar data obtained by a manufacturer from any source other than the dealer or dealer's data management system.
- (y)(1) "Data management system" means a computer hardware or software system that:
- (a) is owned, leased, or licensed by a dealer, including a system of web-based applications, computer software, or computer hardware;
 - (b) is located at the dealership or hosted remotely; and
 - (c) stores and provides access to consumer data collected or stored by a dealer.
- (2) "Data management system" includes, but shall not be limited to, dealership management systems and customer relations management systems.
- (z) "New motor vehicle dealer" means a dealer that:
- (1) buys, sells, exchanges, offers, or attempts to negotiate a sale or exchange of an interest in new, or new and used, motor vehicles; or
 - (2) engages, wholly or in part, in the business of selling new, or new and used, motor vehicles.
- (aa) "Relevant market area" means:
- (1) an area within a ten mile radius around an existing dealer, for purposes of the relocation of an existing dealership; and
 - (2) an area within a fifteen mile radius around an existing dealer, for purposes of the addition of a new dealer to the market.
- (bb) "Stop-Sale Order" means a notification issued by a manufacturer to its franchised new motor vehicle dealers stating that certain used vehicles in inventory may not be sold or leased, at either retail or wholesale, due to a federal safety recall for a defect or noncompliance, or a federal emissions recall.

HISTORY: 1962 Code Section 46-150.151; 1972 (57) 2419; 1983 Act No. 118 Sections 4-8; 1984 Act No. 511, Section 2; 1988 Act No. 603, Section 1; 1993 Act No. 181, Section 1483; 1996 Act No. 459, Section 246A; 2013 Act No. 44, Section 1, eff June 7, 2013; 2017 Act No. 51 (S.321), Sections 2, 3, eff November 19, 2017; 2017 Act No. 89 (H.3247), Section 29, eff November 19, 2018; 2018 Act No. 225 (H.4795), Sections 1, 2, eff May 18, 2018; 2021 Act No. 31 (S.510), Sections 1, 2, eff August 4, 2021.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments in (a) made by 2017 Act No. 51, Section 2, effective November 19, 2017, and 2017 Act No. 89, Section 29, effective November 19, 2018, were read together.

Editor's Note

2017 Act No. 51, Section 7, provides:

"This act takes effect six months after approval by the Governor and applies to manufacturer/dealer agreements entered into on or after July 1, 2018."

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2017 Act No. 51, Section 2, in (a), substituted "pursuant to" for "under", and added ", or new recreational vehicles as defined in Section 56-14-10".

2017 Act No. 51, Section 3, reserved (q), which had related to the definition of "motor home".

2017 Act No. 89, Section 29, in (a), inserted "or mopeds".

2018 Act No. 225, Section 1, in (h), added (6), revising the definition of "dealer" to exclude certain persons conducting auctions of investment grade or collector motor vehicles, and made nonsubstantive changes.

2018 Act No. 225, Section 2, added (t) to (w), relating to the definitions of "Investment grade vehicle", "Collector motor vehicle", "Charity vehicle", and "Special interest vehicle", respectively.

2021 Act No. 31, Section 1, in (h)(1), substituted "manufacturers, distributors," for "distributors"; in (j), substituted "Franchisor" for "Franchiser" and made a nonsubstantive change; and in (l), in the first sentence, inserted "lease," following "and any option,".

2021 Act No. 31, Section 2, added (x) to (bb).

SECTION 56-15-20.

Persons subject to chapter and jurisdiction of courts; service of process.

Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale or has business dealings with respect to a motor vehicle within this State shall be subject to the provisions of this chapter

and shall be subject to the jurisdiction of the courts of this State upon service of process in accordance with the provisions of Chapter 9 of Title 15.

HISTORY: 1962 Code Section 46-150.152; 1972 (57) 2419.

SECTION 56-15-30.

Unfair methods of competition and unfair or deceptive acts or practices declared unlawful.

(a) Unfair methods of competition and unfair or deceptive acts or practices as defined in Section 56-15-40 are hereby declared to be unlawful.

(b) In construing paragraph (a) the courts may be guided by the definitions in the Federal Trade Commission Act (15 U.S.C. 45).

HISTORY: 1962 Code Section 46-150.153; 1972 (57) 2419.

SECTION 56-15-35.

Consumer data.

(A) If a franchisor, manufacturer, distributor, or third party acting on behalf of a franchisor, manufacturer, or distributor handles consumer data, then the franchisor, manufacturer, distributor, or third party:

(1) must comply with and shall not cause a dealer to violate applicable restrictions regarding reuse or consumer data disclosure established by federal or state law;

(2) upon a dealer's written request, must provide a statement to the dealer describing procedures that meet or exceed any federal or state consumer data protection requirements;

(3) upon a dealer's written request, must provide a written list of the consumer data obtained from the dealer and all persons to whom any consumer data has been furnished during the preceding six months. The dealer may make such a request no more than once every six months. The list must indicate the specific fields of consumer data that were provided to each person.

Notwithstanding the foregoing, such a list may not be required to include:

(a) a person to whom consumer data was provided, or the specific consumer data provided to such person, if the person was, at the time the consumer data was provided, a service provider or subcontractor acting in the course of performance of services on behalf of or for the benefit of the franchisor, manufacturer, or distributor, provided that the franchisor, manufacturer, or distributor has entered into an agreement with the person requiring that the person comply with the safeguard requirements of applicable state and federal law including, but not limited to, those established in the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801, et seq.; or

(b) a person to whom consumer data was provided, or the specific consumer data provided to the person, if the dealer has previously consented in writing to the person receiving the consumer data and the dealer has not withdrawn the consent in writing;

(4)(a) may not require a dealer to provide direct or indirect access to the dealer's data management system for obtaining consumer data. A dealer may furnish consumer data in a widely accepted file format, such as comma delimited, and through a third-party vendor selected by the dealer;

(b) may directly access or obtain consumer data from a dealer's data management system with the express written consent from the dealer. The consent must be a separate document executed by the dealer principal and may be withdrawn by the dealer upon providing a thirty-day written notice to the manufacturer or distributor. Consent is not required as a condition of a new motor vehicle dealer's participation in an incentive program, unless consent is necessary to obtain consumer data to implement the program; and

(5) must indemnify the dealer for any third-party claims or damages incurred by the dealer to the extent the damage is caused by access to, use of, or disclosure of consumer data in violation of this section by the franchisor, manufacturer, distributor, or a third party to whom the franchisor, manufacturer, or distributor has provided consumer data.

(B) This section is not a limitation on a franchisor's, manufacturer's, or distributor's ability to require the dealer to provide or use customer information exclusively related to the manufacturer or distributor's own vehicle makes to the extent necessary to:

(1) satisfy safety, recall, warranty, or other legal notice obligations required of the manufacturer;

(2) complete the sale and delivery of a new motor vehicle to a customer;

(3) validate and pay customer or dealer incentives;

(4) submit claims for any services supplied by the dealer for any claim for warranty parts or repair;

(5) perform market analysis;

(6) perform sales or service consumer satisfaction surveys; or

(7) perform reasonable marketing that benefits the dealer.

HISTORY: 2021 Act No. 31 (S.510), Section 3, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

SECTION 56-15-40.

Specific acts deemed unfair methods of competition and unfair or deceptive acts or practices; Office of Administrator; appointment of personnel; enforcement; financial services company.

(A) For the purposes of this section:

(1) "Goods" does not include moveable displays, brochures, or promotional materials containing information subject to a manufacturer's or distributor's intellectual property rights; special tools as reasonably required by the manufacturer; or repair parts under a manufacturer's or distributor's warranty obligations.

(2) "Financial services company" or "captive finance source" means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated, or controlled, in whole or in part, by a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division.

(B) It shall be deemed a violation of Section 56-15-30(a) for any manufacturer, factory branch, factory representative, distributor, or wholesaler, distributor branch, distributor representative or motor vehicle dealer to engage in any action which is arbitrary, in bad faith, or unconscionable and which causes damage to any of the parties or to the public.

(C) It shall be deemed a violation of Section 56-15-30(a) for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or an officer, agent or other representative, to require, coerce, or attempt to coerce, any motor vehicle dealer:

(1) to order or accept delivery of any motor vehicle or vehicles, appliances, equipment, parts or accessories, or any other commodity or commodities which such motor vehicle dealer has not voluntarily ordered;

(2) to order or accept delivery of any motor vehicle with special features, appliances, accessories, or equipment not included in the list price of said motor vehicles as publicly advertised by the manufacturer thereof;

(3) to order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever;

(4) to offer or promote service contracts, debt cancellation agreements, maintenance agreements, or other similar products approved, endorsed, sponsored, or offered by the manufacturer, distributor, affiliate, or captive finance source. This does not prohibit a manufacturer, distributor, affiliate, or captive finance source from offering voluntary incentives to the motor vehicle dealer;

(5) to sell, assign, or transfer any retail installment sales contract or lease obtained by the motor vehicle dealer in connection with the sale or lease of a new motor vehicle manufactured by the manufacturer to a specified finance company, class of finance companies, leasing company, class of leasing companies, or to any other specified person.

(D) It shall be deemed a violation of Section 56-15-30(a) for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent or other representative thereof:

(1) to refuse to deliver in reasonable quantities and within a reasonable time after receipt of dealer's order, to any motor vehicle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor branch or division, factory branch or division, or wholesale branch or division, any such motor vehicles as are covered by such franchise or contract specifically publicly advertised by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division to be available for immediate delivery; provided, however, the failure to deliver any motor vehicle shall not be considered a violation of this chapter if such failure be due to an act of God, work stoppage or delay due to a strike or labor difficulty, shortage of materials, freight embargo or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, shall have no control;

(2) to coerce, or attempt to coerce, any motor vehicle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof, or to do any other act prejudicial to such dealer by threatening to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, and such dealer; provided, however, that notice in good faith to any motor vehicle dealer of such dealer's violation of any terms or provisions of such franchise or contractual agreement shall not constitute a violation of this chapter;

(3) to terminate or cancel the franchise or selling agreement of any such dealer without due cause. The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation, regardless of the terms or provisions of such franchise or selling agreement. Such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representatives thereof shall notify a motor vehicle dealer in writing of the termination or cancellation of the franchise or selling agreement of such dealer at least ninety days before the effective date thereof, stating the specific grounds for such termination or cancellation, except that such notification may not be provided less than fifteen days before the effective date of the termination, cancellation, or nonrenewal with respect to any of the following: (a) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law; (b) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer; (c) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership; or (d) conviction of a felony involving moral turpitude, under the laws of this State or any other state, territory, or the District of Columbia; and such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof shall notify a motor vehicle dealer in writing by registered or certified mail with a return receipt requested at least ninety days before the contractual term of his franchise or selling agreement expires that the same will not be renewed, stating the specific grounds for such nonrenewal in those cases where there is no intention to renew, and in no event shall the contractual term of any such franchise or selling agreement expire, without the written consent of the motor vehicle dealer involved, prior to the expiration of at least ninety days following such written notice, or before the expiration of at least fifteen days following written notice of termination, cancellation, or nonrenewal for any of the following: (a) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law; (b) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances

beyond the direct control of the new motor vehicle dealer; (c) revocation of any license which the new motor vehicle dealer is required to have to operate a dealership; or (d) conviction of a felony involving moral turpitude, under the laws of this State or any other state, territory, or the District of Columbia. During a termination, cancellation, or nonrenewal requiring the ninety-day notification period, either party may in appropriate circumstances petition a court to modify such ninety-day stay or to extend it pending a final determination of such proceedings on the merits. The court shall have authority to grant preliminary and final injunctive relief. A dealer who receives notice of franchise termination, cancellation, or nonrenewal as provided herein shall continue to have the right to assign, sell, or transfer the franchise to a third party under the franchise and pursuant to Section 56-15-70 unless otherwise ordered by a court and until franchise termination, cancellation, or nonrenewal is effective;

(4) to resort to or use any false or misleading advertisement in connection with his business as such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent or other representative thereof;

(5) to offer to sell or to sell any new motor vehicle to any motor vehicle dealer at a lower actual price therefor than the actual price offered to any other motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, a sales promotion plan or a program which results in such lesser actual price; provided, however, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer for resale to any unit of the United States Government, the State or any of its political subdivisions; and provided, further, the provisions of this paragraph shall not apply to sales to a motor vehicle dealer of any motor vehicle ultimately sold, donated or used by such dealer in a driver education program; and provided, further, that the provisions of this paragraph shall not apply so long as a manufacturer, distributor, or wholesaler, or any agent thereof, offers to sell or sells new motor vehicles to all motor vehicle dealers at an equal price. This provision shall not apply to sales by manufacturer, distributor, or wholesaler to the United States Government or any agency thereof;

(6) to wilfully discriminate, either directly or indirectly, in price between different purchasers of a commodity of like grade or quality where the effect of such discrimination may be substantially to lessen competition or tend to create a monopoly or to injure or destroy the business of a competitor;

(7) to offer to sell or to sell parts or accessories to any new motor vehicle dealer for use in his own business for the purpose of repairing or replacing the same on a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motor vehicle dealer for similar parts or accessories for use in his own business; provided, however, in those cases where motor vehicle dealers operate and serve as wholesalers of parts and accessories to retail outlets or other dealers, whether or not such dealer is regularly designated as a wholesaler, nothing herein contained shall be construed to prevent a manufacturer, distributor, or wholesaler, or any agent thereof, from selling to such motor vehicle dealer who operates and services as a wholesaler of parts and accessories, such parts and accessories as may be ordered by such motor vehicle dealer for resale to retail outlets, at a lower actual price than the actual price charged a motor vehicle dealer who does not operate or serve as a wholesaler of parts and accessories;

(8) to prevent or attempt to prevent by contract or otherwise, any motor vehicle dealer from changing the capital structure of his dealership or the means by or through which he finances the operation of his dealership, provided the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer, distributor, or wholesaler, and provided such change by the dealer does not result in a change in the executive management of the dealership;

(9) to prevent or attempt to prevent by contract or otherwise, any motor vehicle dealer or any officer, partner or stockholder of any motor vehicle dealer from selling or transferring any part of the interest of any of them to any other person or persons or party or parties; provided, however, that no dealer, officer, partner or stockholder shall have the right to sell, transfer or assign the franchise or power of management or control thereunder without the consent of the manufacturer, distributor, or wholesaler except that such consent shall not be unreasonably withheld. If a manufacturer or distributor objects, then the objection must state the reasons for the denial of the request. A copy must be provided to the motor vehicle dealer by certified mail, return receipt requested, within forty-five days of the receipt of the dealer candidate's application and all documents reasonably required by the manufacturer, distributor, or wholesaler;

(10) to obtain money, goods, services, anything of value, or any other benefit from any other person with whom the motor vehicle dealer does business, on account of or in relation to the transactions between the dealer and such other person, unless such benefit is promptly accounted for and transmitted to the motor vehicle dealer;

(11) to require a motor vehicle dealer to assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this chapter;

(12) to allocate its products within this State in a manner that provides any of its franchised dealers an unfair, unreasonable, and inequitable supply of products and vehicles by series, product line, and model, based on each dealer's historical selling pattern as compared to other same line-make dealers. Additionally, a manufacturer or distributor may not establish a specific sales performance standard that does not take into account the actual vehicle allocation offered to the dealer by the manufacturer or distributor, as well as the dealer's inventory levels relevant to achieve any minimum performance standards to which the manufacturer or distributor holds the dealer accountable; provided, however, the failure to provide allocation of any products or vehicles, including by series, product line, or model, may not be considered a violation of this chapter if such failure is due to an act of God, natural disaster, force majeure, work stoppage or delay due to a strike or labor difficulty, shortage of materials, production limitation, freight embargo, or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, has no control, including the dealer's refusal or declination to accept product allocation offered; or

(13) to require, coerce, or attempt to coerce a dealer that is constructing, renovating, or substantially altering its dealership facility to

purchase goods or services from a vendor selected, identified, or designated by a manufacturer, distributor, affiliate, or captive finance source if the dealer may obtain goods or services, that are of substantially similar material, quality, and design to those required by the manufacturer, distributor, affiliate, or captive finance source from a vendor selected by the dealer. Prior to selecting a vendor, the dealer must obtain approval from the manufacturer, distributor, affiliate, or captive finance source. Approval may not be unreasonably withheld. If the manufacturer, distributor, affiliate, or captive finance source claims that a vendor selected by the dealer cannot supply substantially similar goods or services, then the dealer may file a protest with the court of common pleas. The court shall conduct a hearing on the merits of the protest within ninety days following the filing of a response to the protest. The manufacturer, distributor, affiliate, or captive finance source shall bear the burden of proving that the goods or services chosen by the dealer are not of substantially similar material, quality, and design to those required by the manufacturer, distributor, affiliate, or captive finance source. Nothing in this item may be construed to allow a dealer to impair or eliminate a manufacturer, distributor, affiliate, or captive finance source's intellectual property or trademark rights and trade dress usage guidelines or impair other intellectual property interests owned or controlled by the manufacturer, distributor, affiliate, or captive finance source, including the design and use of signs. This section does not apply to any facility or premise improvement or alteration that is voluntarily agreed to by the new motor vehicle dealer and for which the dealer receives facilities-related compensation from the manufacturer or distributor for the facility improvement or alteration equivalent to at least a majority of the cost incurred by the dealer for the facility improvement or alteration.

(E) It shall be deemed a violation of Section 56-15-30(a) for a motor vehicle dealer:

(1) To require a purchaser of a new motor vehicle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts or accessories not desired or requested by the purchaser; provided, however, that this prohibition shall not apply as to special features, appliances, equipment, parts or accessories which are already installed on the car when received by the dealer; provided, further, that the motor vehicle dealer prior to the consummation of the purchase reveals to the purchaser the substance of this item.

(2) To represent and sell as a new motor vehicle any motor vehicle which has been used and operated for demonstration purposes or which is otherwise a used motor vehicle.

(3) To resort to or use any false or misleading advertisement in connection with his business as such motor vehicle dealer.

(F) There is hereby created the Office of Administrator, within the Attorney General's office, and he shall appoint such personnel within his office for the purpose of regulating this chapter. The Administrator shall have the power to investigate, issue cease and desist orders and injunctive relief on any valid abuse connected with the sale, rental or leasing of a new or used motor vehicle; provided, however, this power shall only apply after reasonable attempts by the consumer have been made with the seller, dealer, manufacturer or lessor of the motor vehicle to alleviate the complaint.

(G) A manufacturer or distributor may not use any financial services company, captive finance source, or leasing company owned or controlled by the manufacturer or distributor to accomplish what would otherwise be illegal conduct on the part of the manufacturer or distributor pursuant to subsection (C)(4) or (5).

HISTORY: 1962 Code Section 46-150.154; 1972 (57) 2419; 2013 Act No. 44, Sections 2.A, 2.B, eff June 7, 2013; 2021 Act No. 31 (S.510), Section 4, eff August 4, 2021.

Code Commissioner's Note

At the direction of the Code Commissioner, subsections (E) to (G), which were inadvertently deleted from this section by 2021 Act No. 31, Section 4, were restored.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 4, rewrote the section.

SECTION 56-15-45.

Ownership, operation or control of competing dealerships by manufacturer or franchisor; unfair competition against franchisee; preferential treatment defined; sales or leases to federal government or employees; sales of leased vehicles; manufacturer's e-commerce websites.

(A) It is unlawful for a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor to own, operate, or control or to participate in the ownership, operation, or control of a new motor vehicle dealer in this State, to establish in this State an additional dealer or dealership in which that person or entity has an interest, or to own, operate, or control, directly or indirectly, an interest in a dealer or dealership in this State, excluding a passive interest in a publicly traded corporation held for investment purposes. This subsection does not prohibit the ownership, operation, or control of a new motor vehicle dealer by a manufacturer or franchisor:

(1) for a temporary period, not to exceed one year, during the transition from one owner or operator to another, except that on a showing by a manufacturer or franchisor of good cause, a court of competent jurisdiction may extend this time limit for periods up to an additional twelve months;

(2) during a period in which the new motor vehicle dealer is being sold pursuant to a bona fide contract, shareholder agreement, or purchase option to the operator of the dealership; or

(3) at the same location at which the manufacturer or franchisor has been continuously engaged in the retail sale of new motor

vehicles as the owner, operator, or controller of the dealership since January 1, 1998.

(B)(1) It is unlawful for a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor to compete unfairly with a new motor vehicle dealer of the same line make operating pursuant to a franchise in the State of South Carolina. Except as otherwise provided in this subsection, the mere ownership, operation, or control of a new motor vehicle dealer by a manufacturer or franchisor pursuant to the conditions set forth in subsection (A) of this section is not a violation of this subsection.

(2) For purposes of this subsection, a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor is conclusively presumed to be competing unfairly if it gives preferential treatment to a dealer or dealership in which an interest is directly or indirectly owned, operated, or controlled by the manufacturer or franchisor or any partner, affiliate, wholly or partially owned subsidiary, officer, or representative of the manufacturer or franchisor, expressly including, but not limited to, preferential treatment regarding the direct or indirect cost of vehicles or parts, the availability or allocation of vehicles or parts, the availability or allocation of special or program vehicles, the provision of service and service support, the availability of or participation in special programs, the administration of warranty policy, the availability or allocation of factory rebates, or the availability and use of after warranty adjustments, advertising, floor planning, or financing or financing programs.

(C) It is unlawful for a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor to own a facility that engages primarily in the repair of motor vehicles, except motor homes, if the repairs are performed pursuant to the terms of a franchise or other agreement or the repairs are performed as part of a manufacturer's or franchisor's warranty. Nothing in this subsection prohibits a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor from owning a facility to perform warranty or other repairs on motor vehicles owned and operated by the manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor.

(D) Except as may be provided otherwise in subsections (A) and (B) of this section, a manufacturer or franchisor may not sell, or lease, directly or indirectly, a motor vehicle to a consumer in this State, except through a new motor vehicle dealer holding a franchise for the line make that includes the motor vehicle. This subsection does not apply to manufacturer or franchisor sales of new motor vehicles to the federal government, nor to manufacturer or franchisor leases of new motor vehicles to employees of the manufacturer or franchisor. Nothing in this subsection prohibits a manufacturer or franchisor or any parent, affiliate, wholly or partially owned subsidiary, officer, or representative of a manufacturer or franchisor operating as a motor vehicle lessor from selling a motor vehicle to the lessee at the conclusion of a lease agreement between the two parties. Nothing in this subsection prevents a manufacturer or franchisor from establishing an e-commerce website for the purpose of referring prospective customers to motor vehicle dealers holding a franchise for the same line make of the manufacturer or franchisor.

HISTORY: 2000 Act No. 287, Section 2; 2021 Act No. 31 (S.510), Section 5, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 5, rewrote (A)(3); and in (D), in the first sentence, inserted "or lease," following "may not sell,".

SECTION 56-15-46.

Notice of intent to establish or relocate competing dealership; injunction.

(A) A franchisor that intends to establish a new dealership or to relocate a current dealership for a particular line-make motor vehicle within the relevant market area of an existing dealership of the same line-make motor vehicle shall give at least sixty-days' prior written notice of that intent by certified mail to the existing dealership. The notice must include the:

- (1) specific location of the additional or relocated dealership;
- (2) date of commencement of operation of the additional or relocated dealership at the new location;
- (3) identities of all existing dealerships located in the market area of the new or relocated dealership; and
- (4) names and addresses of the dealer and principals in the new or relocated dealership.

(B) If a franchisor intends to establish a new dealership or to relocate an existing dealership within the relevant market area of an existing dealership, then that existing dealership may petition the court, within sixty days of the receipt of the notice, to enjoin or prohibit the establishment of the new or relocated dealership within the relevant market area of the existing dealership. The court shall enjoin or prohibit the establishment of the new or relocated dealership within the relevant market area of the protesting dealership unless the franchisor shows by a preponderance of the evidence that the existing dealership is not providing adequate representation of the line-make motor vehicle and that the new or relocated dealership is necessary to provide the public with reliable and convenient sales and service within that area. The burden of proof in establishing adequate representation is on the franchisor. In determining if the existing dealership is providing adequate representation and if the new or relocated dealership is necessary, the court may consider, but is not limited to, considering:

- (1) the impact the establishment of the new or relocated dealership will have on consumers, the public interest, and the protesting dealership, except that financial impact may be considered only with respect to the protesting dealership;
- (2) the size and permanency of investment reasonably made and the reasonable obligations incurred by the protesting dealership to perform its obligation pursuant to the dealership's franchise agreement;

- (3) the reasonably expected market penetration of the line-make motor vehicle, after consideration of all factors which may affect the penetration including, but not limited to, demographic factors such as age, income, education, size class preference, product popularity, retail lease transactions, and other factors affecting sales to consumers;
- (4) actions by the franchisor in denying its existing dealership of the same line make the opportunity for reasonable growth, market expansion, or relocation, including the availability of line-make motor vehicles in keeping with reasonable expectations of the franchisor in providing an adequate number of dealerships;
- (5) attempts by the franchisor to coerce the protesting dealership into consenting to an additional or relocated dealership of the same line make within a ten-mile radius of the protesting dealership;
- (6) distance, travel time, traffic patterns, and accessibility between the protesting dealership of the same line make and the location of the proposed new or relocated dealership;
- (7) the likelihood of benefits to consumers from the establishment or relocation of the dealership, which benefits may not be obtained by other geographic or demographic changes or other expected changes within a ten-mile radius of the protesting dealership;
- (8) if the protesting dealership is in substantial compliance with its franchise agreement;
- (9) if there is adequate interbrand and intrabrand competition with respect to the line-make motor vehicles, including the adequacy of sales and service facilities;
- (10) if the establishment or relocation of the proposed dealership appears to be warranted and justified based on economic and market conditions pertinent to dealerships competing within a ten-mile radius of the protesting dealership, including anticipated changes; and
- (11) the volume of registrations and service business transacted by the protesting dealership.

(C) This section does not apply to the:

- (1) relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation; or
- (2) relocation of an existing new motor vehicle dealer if the proposed site of the relocated new motor vehicle dealership is further away from all other new motor vehicle dealers of the same line make in that relevant market area.

HISTORY: 2000 Act No. 287, Section 2; 2021 Act No. 31 (S.510), Section 6, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 6, rewrote the section.

SECTION 56-15-47.

Designation of successor to the dealership in the event of death or incapacity of motor vehicle dealer; requirements; burden of proof. A manufacturer may not prevent a motor vehicle dealer from designating a successor to the dealership in the event of death or incapacity of the motor vehicle dealer. The designation may be made by the motor vehicle dealer by will or other written instrument or, in the event of his death or incapacity, by the qualified executor or personal representative of the motor vehicle dealer by will or other written instrument. No individual may succeed to a franchise until the franchisor has been given written notice as to the identity, financial ability, and qualifications of the successor in question. The manufacturer or distributor is not required to accept a succession which does not meet the manufacturer's or distributor's written, reasonable, and uniformly applied minimal standard qualifications. The burden of proof shall be on the manufacturer or distributor to show that the succession does not meet the manufacturer's or distributor's written, reasonable, and uniformly applied minimal standard qualifications.

HISTORY: 2013 Act No. 44, Section 3, eff June 7, 2013.

SECTION 56-15-50.

Manufacturers shall specify delivery and preparation obligations of dealers; filing of copy of obligations and schedule of compensation; indemnification.

(A) Every manufacturer shall specify to the dealer the delivery and preparation obligations of its motor vehicle dealers prior to delivery of new motor vehicles to retail buyers. A copy of the delivery and preparation obligations of its motor vehicle dealers and a schedule or statement of the compensation to be paid or credited to its motor vehicle dealers for the work and services they shall be required to perform in connection with such delivery and preparation obligations shall be filed with the Department of Motor Vehicles by every motor vehicle manufacturer and shall constitute any such dealer's only responsibility for product liability as between such dealer and such manufacturer. The compensation as set forth on such schedule or statement shall be reasonable and paid or credited as set out in Section 56-15-60.

(B) Every manufacturer and franchisor shall indemnify and hold harmless its franchised dealers licensed in this State against any judgment for damages or settlements agreed to by the manufacturer or franchisor including, but not limited to, court costs and reasonable attorneys' fees of the motor vehicle dealer arising out of complaints, claims, or lawsuits including, but not limited to, strict liability, negligence, misrepresentation, express or implied warranty, or rescission or revocation of acceptance of the sale of a motor vehicle to the extent that the judgment or settlement relates to the alleged defective negligent manufacture, assembly, or design of new motor vehicles, parts, or accessories or other functions by the manufacturer or franchisor, but excluding any judgment

or settlement that is the result, in whole or in part, of the dealer's negligence or wrong doing.

HISTORY: 1962 Code Section 46-150.155; 1972 (57) 2419; 1993 Act No. 181, Section 1484; 2021 Act No. 31 (S.510), Section 7, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 7, inserted the (A) designator, and added (B).

SECTION 56-15-60.

Fulfillment of warranty agreements; dealers' claims for compensation.

(A) It is unlawful for a new motor vehicle manufacturer to recover any portion of its costs for compensating dealers for recalls or warranty parts and service, either by reduction in the amount due to the dealer, or by separate charge, surcharge, or other imposition.

(B) A manufacturer or distributor shall specify in writing to each of its dealers operating in this State the dealer's obligations for preparation, delivery, and warranty services related to the manufacturer or distributor's products. The manufacturer or distributor shall compensate the dealer for the warranty services the manufacturer or distributor requires the dealer to provide, including warranty and recall obligations related to repairing and servicing motor vehicles of the manufacturer or distributor and all parts and components authorized by the manufacturer to be installed in or manufactured for installation in such motor vehicles.

(C)(1) The manufacturer or distributor shall provide to the dealer a schedule of compensation that specifies reasonable compensation the manufacturer or distributor will pay to the dealer for the warranty services, including for parts, labor, and diagnostics. For parts and labor warranty reimbursement, reasonable compensation shall not be less than the rate charged by the dealer for like services to nonwarranty customers for nonwarranty parts, service, and repairs if the dealer has submitted a request for retail reimbursement pursuant to item (4).

(2) If the dealer has requested retail reimbursement pursuant to item (4), the schedule of compensation for parts must be determined by multiplying the price paid by the dealer for warranty parts by the sum of one and the dealer's average percentage markup. The dealer's average percentage markup is calculated by subtracting one from the result of dividing the total amounts charged by the dealer for parts used in warranty-like repairs by the total cost to the dealer for the parts in the retail service orders submitted pursuant to item (4).

(3) If the dealer has requested retail reimbursement pursuant to item (4), the schedule of compensation for labor-related warranty services must be determined by dividing the total amount of retail sales attributable to labor for warranty-like services by the number of hours of labor spent to generate the retail sales in the retail service orders submitted pursuant to item (4).

(4)(a) The dealer may establish its retail average percentage markup for parts or its labor rate by submitting to the manufacturer copies of one hundred sequential retail service orders paid by the dealer's customers, or all of the dealer's retail service orders paid by the dealer's customers in a ninety-day period, whichever is less, for services provided within the previous one hundred eighty-day period. The manufacturer or distributor may not consider retail service orders or portions of retail service orders attributable to the following types of repairs:

(i) repairs to motor vehicles owned by the dealer;

(ii) repairs made pursuant to manufacturer special events and manufacturer discounted service campaigns;

(iii) parts sold at wholesale or discounted by a dealer for repairs made to government vehicles or insurance work for which volume discounts have been negotiated;

(iv) tires;

(v) routine maintenance such as alignments, flushes, oil changes, brake pads or rotors, lightbulbs, fluids, filters, batteries, belts, and hoses;

(vi) nuts, bolts, fasteners, and similar items that do not have an individual part number.

(b) Within thirty days of receiving the dealer's submission, the manufacturer or distributor may request additional necessary documentation to support the submitted orders. If the manufacturer or distributor requests additional documentation to support the submission, then the time period in which the manufacturer or distributor must approve or deny the establishment of the franchise motor vehicle dealer's average percentage markup must be extended by thirty days. The manufacturer or distributor then shall approve or deny the establishment of the dealer's average percentage markup or labor rate. If the manufacturer or distributor approves the establishment of the dealer's average percentage markup or labor rate, the markup or rate calculated under this subitem goes into effect thirty days after the date of the manufacturer's or distributor's approval.

(c) A manufacturer or distributor may not require a dealer to establish an average percentage markup or labor rate by a methodology, or by requiring the submission of information, that is unduly burdensome or time-consuming to the dealer including, but not limited to, requiring part-by-part or transaction-by-transaction calculations.

(d) A dealer may not request a change in the dealer's average percentage markup or labor rate more than once in any twelve-month period.

(D)(1) If a manufacturer or distributor provides a part or component to a dealer at reduced or no cost for repairs completed because of a recall, campaign service action, or warranty repair, then the manufacturer or distributor shall compensate the dealer for the part or component in the same manner as compensation for warranty parts based on the dealer's average markup less the cost for the part or component as listed in the manufacturer's or distributor's price schedule.

(2) A manufacturer may not take or threaten to take any adverse action against a dealer seeking to obtain compensation pursuant to this subsection including, but not limited to, creating or implementing an obstacle or process that is inconsistent with the manufacturer's obligations to the dealer.

(3) Within thirty days of receiving a manufacturer's notice of denial of the dealer's parts or labor submission, a new motor vehicle dealer may file a protest with the court of common pleas to protest a manufacturer's denial. If a protest is filed, then the manufacturer possesses the burden of proof to establish that the dealer's submission did not meet the respective submission requirements contained within this subsection or is inaccurate or unreasonable. If a dealer prevails in a protest filed under this subsection, then the dealer's increased parts or labor reimbursement must be provided retroactively as of the date the submission would have been effective but for the manufacturer's denial.

(E) It is a violation of this section for any new motor vehicle manufacturer to fail to:

(1) perform any warranty obligations; or

(2) compensate any new motor vehicle dealer for repairs effected by a recall.

(F)(1) All claims made by a new motor vehicle dealer pursuant to this section for labor and parts shall be paid within thirty days following approval; provided, however, that the manufacturer may audit claims for up to one year after payment and charge the dealer for fraudulent claims, work done unnecessarily, or work not properly performed. All claims must be approved or disapproved within thirty days after receipt on forms and in the manner specified by the manufacturer. Any claim not specifically disapproved in writing within thirty days after receipt shall be construed to be approved and payment must follow within thirty days.

(2) The manufacturer or distributor shall not disapprove a reimbursement claim if the dealer can substantiate the claim, in accordance with the manufacturer's reasonable policies and procedures. A claim may not be denied or charged back due to a dealer's unintentional administrative error if the claim meets the requirements of this subsection. The one-year limitation on the manufacturer's right to audit a claim shall not be in effect in the case of fraudulent claims.

(G)(1) Any audit for warranty or recall parts, service compensation, or compensation for a qualifying used motor vehicle in accordance with subsection (I) only may be conducted once within any twelve-month period and only must be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch.

(2) Any audit for sales incentives, service incentives, rebates, or other forms of incentive compensation only may be conducted once within any twelve-month period and only must be for the twelve-month period immediately following the date of the payment of the claim by the manufacturer, factory branch, distributor, or distributor branch pursuant to a sales incentives program, service incentives program, rebate program, or other form of incentive compensation program.

(3) The limitations of this subsection do not apply to fraudulent claims.

(H) A manufacturer or distributor shall not charge a dealer back for sales incentives, service incentives, rebates, or other forms of incentive compensation subsequent to the payment of the claim unless it can be shown that the claim was false, fraudulent, or that the dealer failed to reasonably substantiate the claim in accordance with the manufacturer's reasonable written procedures.

(I)(1) A manufacturer shall compensate its new motor vehicle dealers for all labor and parts required by the manufacturer to perform recall repairs. Compensation for recall repairs must be reasonable. If parts or a remedy are not reasonably available to perform a recall service or repair on a used vehicle held for sale by a dealer authorized to sell and service new vehicles of the same line make within thirty days of the manufacturer issuing the initial notice of recall, and the manufacturer has issued a Stop-Sale or Do-Not-Drive order on the vehicle, the manufacturer shall compensate the dealer at a prorated rate of at least one percent of the value of the vehicle each month beginning on the date that is thirty days after the date on which the Stop-Sale or Do-Not-Drive order was provided to the dealer until the earlier of either of the following:

(a) The date the recall or remedy parts are made available.

(b) The date the dealer sells, trades, or otherwise disposes of the affected used motor vehicle.

(2) The value of a used vehicle must be the average trade-in value for used vehicles as indicated in an independent third-party guide for the year, make, and model of the recalled vehicle.

(3) This subsection only applies to used vehicles subject to safety or emissions recalls pursuant to and recalled in accordance with federal law and regulations and where a Stop-Sale or Do-Not-Drive order has been issued and repair parts or remedy remain unavailable for thirty days or longer. This subsection further applies only to new motor vehicle dealers holding an affected used vehicle for sale:

(a) in inventory at the time the Stop-Sale or Do-Not-Drive order was issued;

(b) which was taken in the used vehicle inventory of the dealer as a consumer trade in incident to the purchase of a new vehicle from the dealer after the Stop-Sale or Do-Not-Drive order was issued; and

(c) that is a line make that the dealer is franchised to sell or on which the dealer is authorized to perform recall repairs.

(4) Subject to the audit provisions of subsection (G)(1), it is a violation of this section for a manufacturer to reduce the amount of compensation otherwise owed to an individual new motor vehicle dealer, whether through a chargeback, removal of the individual dealer from an incentive program, or reduction in amount owed under an incentive program solely because the new motor vehicle dealer has submitted a claim for reimbursement under this section. This item does not apply to an action by a manufacturer that is applied uniformly among all dealers of the same line-make in the State.

(5) All reimbursement claims made by new motor vehicle dealers pursuant to this section for recall remedies or repairs, or for compensation where no part or repair is reasonably available and the vehicle is subject to a Stop-Sale or Do-Not-Drive order, is subject to the same limitations and requirements as a warranty reimbursement claim made under this section. In the alternative, a

manufacturer may compensate its franchised dealers under a national recall compensation program, provided the compensation under the program is equal to or greater than that provided under this subsection; or as the manufacturer and dealer otherwise agree. (6) A manufacturer may direct the manner and method in which a dealer shall demonstrate the inventory status of an affected used motor vehicle to determine eligibility under this section, provided that the manner and method may not be unduly burdensome and may not require information that is unduly burdensome to provide.

(7) Nothing in this section requires a manufacturer to provide total compensation to a dealer which would exceed the total average trade-in value of the affected used motor vehicle as originally determined under item (2).

(8) Any remedy provided to a dealer under this subsection is exclusive and may not be combined with any other state or federal recall compensation remedy.

HISTORY: 1962 Code Section 46-150.156; 1972 (57) 2419; 2000 Act No. 287, Section 3; 2013 Act No. 44, Section 4, eff June 7, 2013; 2021 Act No. 31 (S.510), Section 8, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 8, rewrote the section.

SECTION 56-15-65.

Requiring change of location or alteration of dealership.

(A) It is unlawful for any manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the motor vehicle dealership or to make any substantial alterations to the dealer's premises or facilities unless:

(1) the manufacturer demonstrates that such change or alteration is reasonable in light of the current market and economic conditions; and

(2) the motor vehicle dealer has been provided written assurance from the manufacturer or distributor of a sufficient supply of motor vehicles to justify such change or alteration.

(B)(1) It is unlawful for any manufacturer, distributor, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to change the location of the dealership, or to make any substantial alterations to its dealership premises or facilities if:

(a) the dealer changed the location of the dealership or made substantial alterations to the same signs, franchisor image elements, or other improvements to its premises or facilities within the preceding ten years; and

(b) the change in location or alteration was made pursuing compliance with a facility initiative or program that was sponsored or supported by the manufacturer, factory branch, distributor, or distributor branch, with the approval of the manufacturer, factory branch, distributor, or distributor branch.

(2) This subsection does not apply if the required facility alteration or improvement is necessary to comply with health and safety requirements or are necessary in order to sell and service a motor vehicle offered for sale by the dealer.

HISTORY: 2009 Act No. 52, Section 1, eff upon approval (became law without the Governor's signature on June 3, 2009); 2021 Act No. 31 (S.510), Section 9, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 9, inserted the (A) designator, and added (B).

SECTION 56-15-70.

Certain unreasonable restrictions on dealers or franchisees unlawful.

It is unlawful to directly or indirectly impose unreasonable restrictions on the motor vehicle dealer or franchisee relative to transfer, sale, relocation, right to renew, termination, discipline, noncompetition covenants, site-control (whether by sublease, collateral pledge of lease, or otherwise), or to exercise a right of first refusal to purchase, option to purchase, or compliance with subjective standards and assertion of legal or equitable rights.

HISTORY: 1962 Code Section 46-150.157; 1972 (57) 2419; 2021 Act No. 31 (S.510), Section 10, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 10, substituted "It is unlawful to directly or indirectly" for "It shall be unlawful directly or indirectly to", inserted "relocation," and "or to exercise a", and "or" following "option to purchase,".

SECTION 56-15-75.

Requiring dealer to refrain from acquiring another line of new motor vehicles.

It is unlawful for any manufacturer, distributor, factory branch, distributor branch, factory representative, or distributor representative to require, coerce, or attempt to coerce any motor vehicle dealer to refrain from participation in the management of, investment in, or acquisition of any other make or line of new motor vehicles or related products if:

- (1) the requirements are unreasonable considering current economic conditions and are not otherwise justified by reasonable business considerations;
- (2) the motor vehicle dealer has maintained a reasonable line of credit for each make or line of a new motor vehicle; and
- (3) the motor vehicle dealer remains in compliance with reasonable capital standards and reasonable facilities requirements specified by the manufacturer.

Reasonable facilities requirements shall not include any requirement that a motor vehicle dealer establish or maintain exclusive facilities, personnel, or display space, unless the manufacturer or distributor establishes by a preponderance of the evidence that such requirements are justified by current economic conditions or reasonable business considerations.

HISTORY: 2009 Act No. 52, Section 2, eff upon approval (became law without the Governor's signature on June 3, 2009).

SECTION 56-15-80.

Agreements to which chapter applies.

The provisions of this chapter shall apply to all written or oral agreements between a manufacturer, wholesaler or distributor with a motor vehicle dealer including, but not limited to, the franchise offering, the franchise agreement, sales of goods, services or advertising, leases or mortgages of real or personal property, promises to pay, security interests, pledges, insurance contracts, advertising contracts, construction or installation contracts, servicing contracts, and all other such agreements in which the manufacturer, wholesaler or distributor has any direct or indirect interest.

HISTORY: 1962 Code Section 46-150.158; 1972 (57) 2419.

SECTION 56-15-85.

Electronic sale of vehicles.

This chapter does not prohibit a dealership located in this State from contracting with an on-line electronic service to provide motor vehicles to consumers in this State.

HISTORY: 2000 Act No. 287, Section 4.

SECTION 56-15-90.

Failure to renew, termination or restriction of transfer of franchise; determining reasonable compensation for value of dealership franchise.

(A) It is unlawful for a manufacturer, wholesaler, distributor, or franchisor, without due cause, to fail to renew on terms then equally available to all its motor vehicle dealers of the same line-make, to terminate a franchise or to unreasonably restrict the transfer of a franchise. In the event of a termination for due cause, the dealer must receive fair and reasonable compensation for the value of the business and compensation for its dealership facilities or location as provided in subsection (C).

(B)(1) In determining the fair and reasonable compensation for a business, pursuant to subsection (A) or (D), the value of the business shall include, but not be limited to:

- (a) the dealer cost for all new untitled, undamaged, and unaltered motor vehicles in the dealer's inventory with less than one thousand miles on the odometer, purchased from the manufacturer or from another same line-make dealer in the ordinary course of business within twenty-four months of termination;
- (b) the dealer cost for all new, unused, and undamaged parts and motor vehicle supplies listed in the manufacturer's or distributor's current parts catalog and still in the original, resalable merchandising package and in unbroken lots, purchased from the manufacturer or distributor;
- (c) the fair market value of equipment, furnishings, and signage bearing a trademark or trade name of the manufacturer or line make which are in useable and good condition, normal wear and tear excepted, that have not been substantially altered or damaged, required by the manufacturer or distributor and purchased from the manufacturer, distributor, or their approved sources, provided the manufacturer is entitled to an offset for any monetary compensation provided to the dealer at the original purchase of the items;
- (d) the fair market value of special tools and automotive service equipment owned by the dealer that were designated as special tools or equipment required by and purchased from the manufacturer or distributor, if the tools and equipment are in useable and good condition, normal wear and tear excepted; and
- (e) the reasonable cost of return shipping and handling charges incurred as a result of returning such items.

(2) Provided that a new motor vehicle dealer has clear title to the inventory and other items and is in a position to convey that title to the manufacturer, the payments required under this section shall be paid by the manufacturer, wholesaler, distributor, or franchisor within ninety days of the effective date of the termination, nonrenewal, or cancellation of a franchise. If the inventory or other items are subject to a security interest, the manufacturer, wholesaler, distributor, or franchisor may make payment jointly to the dealer and the holder of the security interest.

(C)(1) Within ninety days of the termination, cancellation, or nonrenewal of a franchise by a manufacturer, wholesaler, distributor, or franchisor, due to a dealer's poor sales and service performance, or due to the discontinuation of a line-make, the party shall pay the franchisee an amount equal to:

- (a) the franchisee's reasonable cost to rent or lease its dealership facility or location for one year or the unexpired term of the lease or rental period, whichever is less; or
 - (b) the reasonable rental value of the facilities or location for one year if the franchisee owns the facility or location.
- (2) If more than one franchise is being terminated, canceled, or not renewed, then the reimbursement shall be prorated equally

among the different manufacturers, wholesalers, distributors, and franchisors. If the facility is used for the operations of more than one franchise and only one is being terminated, then the reasonable rent shall be paid based upon the prorated portion of new vehicle sales for the previous year attributable to the line make being terminated, canceled, or nonrenewed for the prior one-year period.

(D) In the event a franchisee terminates the franchise agreement with the manufacturer, wholesaler, distributor, or franchisor, it is unlawful for the manufacturer, wholesaler, distributor, or franchisor to not abide by the provisions included in subsection (B) in determining fair and reasonable compensation to the dealer. However, the requirements of subsection (B) do not apply to a termination, cancellation, or nonrenewal due to the sale of the assets or stock of a motor vehicle franchisee.

(E)(1) If a termination, cancellation, or nonrenewal occurs pursuant to item (2), then the manufacturer or distributor shall compensate the dealer in an amount at least equivalent to the fair market value of the franchise as of:

(a) the date the franchisor announces the action that results in termination, cancellation, or nonrenewal;

(b) the date the action that results in termination, cancellation, or nonrenewal first became general knowledge; or

(c) the day eighteen months before the date on which the notice of termination, cancellation, or nonrenewal is issued, whichever amount is higher.

(2) The provisions of this subsection apply if a termination, cancellation, or nonrenewal occurs as a result of:

(a) any change in ownership, operation, or control of all or any part of the business of the manufacturer or distributor, whether by sale or transfer of assets, corporate stock or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law or otherwise;

(b) the termination, suspension, or cessation of a part or all of the business operations of the manufacturer or distributor; or

(c) the discontinuance of the sale of the line make or brand, or a change in distribution system by the manufacturer, whether through a change in distributors or the manufacturer's decision to cease conducting business through a distributor altogether.

HISTORY: 1962 Code Section 46-150.159; 1972 (57) 2419; 2009 Act No. 52, Section 3, eff upon approval (became law without the Governor's signature on June 3, 2009); 2021 Act No. 31 (S.510), Section 11, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 11, rewrote the section.

SECTION 56-15-95.

Termination or cancellation of franchise or selling agreement; determination of due cause.

(A) A manufacturer may not terminate or cancel a franchise or selling agreement of a motor vehicle dealer without due cause.

(B) The nonrenewal of a franchise or selling agreement, without due cause, shall constitute an unfair termination or cancellation regardless of the terms of the franchise or selling agreement.

(C) In determining whether due cause exists, the court shall take into consideration:

(1) the motor vehicle dealer's sales in relation to the business available to the motor vehicle dealer;

(2) the motor vehicle dealer's investments and obligations;

(3) whether the motor vehicle dealer was provided adequate inventory;

(4) injury to the public welfare;

(5) the adequacy of the motor vehicle dealer's sales and service facilities, equipment, and parts;

(6) the qualifications of the management, sales, and service personnel to provide the consumer with reasonably good service and care of new motor vehicles;

(7) the motor vehicle dealer's failure to comply with the requirements of the franchise agreement;

(8) the opportunity to cure the alleged breach; and

(9) the harm caused to the manufacturer or distributor.

HISTORY: 2013 Act No. 44, Section 5, eff June 7, 2013.

SECTION 56-15-96.

Measurement of dealership performance; burden of proof.

(A) A performance standard, sales effectiveness standard, sales objective, or program for measuring dealership performance that may have a material effect on a motor vehicle dealer including, but not limited to, his right to payment under any incentive or reimbursement program, shall be fair, reasonable, equitable, based on accurate information, and uniformly applied to other similarly situated motor vehicle dealers.

(B) If a motor vehicle dealer protests a new performance standard, sales effectiveness standard, sales objective, or program for measuring dealership performance, the burden of proof shall be on the manufacturer to show the action is reasonable and justifiable in light of the market conditions.

HISTORY: 2013 Act No. 44, Section 6, eff June 7, 2013.

SECTION 56-15-98.

Alteration of area of responsibility; notice; appeal and injunction; time for performance.

(A) A manufacturer or distributor, officer, agent, or any representative of a manufacturer or distributor may not unreasonably alter a new motor vehicle dealer's area of responsibility.

(B) To alter a new motor vehicle dealer's area of responsibility, a manufacturer or distributor, officer, agent, or any representative of

a manufacturer or distributor must provide advance notice to the motor vehicle dealer including an explanation of the basis for the alteration at least sixty days before the effective date of the alteration.

(C)(1) At any time prior to the effective date of an alteration of a new motor vehicle dealer's area of responsibility, and after the completion of any internal appeal process pursuant to the manufacturer's or distributor's policy manual, the motor vehicle dealer may petition the court to enjoin or prohibit the alteration.

(2) The court shall enjoin or prohibit the alteration of a motor vehicle dealer's area of responsibility unless the franchisor shows, by a preponderance of the evidence, that the alteration is reasonable and justifiable in light of market conditions.

(3) If a motor vehicle dealer petitions the court, no alteration to a motor vehicle dealer's area of responsibility shall become effective until a final determination by the court.

(D) If a new motor vehicle dealer's area of responsibility is altered, the manufacturer shall allow twenty-four months for the motor vehicle dealer to become sales effective prior to taking any action claiming a breach or nonperformance of the motor vehicle dealer's sales performance responsibilities.

HISTORY: 2013 Act No. 44, Section 7, eff June 7, 2013.

SECTION 56-15-100.

Discounts, refunds, and other inducements to dealers.

In connection with a sale of a motor vehicle or vehicles to the State or to any political subdivision thereof, no manufacturer, distributor or wholesaler shall offer any discounts, refunds or any other similar type of inducement to any dealer without making the same offer or offers to all other of its dealers within the relevant market area, and if such inducements are made, the manufacturer, distributor or wholesaler shall give simultaneous notice thereof to all of its dealers within the relevant market area who have requested such notice.

HISTORY: 1962 Code Section 46-150.160; 1972 (57) 2419.

SECTION 56-15-110.

Suits for damages.

(1) In addition to temporary or permanent injunctive relief as provided in Section 56-15-40(3)(c), any person who shall be injured in his business or property by reason of anything forbidden in this chapter may sue therefor in the court of common pleas and shall recover double the actual damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

(2) When such action is one of common or general interest to many persons or when the parties are numerous and it is impracticable to bring them all before the court, one or more may sue for the benefit of the whole, including actions for injunctive relief.

(3) In an action for money damages, if the jury finds that the defendant acted maliciously, the jury may award punitive damages not to exceed three times the actual damages.

(4) A final judgment, order or decree rendered against a person in any civil, criminal or administrative proceeding under the United States antitrust laws, under the Federal Trade Commission Act, or under this chapter shall constitute prima facie evidence against such person subject to the conditions of the United States Antitrust Law (15 U.S.C. 16).

HISTORY: 1962 Code Section 46-150.161; 1972 (57) 2419.

SECTION 56-15-120.

Limitation of actions.

Actions rising out of any provision of this chapter shall be commenced within four years next after the cause of action accrues; provided, however, that if a person liable hereunder conceals the cause of action from the knowledge of the person entitled to bring it, the period prior to the discovery of his cause of action by the person so entitled shall be excluded in determining the time limited for the commencement of the action. If a cause of action accrues during the pendency of any civil, criminal or administrative proceeding against a person brought by the United States, or any of its agencies, under the antitrust laws, the Federal Trade Commission Act, or any other Federal act, or the laws of the State related to antitrust laws or to franchising, such actions may be commenced within one year after the final disposition of such civil, criminal or administrative proceeding.

HISTORY: 1962 Code Section 46-150.163; 1972 (57) 2419.

SECTION 56-15-130.

Contracts in violation of chapter void.

Any contract or part thereof or practice thereunder in violation of any provision of this chapter shall be deemed against public policy and shall be void and unenforceable.

HISTORY: 1962 Code Section 46-150.162; 1972 (57) 2419.

SECTION 56-15-140.

Venue.

In an action brought pursuant to this article, venue is in the state courts of South Carolina. A provision of a franchise or other agreement with contrary provisions is void and unenforceable.

HISTORY: 2000 Act No. 287, Section 5; 2021 Act No. 31 (S.510), Section 12, eff August 4, 2021.

Editor's Note

2021 Act No. 31, Section 14, provides as follows:

"SECTION 14. This act takes effect ninety days after approval by the Governor and applies to all current and future franchises and other agreements in existence between any franchisee located in this State and a franchisor as of the effective date of this act."

Effect of Amendment

2021 Act No. 31, Section 12, in the first sentence, substituted "state courts" for "State".

ARTICLE 3

Dealer or Wholesaler Licenses

SECTION 56-15-310.

Dealer or wholesaler licenses; term of license; fee; scope of license; penalties for violations.

(A)(1) Before engaging in business as a dealer or wholesaler in this State, a person first must apply to the Department of Motor Vehicles for a license. Each license issued expires thirty-six months from the month of issue, the licensing period, and must be displayed prominently at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to another person or place of business.

(2) During the dealer license application process, the department shall provide any information that would be needed in an audit or a review by its agents. Upon issuing a license, the department shall be reasonable in its requests to inspect or copy a dealer's record. If a complaint has been filed against a dealer, the department must present that complaint to the dealer in writing and allow the dealer the opportunity to cure before proceeding with punitive or enforcement action. Complaints arising from alleged violations of:

(a) Section 56-37-30(B) must be cured by the dealer within sixty days of being notified of the complaint;

(b) Section 56-37-30(C) must be cured by the dealer within forty-five days of being notified of the complaint; or

(c) Section 56-37-30(D) must be cured by the dealer within thirty days of being notified of the complaint.

(3) If the department determines that the same dealer has received a similar type of complaint within twelve months of a previous complaint, the department may proceed with an enforcement action without regard to the time periods provided in this subsection.

(B) A person who fails to secure a license as required in this chapter and facilitates an unauthorized sale of a motor vehicle in violation of this chapter is guilty of a misdemeanor and, upon conviction, must be fined:

(1) not less than one hundred dollars or more than five hundred dollars or imprisoned for not more than thirty days for the first offense;

(2) five hundred dollars or imprisoned for not more than thirty days, or both, for the second offense; and

(3) not less than two thousand dollars or more than ten thousand dollars or imprisoned for not more than two years, or both, for the third or any subsequent offense.

For purposes of this section, each instance of an unauthorized sale of a motor vehicle where the dealer has not applied for and received a license from the department appropriate to that sale is conclusively deemed to be a separate and distinct offense. Nothing in this chapter may be construed to prohibit any law enforcement agency from enforcing the provisions relating to nonlicensed dealers within the law enforcement agency's jurisdiction. The ticketing entity shall retain fifty percent of any fines collected under this section.

HISTORY: 1983 Act No. 118 Section 12; 1988 Act No. 603, Section 2; 1996 Act No. 459, Section 225; 2023 Act No. 51 (S.549), Section 19, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 19, rewrote the section.

SECTION 56-15-315.

Off-site displays of automobiles or trucks.

(A) Notwithstanding another provision of law, off-site displays of automobiles or trucks are prohibited except as provided in this section. A licensed South Carolina automobile dealer or dealer of trucks may display not more than ten automobiles or trucks per licensed dealership off-site only at nonselling temporary events lasting no more than ten days hosted by a South Carolina based: charitable organization as defined in the South Carolina Solicitation of Charitable Funds Act for fundraising purposes; school fundraising event; church fundraising event; town fair, town festival; or any other similar festival or event.

(B) Used automobile or truck dealers may display used automobiles or trucks off-site as provided in this section in the county in which their dealership is located.

(C) Displays may be conducted only by South Carolina licensed dealers. Any automobile or truck displayed must be owned by the dealer. Any person or automobile or truck dealer who violates these provisions is subject to a five hundred dollar fine.

(D) Off-site displays are for display purposes only. Sales or attempts to sell as defined in Section 56-15-10(L), or both, are not permitted off-site. An automobile or truck dealer who sells or attempts to affect the off-site sale of any automobile or truck is in violation of this section and is subject to a two thousand dollar fine. An agent of an automobile or truck dealer who sells or attempts to affect the off-site sale of an automobile or truck is subject to a five hundred dollar fine.

(E) A motor vehicle manufacturer cannot require a franchised automobile or truck dealer to display automobiles or trucks off-site.

(F) Nothing in this section shall prohibit an automobile or truck dealer from participating in one nonselling statewide motor vehicle show in South Carolina per year, or a manufacturer, individual automobile owner or truck owner from displaying their vehicles.

(G) Nothing in this section shall be construed to prevent a licensed dealer from providing vehicles for demonstration or test driving purposes specified in Section 56-3-2320.

(H) The department of Motor Vehicles shall enforce the provisions contained in this section.

HISTORY: 2012 Act No. 181, Section 1, eff May 25, 2012.

SECTION 56-15-320.

Application for wholesale or dealer license; bond; duties upon change of circumstances and termination of business; death of licensee.

(A) Before a license as a "wholesaler" or "dealer" is issued to an applicant, he shall file an application with the Department of Motor Vehicles and furnish the information the department may require including, but not limited to, information adequately identifying by name and address individuals who own or control ten percent or more of the interest in the business. The policy of this section is full disclosure.

(B)(1) Each applicant for licensure as a dealer or wholesaler shall furnish a surety bond in the penal amount of fifty thousand dollars on a form prescribed by the director of the department.

(2) A new bond or a proper continuation certificate must be provided to the department every twelve months during the license period. The dealer or surety, or his designee must alert the department of any bond name or address changes during the license period within thirty days of the change. Proof of the bond and the proper continuation of it may be provided to the Department of Motor Vehicles using the same database as vehicle insurance pursuant to Article 7, Chapter 10, of Title 56.

(3) A dealer's license expires immediately upon expiration, termination, or a decrease of a dealer's bond below fifty thousand dollars.

(4) The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety.

(5) The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by an owner of a motor vehicle, or his legal representative, by reason of fraud practiced or fraudulent representation made in connection with the sale or transfer of a motor vehicle by a licensed dealer or wholesaler or the dealer's or wholesaler's agent acting for the dealer or wholesaler or within the scope of employment of the agent or loss or damage suffered by reason of the violation by the dealer or wholesaler or his agent of this chapter.

(6) In instances of taxes or fees owed to the State that pertain to the process of buying, selling, titling, or registering vehicles by the dealer, the department has a right of action against the dealer's surety bond and may recover damages if those taxes and fees are not paid in full within the time period prescribed by law. The department shall distribute the taxes and fees to the appropriate entity as prescribed in state law.

(a) In the event of concurrent claims for the same vehicle from the owner and the State, the owner's claim prevails.

(b) This subsection does not apply to monies the dealer has attempted to refund to a customer due to an error made by the dealer when the dealer can demonstrate that he has made an attempt by registered or certified mail, return receipt requested, or by private delivery service which is acceptable to the Internal Revenue Service to ensure the customer's refund was delivered. The dealer must make a bona fide, good faith attempt to refund money due to the customer within sixty days of the date of sale.

(7) An owner or his legal representative who suffers the loss or damage has a right of action against the dealer or wholesaler and against the dealer's or wholesaler's surety upon the bond and may recover damages as provided in this chapter. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for claims is limited to fifty thousand dollars on each bond and to the amount of the actual loss incurred. The surety may terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The cancellation does not affect liability incurred or accrued before the cancellation.

(C) If, during a license period, there is a change in the information a dealer or wholesaler gave the department in obtaining or retaining a license under this section, the licensee shall report the change to the department within thirty days after the change occurs on the form the department requires.

(D) If a licensee ceases being a dealer or wholesaler, within ten days of that time, he shall notify the department of this fact and return to the department a license issued pursuant to this chapter and all current dealer license plates issued to the dealer or wholesaler.

(E) In the event of the licensee's death, the personal representative of the deceased licensee may, with the explicit consent of the probate court and upon an application to the department, continue the operation of the business covered by the license for the remainder of the licensing period, but no longer than eighteen months after the licensee's death. At the conclusion of the licensing period or eighteen months after the death, the personal representative must take all actions to apply for a vehicle dealer license under his or her own name and meet all requirements for a licensed vehicle dealer in order to continue operating the business.

HISTORY: 1983 Act No. 118 Section 12; 1993 Act No. 181, Section 1485; 1994 Act No. 497, Part II, Section 121L; 2006 Act No. 298, Section 1, eff May 31, 2006; 2023 Act No. 51 (S.549), Section 20, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 20, rewrote (B); in (C), substituted "license period" for "license year"; and added (E).

SECTION 56-15-330.

Facilities required for issuance of dealer's license.

No dealer or wholesaler may be issued or allowed to maintain a motor vehicle dealer's license unless:

(1) The dealer maintains a bona fide established place of business for conducting the business of selling or exchanging motor vehicles which must be the principal business conducted from the fixed location. A bona fide established place of business for any

motor vehicle dealer includes a permanent, enclosed building or structure, not excluding a permanently installed mobile home containing at least ninety-six square feet of floor space, actually occupied by the applicant and easily accessible by the public, at which a permanent business of bartering, trading, or selling of motor vehicles or displaying vehicles for bartering, trading, or selling is carried on, wherein the public may contact the owner or operator at all reasonable times and in which must be kept and maintained the books, records, and files required by this chapter. A bona fide established place of business does not mean a residence, tent, temporary stand, or other temporary quarters. Wholesaler dealers are not required to have space to display vehicles. (2) The dealer's place of business must display a permanent sign with letters at least six inches in height, clearly readable from the nearest major avenue of traffic. The sign must clearly identify the licensed business. This subsection does not apply to wholesale dealers.

(3) The dealer's place of business must have a reasonable area or lot to properly display motor vehicles. This subsection does not apply to wholesale dealers.

(4) A dealer may use his license to conduct business on property adjacent to or within sight of his bona fide established place of business. The property adjacent to or within sight of the bona fide established place of business is deemed to be contiguous even if there exists a single intervening landmark such as a road or a railroad track. The property adjacent to or the property within sight of the bona fide place of business must display the same permanent dealership sign as the bona fide established place of business pursuant to item (2). The property adjacent to or property within sight of the bona fide place of business need not include a permanent, enclosed building or structure, but all records for business conducted on the property adjacent to or property within sight of the bona fide place of business must be maintained at the bona fide established place of business. Any sales transactions pursuant to this section must take place at the location of the bona fide established place of business. Dealers applying for a license pursuant to this subsection must provide on the dealer license application, the street address of the adjacent property or the property within sight and affirm that the dealer has met any local requirements to lawfully conduct business at that location.

HISTORY: 1983 Act No. 118 Section 12; 2023 Act No. 51 (S.549), Section 21, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Sections 34 and 40(D), provide as follows:

"SECTION 34. Dealers subject to the provisions contained in Section 56-14-50, 56-15-330, or 56-16-160 who maintain business operations on adjacent properties or properties within sight as described in the code section applicable to the dealer but who do not meet the requirements of Section 56-14-50, 56-15-330, or 56-16-160, as applicable to the dealer and as amended by this act may be grandfathered by the Department of Motor Vehicles for the remainder of the license under which the dealer is operating as of the effective date of this act."

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 21, in the first undesignated paragraph, inserted "or wholesaler"; in (1), deleted the former second sentence, which related to the sale of motorcycle or motor driven cycles not needing to be the principal business conducted from the fixed location, and added the fourth sentence; in (2), added the third sentence; in (3), added the second sentence; and added (4).

SECTION 56-15-340.

Records.

(A) Every dealer or wholesaler shall keep complete records of each transaction under which a motor vehicle is transferred for a period of not less than four years from the date of the transaction. The records must show the true name and correct address of the person or persons from whom the motor vehicle was acquired and the date of the transaction; a correct description of the vehicle, when transferred; the true name and correct address of the person to whom the motor vehicle was transferred; and the date of the transaction. The description of the motor vehicle must include the vehicle identification number, make, model, type of body, and the odometer readings at the time the motor vehicle was transferred to and from the dealer or wholesaler. These records must be open at all reasonable times for inspection and copying by the Department of Motor Vehicles or any of its duly authorized agents.

(B) The records kept by the dealer or wholesaler must be maintained in a reasonably organized and orderly fashion with all entries being legible to the ordinary person upon inspection. Any records which are illegible or incapable of accurate interpretation by either the recordkeeper or the department's inspector or agent are not in compliance with this section.

(C) If any dealer or wholesaler fails to keep the required records or fails to make them available to the department or its duly authorized agents immediately upon a reasonable request, the dealer or wholesaler is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than two hundred dollars or imprisoned for up to thirty days. The failure to keep or to make available to the department or its duly authorized agents complete records on each separate motor vehicle constitutes a separate offense.

HISTORY: 1983 Act No. 118 Section 12; 1996 Act No. 459, Section 226.

SECTION 56-15-350.

Licenses in the name of the same applicants; denial, suspension, or revocation of license; grounds; procedure.

(A) Any licenses in the name of the same applicant issued under this chapter may be denied, suspended, or revoked, if the applicant or licensee or an agency of the applicant or licensee acting for the applicant or licensee is determined by the Department of Motor Vehicles to have refused to comply with, been convicted of, or pleaded nolo contendere to any of the following offenses in this State or another jurisdiction in the United States:

(1) made a material misstatement in the application for the license;

- (2) violated any provision of this chapter or the requirements contained in Article 3, Chapter 19, Title 56;
 - (3) committed any fraud connected with the sale or transfer of a motor vehicle;
 - (4) employed fraudulent devices, methods, or practices in connection with meeting the requirements placed on dealers and wholesalers by the laws of this State;
 - (5) violated any law involving the acquisition or transfer of a title to a motor vehicle;
 - (6) tampered with, altered, or removed motor vehicle identification numbers or markings;
 - (7) to have violated any federal or state law regarding the disconnecting, resetting, altering, or other unlawful tampering with a motor vehicle odometer, including the provisions of 49 U.S.C. 32701-32711 (Title 49, Subtitle VI, Part C, Chapter 327);
 - (8) refused or failed to comply with the department's reasonable requests to inspect or copy the records, books, and files of the dealer or wholesaler or failed to maintain records of each motor vehicle transaction as required by this chapter or by state and federal law pertaining to odometer records;
 - (9) given, loaned, or sold a dealer license plate to any person or otherwise to have allowed the use of any dealer license plate in any way not authorized by Section 56-3-2320. Any dealer license plate issued to a dealer or wholesaler pursuant to Section 56-3-2320 which is determined by the department to be improperly displayed on any vehicle or in the possession of any unauthorized person is prima facie evidence of a violation of this section by the dealer or wholesaler to whom the license plate was originally issued.
 - (10) accepted or delivered a certificate of title to any other dealer, wholesaler, or any other person in which the title or assignment of title is signed in blank;
 - (11) committed any of the following crimes for which there is a conviction or plea of guilty or plea of nolo contendere and for which the conviction or plea date was ten or less years from the date of the application or renewal application of:
 - (a) a violent crime as defined in Section 16-1-60;
 - (b) a crime involving illegal drugs, other than simple possession of marijuana;
 - (c) a crime involving tax evasion or failure to pay taxes or fees as required by law;
 - (d) a crime involving the illegal use, carrying, or possession of a dangerous weapon;
 - (e) any crime having an element of identity theft, misuse of another person's identity information, larceny, embezzlement, false statements, falsification of documents, false swearing or dishonest or deceitful dealing; or
 - (f) a crime having an element of criminal sexual battery or conduct of any type or degree with a minor or an adult;
 - (12) failed to pay on demand any civil penalty imposed by the department authorized by this chapter which the person or licensee has failed to appeal or for which the person or licensee has exhausted appeals;
 - (13) failed to surrender a dealer license as required by this chapter or allowing any third party to sell any vehicles or operate a dealership; or
 - (14) had a previous dealer license revoked for that applicant under this section.
- (B) Items (A)(1)-(11) do not apply to any pardoned or expunged crime within the ten-year time period.
- (C) The department may deny future dealer licenses for the same applicant if a previous dealer license was revoked for that applicant under this section. When assessing the license application, with respect to acts identified in item (A)(14) in a foreign jurisdiction, the department shall determine if the facts of the act would constitute a violation in this State. If the acts leading to a revocation in a foreign jurisdiction would not constitute a violation in this State, then the department may not use the act as sole justification to deny, suspend, or revoke a license.
- (D) The department shall notify the licensee or applicant in writing at the mailing address provided in his application of its intention to deny, suspend, or revoke his license at least twenty days in advance and shall inform the licensee of his right to request a contested case hearing with the Office of Motor Vehicle Hearings in accordance with the rules of procedure for the Administrative Law Court and pursuant to the Administrative Procedures Act of this State. A licensee desiring a hearing shall file a request in writing with the Office of Motor Vehicle Hearings within ten days of receiving notice of the proposed denial, suspension, or revocation of his dealer's or wholesaler's license.
- (E) Upon a denial, suspension, or revocation of a license, the licensee shall immediately return to the department the license and all dealer license plates.

HISTORY: 1983 Act No. 118 Section 12; 2006 Act No. 304, Section 1, eff May 24, 2006; 2006 Act No. 381, Section 10, eff June 13, 2006; 2008 Act No. 279, Section 12, eff October 1, 2008; 2023 Act No. 51 (S.549), Section 22, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 22, rewrote the section.

ARTICLE 4

Nonfranchise Automobile Dealer Pre-licensing

SECTION 56-15-410.

Required pre-licensing education courses.

An applicant for an initial nonfranchise automobile dealer license must complete successfully at least eight hours of pre-licensing education courses before he may be issued a license. At least one shareholder listed on the application for an initial nonfranchise automobile dealer license must comply with the education requirement contained in this section.

HISTORY: 2005 Act No. 9, Section 1, eff January 1, 2004.

SECTION 56-15-420.

Promulgation of regulations.

The Department of Motor Vehicles shall promulgate regulations to implement the provisions contained in this article.

HISTORY: 2005 Act No. 9, Section 1, eff January 13, 2005; 2012 Act No. 264, Section 7, eff June 18, 2012.

SECTION 56-15-430.

Applicability to franchised automobile dealers or nonfranchised dealers owned and operated by franchised dealers.

The provisions contained in Sections 56-15-410 and 56-15-420 shall not apply to a franchised automobile dealer or a nonfranchised automobile dealer owned and operated by a franchised automobile dealer.

HISTORY: 2005 Act No. 9, Section 1, eff January 1, 2004.

SECTION 56-15-440.

Applicability to dealers engaged primarily in motor vehicle salvage.

The provisions contained in Sections 56-15-410 and 56-15-420 shall not apply to a nonfranchised automobile dealer whose primary business is salvage motor vehicles, regulated by Title 56.

HISTORY: 2005 Act No. 9, Section 1, eff January 1, 2004.

SECTION 56-15-450.

Applicability to dealers primarily engaged in rental of motor vehicles.

The provisions contained in Sections 56-15-410 and 56-15-420 shall not apply to a nonfranchised automobile dealer whose primary business objective and substantial business activity is the rental of motor vehicles, regulated by Title 56.

HISTORY: 2005 Act No. 9, Section 1, eff January 1, 2004.

ARTICLE 5

Wholesale Motor Vehicle Auctions

SECTION 56-15-510.

Definitions.

As used in this article:

(1) "Wholesale motor vehicle auction" is an entity in the business of providing auction services in wholesale transactions at its established place of business, and which does not buy, sell, or own the motor vehicles it auctions in the ordinary course of its business.

(2) "Motor vehicles" with regard to transactions taking place at a wholesale motor vehicle auction include, but are not limited to, motor homes, manufactured homes, recreational vehicles, boats, motorcycles, and motor vehicles as provided for in Section 56-3-20.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-520.

Transfer of title at wholesale motor vehicle auction; content of reassignment of title or bill of sale.

When a transfer of title is made as a result of a transaction at a wholesale motor vehicle auction, the reassignment of title or bill of sale must note the name and address of the wholesale motor vehicle auction. However, the wholesale motor vehicle auction is not deemed to be the owner, seller, transferor, or assignor of title of a motor vehicle by reason of its name appearing on a reassignment of title or bill of sale or by reason of its payment of a guarantee of payment to a seller, receipt of payment from a purchaser, or the reservation of a lien or security interest for the purpose of securing payment from a purchaser.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-530.

Buying or selling motor vehicles in name of wholesale motor vehicle auction.

A wholesale motor vehicle auction is not prohibited from buying or selling motor vehicles in its own name. However, in that instance, it shall comply with the provisions of South Carolina law pertaining to reassignment and delivery of title documents and disclosures to buyers.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-540.

Dealers and persons required by agency or law may purchase or sell at wholesale motor vehicle auction.

A motor vehicle dealer licensed by this or another jurisdiction may purchase or sell motor vehicles at a wholesale motor vehicle auction. A person may purchase or sell motor vehicles at a wholesale motor vehicle auction if required by an agency of government or by law.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-550.

Sales through auction of motor vehicles acquired incident to regular business.

The following may sell motor vehicles through a wholesale motor vehicle auction if the motor vehicles are acquired as an incident to regular business:

- (1) manufacturers;
- (2) marine dealers;
- (3) motor vehicle rental businesses;
- (4) motor vehicle lease businesses;

- (5) recreation vehicle dealers;
- (6) sellers of motor vehicle fleets;
- (7) manufacturers;
- (8) public officers while performing their official duties;
- (9) receivers;
- (10) trustees;
- (11) administrators;
- (12) executors;
- (13) guardians;
- (14) insurance companies;
- (15) banks;
- (16) finance companies;
- (17) other loan agencies or their agents.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-560.

Application for license for wholesale motor vehicle auction; fee.

Before engaging in business as a wholesale motor vehicle auction in this State, an application must be filed with the Department of Motor Vehicles furnishing the information it requires including, but not limited to, information adequately identifying by name and address individuals who own or control ten percent or more of the interest of the applicant. Each license issued expires twelve months from the month of issuance and must be displayed prominently at the established place of business. The license applies to only one place of business of the applicant and is not transferable to another person or place of business. The fee for the license is fifty dollars.

HISTORY: 1995 Act No. 70, Section 1; 1996 Act No. 459, Section 227.

SECTION 56-15-570.

Surety bond required.

(A) Each applicant for licensure as a wholesale motor vehicle auction shall furnish a surety bond in the penal amount of fifteen thousand dollars on a form prescribed by the Department of Motor Vehicles. The bond must be given to the department and executed by the applicant as principal and by a corporate surety company authorized to do business in this State as surety. The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by an owner of a motor vehicle, or his legal representative, by reason of fraud practiced or fraudulent representation made by the licensee in connection with the sale or transfer of a motor vehicle by the licensee or its agent acting for it or within the scope of employment of the agent or loss or damage suffered by reason of a violation by the licensee or its agent of this chapter.

(B) An owner or his legal representative who suffers loss or damage has a right of action against the wholesale motor vehicle auction and against the licensee's surety upon the bond and may recover damages as provided in this chapter. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for all claims is limited to fifteen thousand dollars on each bond and to the amount of the actual loss incurred. The surety may terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The surety shall notify the department if the bond is canceled. The cancellation does not affect liability incurred or accrued before the cancellation.

HISTORY: 1995 Act No. 70, Section 1; 1996 Act No. 459, Section 228.

SECTION 56-15-580.

Change of information on application must be reported.

During a license year, if there is a change in the information that a wholesale motor vehicle auction gave the Department of Motor Vehicles to obtain or retain a license under this section, the licensee shall report the change to the department within thirty days after the change occurs on the form the department requires.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-590.

Establishment and retention of records.

(A) A wholesale motor vehicle auction shall establish and retain at its primary place of business complete records in an order appropriate for business requirements and that permits systematic retrieval for five years following the date of sale of each motor vehicle. The records must show the name of the most recent owner other than the wholesale motor vehicle auction, the name of the buyer, the vehicle identification number, and the odometer reading on the date which the wholesale motor vehicle auction took possession of the motor vehicle.

(B) The records kept by the wholesale motor vehicle auction must be maintained in a reasonably organized and orderly fashion with all entries being legible to the ordinary person upon inspection. Records which are illegible or incapable of accurate interpretation by the recordkeeper or the Department of Motor Vehicles' inspector or agent are not in compliance with this section.

(C) If a wholesale motor vehicle auction fails to keep the required records or fails to make them available to the department or its authorized agents immediately upon a reasonable request, the wholesale motor vehicle auction is guilty of a misdemeanor and, upon conviction, is subject to the provisions of Chapter 54 of Title 12.

HISTORY: 1995 Act No. 70, Section 1.

SECTION 56-15-600.

Wholesale motor vehicle auction license plates.

(A) The Department of Motor Vehicles may issue to a licensed wholesale motor vehicle auction, upon application and payment of the required fee to the department, wholesale motor vehicle auction license plates. The license plates are exclusively for the use of transporting motor vehicles in the course of doing business as a wholesale motor vehicle auction and must not be attached permanently. The license plate expires twelve months from the month of issuance. The documentation evidencing transport in the ordinary course of doing business as a wholesale motor vehicle auction must be by form approved by the Department of Revenue. The form at all times must accompany the license plates. A person who does not use the license plate exclusively to transport motor vehicles in the course of doing business as a wholesale motor vehicle auction is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars.

(B) Wholesale motor vehicle auction license plates must not be issued by the department unless the wholesale motor vehicle auction furnishes proof in a form acceptable to the department that it has a wholesale motor vehicle auction license as required by this article and that at least twenty sales of motor vehicles have taken place through the wholesale motor vehicle auction in the twelve months preceding its application for a license. The sales requirement may be waived by the department if the wholesale motor vehicle auction has been licensed for less than one year.

(C) A wholesale motor vehicle auction may be issued two license plates for the first twenty vehicles auctioned during the preceding year and one additional license plate for each fifty vehicles auctioned beyond the initial twenty during the preceding year but not to exceed seventy-five license plates. For good cause shown, the department in its discretion may issue additional license plates. If the wholesale motor vehicle auction has been licensed less than one year, the department shall issue a number of license plates based on an estimated number of sales for the coming year. The department may increase or decrease the number of license plates issued based on actual sales made.

(D) The cost of each wholesale motor vehicle auction license plate issued is twenty dollars annually.

HISTORY: 1995 Act No. 70, Section 1.

Title 56 - Motor Vehicles

CHAPTER 16

Regulation of Motorcycle Manufacturers, Distributors, Dealers, and Wholesalers

SECTION 56-16-10.

Definitions.

As used in this chapter:

- (a) "Motorcycle" is defined in Section 56-1-10. This chapter does not apply to bicycles with helper motors.
- (b) "Manufacturer" means any person, resident, or nonresident who manufactures or assembles new motorcycles, or imports for distribution through distributors of motor vehicles, including any person, partnership, or corporation which acts for and is under the control of a manufacturer or assembler in connection with the distribution of motorcycles and includes distributor and factory branch.
- (c) "Dealership facilities" means the real estate, buildings, fixtures, and improvements devoted to the conduct of business under the franchise by the new motorcycle dealer.
- (d) "Franchise" means the written agreement or contract between any new motorcycle manufacturer, and any new motorcycle dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchised product or leases or rents the dealership premises.
- (e) "Factory branch" means a branch office maintained by a manufacturer which manufactures or assembles motorcycles for sale to distributors or motorcycle dealers or which is maintained for directing and supervising the representatives of the manufacturer.
- (f) "Distributor branch" means a branch office maintained by a distributor who sells or distributes new or used motorcycles to motorcycle dealers.
- (g) "Factory representative" means a representative employed by a manufacturer or by a factory branch for the purpose of making or promoting the sale of motorcycles or for supervising, servicing, instructing, or contracting with motorcycle dealers or prospective motorcycle dealers.
- (h) "Distributor representative" means a representative employed by a distributor branch or distributor.
- (i) "Franchiser" means a manufacturer, distributor, or wholesaler who grants a franchise to a motorcycle dealer.
- (j) "Franchisee" means a motorcycle dealer to whom a franchise is offered or granted.
- (k) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motorcycle or interest therein or of any franchise related thereto and any option, subscription, or other contract, or solicitation, looking to a sale, or offer or attempt to sell in any form, whether spoken or written. A gift or delivery of any motorcycle or franchise with respect thereto, with or as a bonus on account of the sale of anything, is a sale of such motorcycle or franchise.
- (l) "Fraud" means, in addition to its normal legal connotation: a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made honestly and in good faith; and an intentional failure to disclose a material fact.
- (m) "Person" means a natural person, corporation, partnership, trust, or other entity, and, in case of an entity, it includes any other entity in which it has a majority interest or effectively controls as well as the individual officers, directors, and other persons in active control of the activities of each such entity.
- (n) "New motorcycle" means a motorcycle which has not been previously sold to any person except a distributor or wholesaler or motorcycle dealer for resale.
- (o) "Distributor" means any person who sells or distributes new motorcycles to motorcycle dealers or who maintains distributor representatives within the State.
- (p) "Dealer" or "motorcycle dealer" means any person who sells or attempts to effect the sale of any motorcycle. These terms do not include:
 - (1) distributors or wholesalers.
 - (2) receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment, or order of any court.
 - (3) public officers while performing their official duties.
 - (4) persons disposing of motorcycles acquired for their own use and so used in good faith and not for the purpose of avoiding the provisions of law. Any person who effects or attempts to effect the sale of more than five motorcycles in any one calendar year is considered a dealer or wholesaler, as appropriate, for purposes of this chapter.
 - (5) finance companies or other financial institutions who sell repossessed motorcycles and insurance companies who sell motorcycles they own as an incident to payment made under policies of insurance.
- (q) "Wholesaler" or "motorcycle wholesaler" means any person who sells or attempts to effect the sale of any used motorcycle exclusively to motorcycle dealers or to other wholesalers.
- (r) [Deleted]

HISTORY: 1984 Act No. 511, Section 1; 1993 Act No. 181, Section 1486; 1996 Act No. 459, Section 246A; 2017 Act No. 89 (H.3247), Section 30, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 30, rewrote (a), providing that "motorcycle" is defined in Section 56-1-10.

SECTION 56-16-20.

Manufacturer's specification of dealer's delivery and preparation obligations.

Every manufacturer shall specify to the dealer the delivery and preparation obligations of its motorcycle dealers prior to delivery of new motorcycles to retail buyers. A copy of the delivery and preparation obligations of its motorcycle dealers and a schedule or statement of the compensation to be paid or credited to its motorcycle dealers for the work and services they are required to perform in connection with the delivery and preparation obligations must be filed with the Department of Motor Vehicles by every motorcycle manufacturer and is a dealer's only responsibility for product liability as between dealer and manufacturer. The compensation as set forth on such schedule or statement must be reasonable and paid or credited as set out in Section 56-16-30.

HISTORY: 1984 Act No. 511, Section 1; 1993 Act No. 181, Section 1487.

SECTION 56-16-30.

Obligation to fulfill warranty agreement.

Every manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division shall fulfill any warranty agreement and compensate each of its motorcycle dealers for labor and parts. In determination of what constitutes reasonable compensation under this section, the principal factor to be given consideration is the prevailing wage rates paid by dealers in the community in which the dealer is doing business. The hourly labor rate paid to a dealer for warranty services must not be less than the rate charged by the dealer for like service to nonwarranty customers for nonwarranty service and repairs unless the rate is determined to be unreasonable. Dealers must be reimbursed for the current manufacturer suggested retail price for parts used on warranty work. All claims made by motorcycle dealers hereunder and under Section 56-16-20 for labor and parts must be paid within thirty days following their approval. All such claims are either approved or disapproved within thirty days after their receipt. When any claim is disapproved the motorcycle dealer who submits it must be notified in writing of its disapproval within such period, and each notice shall state the specific grounds upon which the disapproval is based. Any special handling of claims required by the manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, which is not uniformly required of all dealers of the type make, may be enforced after thirty days' notice in writing and upon good and sufficient reason.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-40.

Notification to dealerships of manufacturer's intention to establish new dealership or relocate existing dealership; civil action challenging new dealership or relocation.

If a manufacturer seeks to enter into a franchise establishing an additional new motorcycle dealership or relocating an existing new motorcycle dealership in a relevant market area where the line make is represented, the manufacturer shall, in writing, first notify each new motorcycle dealer in this line make in the relevant market area of the intention to establish an additional dealership or to relocate an existing dealership in the market area. The relevant market area is a radius of three miles around an existing dealership. Within fifteen days of receiving the notice or within fifteen days after the end of any appeal procedure provided by the manufacturer, the new motorcycle dealership may commence a civil action in a court of competent jurisdiction challenging the establishing or relocating of the new motorcycle dealership. Thereafter, the manufacturer shall not establish or relocate the proposed new motorcycle dealership unless the court has determined that there is good cause for permitting the establishment or relocation of the motorcycle dealership.

The reopening in a relevant market area of a new motorcycle dealership within two miles of a location at which a former dealership of the same line make had been in operation within the previous two years is not considered the establishment of a new motorcycle dealership.

The relocation of an existing dealer within its area of responsibility as defined in the franchise agreement is not subject to this section if the proposed relocation site is not within five miles of an existing dealer of the same line make.

In determining whether good cause has been established for not entering into or relocating an additional franchise for the same line make, the court shall take into consideration the existing circumstances, including, but not limited to:

- (a) the permanency of the investment;
- (b) the effect on the retail new motorcycle business and the consuming public in the relevant market area;
- (c) whether it is injurious to the public welfare for an additional new motor dealership to be established;
- (d) whether the new motorcycle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motorcycles of the line make in the market area including the adequacy of motorcycle sales and service facilities, equipment, supply of motorcycle parts, and qualified service personnel;
- (e) whether the new motorcycle dealers of the same line make in the relevant market area are providing adequate market penetration and representation. Good cause is not shown solely by a desire for further market penetration;
- (f) whether the establishment of an additional new motorcycle dealership would increase competition and therefore be in the public interest; and
- (g) the growth or decline in population and new motorcycle registrations in the relevant market area.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-50.

Compensation of dealer upon termination, nonrenewal, or cancellation of franchise by manufacturer or distributor.

(a) Upon the termination, nonrenewal, or cancellation of any franchise by the manufacturer or distributor, pursuant to this section, the new motorcycle dealer must be allowed fair and reasonable compensation by the manufacturer for the:

- (1) new motorcycle inventory which has been acquired from the manufacturer within eighteen months, at a price not to exceed the

original manufacturer's price to the dealer, which has not been altered or damaged, and which has not been driven more than two hundred miles, and for which no certificate of title has been issued;

(2) unused, undamaged, and unsold supplies and parts purchased from the manufacturer, at a price not to exceed the original manufacturer's price to the dealer, if the supplies and parts are currently offered for sale by the manufacturer or distributor in its current parts catalogs and are in salable condition;

(3) equipment and furnishings which have not been altered or damaged and which have been required by the manufacturer or distributor to be purchased by the new motorcycle dealer from the manufacturer or distributor, or their approved sources;

(4) special tools which have not been altered or damaged and which have been required by the manufacturer or distributor to be purchased by the new motorcycle dealer from the manufacturer or distributor, or their approved sources, within five years immediately preceding the termination, nonrenewal, or cancellation of the franchise.

(b) Fair and reasonable compensation for the above must be paid by the manufacturer within ninety days of the effective date of termination, cancellation, or nonrenewal, if the new motorcycle dealer has clear title to the inventory and has conveyed title and possession to the manufacturer.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-60.

Manufacturer's compensation of dealer for rental value or rental expense with respect to dealership facilities upon termination, cancellation, or nonrenewal of dealership.

In the event of the termination, cancellation, or nonrenewal by the manufacturer or distributor under this section, except termination, cancellation, or nonrenewal for insolvency, license revocation, conviction of a crime involving moral turpitude, or fraud by a dealer-owner:

(a) Subject to paragraph (c), if the new motorcycle dealer is leasing the dealership facilities from a lessor other than the manufacturer, the manufacturer shall pay the new motorcycle dealer a sum equivalent to the rent for the unexpired term of the lease or one year's rent, whichever is less, or such longer term as is provided in the franchise agreement between the dealer and manufacturer; or

(b) Subject to paragraph (c), if the new motorcycle dealer owns the dealership facilities, the manufacturer shall pay the new motorcycle dealers a sum equivalent to the reasonable rental value of the dealership facilities for one year.

(c) Nothing in this section shall relieve a lessee or owner, from the obligation to mitigate damages under the lease, nor prevent a manufacturer from occupying and using the dealership facilities while paying rent under subsections (a) and (b), nor prevent a manufacturer from obligations by negotiating a lease termination, a sublease, or a new lease. Any amounts recovered by the lessee or owner resulting from mitigation of damages must be deducted from the amount due from the manufacturer.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-70.

Dealer's voluntary cancellation, nonrenewal, or termination of franchise agreement.

The provisions of paragraphs (d) and (e) of Section 56-16-40 are not applicable when the termination, nonrenewal, or cancellation of the franchise agreement is the result of the voluntary act of the dealer.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-80.

Persons to whom chapter applies; jurisdiction of courts.

Any person who engages directly or indirectly in purposeful contacts within this State in connection with the offering or advertising for sale or has business dealings with respect to a motorcycle within this State is subject to the provisions of this chapter and is subject to the jurisdiction of the courts of this State upon service of process in accordance with the provisions of Chapter 9 of Title 15.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-90.

Unfair competition and unfair or deceptive acts or practices.

(a) Unfair methods of competition and unfair or deceptive acts or practices as defined in Section 56-16-100 are declared to be unlawful.

(b) In construing paragraph (a) the courts may be guided by the definitions in the Federal Trade Commission Act (15 U.S.C. 45).

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-100.

Particular unlawful acts; duty of Office of Administrator with regard to investigation and enjoining of abuses involving motorcycles.

(1) It is a violation of paragraph (a) of Section 56-16-90 for any manufacturer, factory branch, factory representative, distributor, or wholesaler, distributor branch, distributor representative, or motorcycle dealer to engage in any action which is arbitrary, in bad faith, or unconscionable and which causes damage to any of the parties or to the public.

(2) It is a violation of paragraph (a) of Section 56-16-90 for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent, or other representative thereof, to coerce, or attempt to coerce, any motorcycle dealer:

(a) To order or accept delivery of any motorcycle, appliances, equipment, parts, or accessories therefor, or any other commodity or commodities which such motorcycle dealer has not voluntarily ordered.

(b) To order or accept delivery of any motorcycle with special features, appliances, accessories, or equipment not included in the list

price of the motorcycle as publicly advertised by the manufacturer thereof.

(c) To order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(3) It is a violation of paragraph (a) of Section 56-16-90 for a manufacturer, a distributor, a wholesaler, a distributor branch or division, a factory branch or division, or a wholesale branch or division, or officer, agent, or other representative thereof:

(a) To refuse to deliver, in reasonable quantities and within a reasonable time after receipt of dealer's order, to any motorcycle dealer having a franchise or contractual arrangement for the retail sale of new motor vehicles sold or distributed by such manufacturer, distributor branch or division, factory branch or division, or wholesale branch or division, any such motorcycles as are covered by such franchise or contract specifically publicly advertised by such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division to be available for immediate delivery. The failure to deliver any motorcycle is not a violation of this chapter if the failure is due to an act of God, work stoppage, or delay due to a strike or labor difficulty, shortage of materials, freight embargo, or other cause over which the manufacturer, distributor, or wholesaler, or any agent thereof, has no control.

(b) To coerce, or attempt to coerce, any motorcycle dealer to enter into any agreement with such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent, or other representative thereof, or to do any other act prejudicial to such dealer by threatening to cancel any franchise or any contractual agreement existing between such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, and such dealer. Notice in good faith to any motorcycle dealer of such dealer's violation of any terms or provisions of such franchise or contractual agreement is not a violation of this chapter.

(c) To terminate or cancel the franchise or selling agreement of any dealer without due cause. The nonrenewal of a franchise or selling agreement, without due cause, is an unfair termination or cancellation, regardless of the terms or provisions of the franchise or selling agreement. The manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent, or other representatives thereof shall notify a motorcycle dealer in writing of the termination or cancellation of the franchise or selling agreement of the dealer at least sixty days before the effective date thereof, stating the specific grounds for such termination or cancellation; and such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent, or other representative thereof shall notify a motorcycle dealer in writing at least sixty days before the contractual term of his franchise or selling agreement expires that it will not be renewed, stating the specific grounds for such nonrenewal in those cases where there is no intention to renew, and in no event shall the contractual term of any such franchise or selling agreement expire, without the written consent of the motorcycle dealer involved, prior to the expiration of at least sixty days following such written notice. During the sixty-day period, either party may in appropriate circumstances petition a court to modify the sixty-day stay or to extend it pending a final determination of the proceedings on the merits. The court has authority to grant preliminary and final injunctive relief.

(d) To resort to or use any false or misleading advertisement in connection with his business as such manufacturer, distributor, wholesaler, distributor branch or division, factory branch or division, or wholesale branch or division, or officer, agent, or other representative thereof.

(e) To offer to sell or to sell any new motorcycle to any motorcycle dealer at a lower actual price therefor than the actual price offered to any other motorcycle dealer for the same model cycle similarly equipped or to utilize any device including, but not limited to, sales promotion plans or programs which result in such lesser actual price. The provisions of this item do not apply to sales to a motorcycle dealer for resale to any unit of the United States Government, the State, or any of its political subdivisions. The provisions of this paragraph do not apply to sales to a motorcycle dealer of any motorcycle ultimately sold, donated, or used by the dealer in a driver education program. The provisions of this paragraph do not apply so long as a manufacturer, distributor, or wholesaler, or any agent thereof, offers to sell or sells new motorcycles to all motorcycle dealers at an equal price. This provision does not apply to sales by manufacturer, distributor, or wholesaler to the United States Government or any agency thereof.

(f) To offer to sell or to sell parts or accessories to any new motorcycle dealer for use in his own business for the purpose of repairing or replacing it on a comparable part or accessory, at a lower actual price therefor than the actual price charged to any other new motorcycle dealer for similar parts or accessories for use in his own business. In those cases where motorcycle dealers operate and serve as wholesalers of parts and accessories to retail outlets or other dealers, whether or not the dealer is regularly designated as a wholesaler, nothing herein contained may be construed to prevent a manufacturer, distributor, or wholesaler, or any agent thereof, from selling to a motorcycle dealer who operates and services as a wholesaler of parts and accessories, such parts and accessories as may be ordered by such motorcycle dealer for resale to retail outlets, at a lower actual price than the actual price charged a motorcycle dealer who does not operate or serve as a wholesaler of parts and accessories.

(g) To prevent or attempt to prevent by contract or otherwise, any motorcycle dealer from changing the capital structure of his dealership or the means by or through which he finances the operation of his dealership, provided the dealer at all times meets any reasonable capital standards agreed to between the dealership and the manufacturer, distributor or wholesaler, and provided the change by the dealer does not result in a change in the executive management of the dealership.

(h) To prevent or attempt to prevent by contract or otherwise, any motorcycle dealer or any officer, partner, or stockholder of any motorcycle dealer from selling or transferring any part of the interest of any of them to any other person or party. No dealer, officer, partner, or stockholder has the right to sell, transfer, or assign the franchise or power of management or control thereunder without the consent of the manufacturer, distributor, or wholesaler except that the consent is being unreasonably withheld.

(i) To obtain money, goods, services, anything of value, or any other benefit from any other person with whom the motorcycle dealer does business, on account of or in relation to the transactions between the dealer and such other person, unless the benefit is

promptly accounted for and transmitted to the motorcycle dealer.

(j) To require a motorcycle dealer to assent to a release, assignment, novation, waiver, or estoppel which would relieve any person from liability imposed by this chapter.

(4) It is a violation of paragraph (a) of Section 56-16-90 for a motorcycle dealer:

(a) To require a purchaser of a new motorcycle, as a condition of sale and delivery thereof, to also purchase special features, appliances, equipment, parts, or accessories not desired or requested by the purchaser. This prohibition does not apply as to special features, appliances, equipment, parts, or accessories which are already installed on the motorcycle when received by the dealer provided the motorcycle dealer prior to the consummation of the purchase reveals to the purchaser the substance of this paragraph.

(b) To represent and sell as a new motorcycle any motorcycle which has been used and operated for demonstration purposes or which is otherwise a used motorcycle.

(c) To resort to or use any false or misleading advertisement in connection with his business as such motorcycle dealer.

(5) There is created the Office of Administrator, within the Attorney General's office, and he shall appoint such personnel within his office for the purpose of regulating this chapter. The Administrator has the power to investigate, issue cease and desist orders and injunctive relief on any valid abuse connected with the sale, rental, or leasing of a new or used motorcycle. This power only applies after reasonable attempts by the consumer have been made with the seller, dealer, manufacturer, or lessor of the motorcycle to alleviate the complaint.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-110.

Manufacturer's specification of dealer's delivery and preparation obligations.

Every manufacturer shall specify to the dealer the delivery and preparation obligations of its motorcycle dealers prior to delivery of new motorcycles to retail buyers. A copy of the delivery and preparation obligations of its motorcycle dealers and a schedule or statement of the compensation to be paid or credited to its motorcycle dealers for the work and services they are required to perform in connection with such delivery and preparation obligations must be filed with the Department of Motor Vehicles by every motorcycle manufacturer and shall constitute any such dealer's only responsibility for product liability as between the dealer and the manufacturer. The compensation as set forth on the schedule or statement is reasonable and paid or credited as set out in Section 56-16-30.

HISTORY: 1984 Act No. 511, Section 1; 1993 Act No. 181, Section 1488.

SECTION 56-16-120.

Imposition of restrictions on motorcycle dealer or franchisee.

It is unlawful directly or indirectly to impose unreasonable restrictions on the motorcycle dealer or franchisee relative to transfer, sale, right to renew, termination, discipline, noncompetition covenants, site-control (whether by sublease, collateral pledge of lease, or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards, and assertion of legal or equitable rights.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-130.

Manufacturer's, distributor's, or wholesaler's offer of inducement to dealer in connection with sale of motorcycle to state or political subdivision.

In connection with a sale of a motorcycle to the State or to any political subdivision thereof, no manufacturer, distributor, or wholesaler may offer any discounts, refunds, or any other similar type of inducement to any dealer without making the same offer to all other of its dealers within the relevant market area and, if such inducements are made, the manufacturer, distributor, or wholesaler must give simultaneous notice thereof to all of its dealers within the relevant market area who have requested such notice.

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-140.

License for dealer or wholesaler; exhibition license; complaints; fees; penalties for noncompliance.

(A)(1) Before engaging in business as a motorcycle dealer or motorcycle wholesaler in this State, every person must first apply to the Department of Motor Vehicles for a license. Every license issued expires thirty-six months from the date of issue and must be prominently displayed at the established place of business. The fee for the license is one hundred fifty dollars. The license applies to only one place of business of the applicant and is not transferable to any other person or place of business, except as provided in item (2).

(2)(a) A licensed dealer may exhibit motorcycles and their related products at fairs, recreational or sports shows, vacation shows, and other similar events or shows upon obtaining a dealer's exhibition license. Before exhibiting motorcycles and their related products as provided in this item, the dealer shall first apply to the department for an exhibition license. The applicant shall provide the department with the name, location, and dates of the particular exhibition for which he is seeking an exhibition license.

(b) A dealer must hold a valid dealer's license pursuant to this section to be issued an exhibition license. Exhibition licenses are valid for a period not to exceed ten consecutive days, must be prominently displayed at the exhibition site, apply to only the licensee, and may not be transferred to another dealer or exhibition location. A dealer may not purchase more than six exhibition licenses every twelve months.

(B)(1) During the dealer license application process, the department shall provide all information that would be needed in an audit or a review by its agents. Upon issuing a license, the department shall be reasonable in its requests to inspect or copy a dealer's records.

If a complaint has been filed against a dealer, the department must present that complaint to the dealer in writing and allow the dealer the opportunity to cure before proceeding with punitive or enforcement action. Complaints arising from alleged violations of:

- (a) Section 56-37-30(B) must be cured by the dealer within sixty days of being notified of the complaint;
- (b) Section 56-37-30(C) must be cured by the dealer within forty-five days of being notified of the complaint; or
- (c) Section 56-37-30(D) must be cured by the dealer within thirty days of being notified of the complaint.

(2) If the department determines that the same dealer has received a similar type of complaint within twelve months of a previous complaint, the department may proceed with an enforcement action against that dealer without regard to the time period provided in this subsection.

(C) A person who fails to secure a license as required in this chapter has facilitated an unauthorized sale of a motorcycle and is guilty of a misdemeanor and, upon conviction, must be fined:

- (1) not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days for the first offense;
- (2) five hundred dollars nor more than one thousand dollars or imprisoned for not more than thirty days, or both, for the second offense; and
- (3) not less than one thousand dollars nor more than ten thousand dollars or imprisoned for not more than two years, or both, for the third or any subsequent offense.

(D) For purposes of this section, each instance of an unauthorized sale of a motorcycle where the dealer has not applied for and received a license from the department appropriate to the sale is conclusively deemed to be a separate and distinct offense. This provision does not apply to instances where a rightfully licensed retail dealer, pursuant to Chapter 15 of this title, accepts a motorcycle on trade to then sell at his retail location. Nothing in this chapter may be construed to prohibit any law enforcement agency from enforcing the provisions relating to nonlicensed dealers within the law enforcement agency's jurisdiction. The ticketing entity shall retain fifty percent of any fines collected under this section.

HISTORY: 1984 Act No. 511, Section 1; 1996 Act No. 459, Section 229; 2014 Act No. 217 (S.998), Section 1, eff June 2, 2014; 2023 Act No. 51 (S.549), Section 24, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 24, rewrote the section.

SECTION 56-16-150.

Application for dealer's or wholesaler's license; bond; duty to notify department where information given by applicant changes or licensee ceases operations; death of licensee.

(A) Before any license as a motorcycle "wholesaler" or "dealer" is issued to an applicant, he must file an application with the Department of Motor Vehicles and furnish the information the department may require including, but not limited to, information adequately identifying by name and address any individual who owns or controls ten percent or more of the interest in the business. The policy of this section is full disclosure.

(B)(1) Each applicant for licensure as a motorcycle dealer or wholesaler must furnish a surety bond in the penal amount of twenty-five thousand dollars on a form to be prescribed by the director of the department.

(2) A new bond or a proper continuation certificate must be provided to the department every twelve months during the license period. The dealer or surety, or his designee must alert the department of any bond name or address changes during the license period within thirty days of the change. Proof of the bond and the proper continuation of it may be provided to the Department of Motor Vehicles using the same database as vehicle insurance pursuant to Article 7, Chapter 10, Title 56.

(3) A dealer's license expires immediately upon expiration, termination, or a decrease of a dealer's bond below twenty-five thousand dollars.

(4) The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety. The bond must be conditioned upon the applicant or licensee complying with the provisions of the statutes applicable to the license and as indemnification for any loss or damage suffered by an owner of a motorcycle, or his legal representative, by reason of any fraud practiced or fraudulent representation made in connection with the sale or transfer of a motorcycle by a licensed dealer or wholesaler or the dealer's or wholesaler's agent acting for the dealer or wholesaler or within the scope of employment of the agent or any loss or damage suffered by reason of the violation by the dealer or wholesaler or his agent, of any of the provisions of this chapter.

(5) In instances of taxes or fees owed to the State that pertain solely to the process of buying, selling, titling, or registering motorcycles by a motorcycle dealer, the department has a right of action against the dealer's surety bond and may recover damages if those taxes and fees are not paid within the time period prescribed by law. The department shall distribute the taxes and fees to the appropriate entity as prescribed in state law.

(a) In the event of concurrent claims for the same vehicle from the owner and the State, the owner's claim prevails.

(b) This subsection does not apply to monies the motorcycle dealer has attempted to refund to a customer due to an error made by the dealer when the dealer can demonstrate that he has made an attempt by registered or certified mail, return receipt requested, or by private delivery service which is acceptable to the Internal Revenue Service to ensure the customer's refund was delivered. For

the purposes of this subsection, the dealer should make a bona fide, good faith attempt to refund money due to the customer within sixty days of the date of sale.

(6) An owner or his legal representative who suffers the loss or damage has a right of action against the dealer or wholesaler and against the dealer's or wholesaler's surety upon the bond and may recover damages as provided in this chapter. A new bond or a proper continuation certificate must be delivered to the department annually before the license is renewed. However, regardless of the number of years a bond remains in effect, the aggregate liability of the surety for any and all claims is limited to fifteen thousand dollars on each bond and to the amount of the actual loss incurred.

(7) The surety has the right to terminate its liability under the bond by giving the department thirty days' written notice of its intent to cancel the bond. The cancellation does not affect any liability incurred or accrued prior to the cancellation.

(C) If, during any license year, there is any change in the information that a dealer or wholesaler gave the department in obtaining or retaining a license under this section, the licensee shall report the change to the department within thirty days after the change occurs on the form the department requires.

(D) In the event a licensee ceases being a dealer or wholesaler, he shall, within ten days thereafter, notify the department of this fact and return to the department any license issued pursuant to this chapter and all current dealer license plates issued to the dealer or wholesaler.

(E) In the event of the licensee's death, the personal representative of the deceased licensee may, with the consent of the probate court and upon an application to the department, continue the operation of the business covered by the license for the remainder of the licensing period, but no longer than eighteen months after the licensee's death. At the conclusion of the licensing period or eighteen months after the death, the personal representative must take all actions to apply for a recreational vehicle dealer license under his or her own name and meet all requirements for a licensed recreational vehicle dealer in order to continue operating the business.

HISTORY: 1984 Act No. 511, Section 1; 1993 Act No. 181, Section 1489; 2023 Act No. 51 (S.549), Section 25, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 25, rewrote the section.

SECTION 56-16-160.

Requirement as to dealer's maintenance of bona fide established place of business; size of business; permanent sign; conducting business on property adjacent.

No dealer may be issued or allowed to maintain a motorcycle dealer's license unless:

(1) The dealer maintains a bona fide established place of business for conducting the business of selling or exchanging motorcycles which must be the principal business conducted from the fixed location. The sale of motorcycles or motor driven cycles need not be the principal business conducted from the fixed location. A bona fide established place of business for any motorcycle dealer includes a permanent, enclosed building or structure, not excluding a permanently installed mobile home containing at least ninety-six square feet of floor space, actually occupied by the applicant and easily accessible by the public, at which a permanent business of bartering, trading, or selling of motorcycles or displaying vehicles for bartering, trading, or selling is carried on, wherein the public may contact the owner or operator at all reasonable times and in which must be kept and maintained the books, records, and files required by this chapter. A bona fide established place of business does not mean a residence, tent, temporary stand, or other temporary quarters.

(2) The dealer's place of business must display a permanent sign with letters at least six inches in height, clearly readable from the nearest major avenue of traffic. The sign must clearly identify the licensed business.

(3) The dealer's place of business must have a reasonable area or lot to properly display motorcycles.

(4) A motorcycle dealer may use his license to conduct business on property adjacent to or within site of his bona fide established place of business. The property adjacent to or property within sight of his bona fide established place of business is deemed to be contiguous to his bona fide established place of business even if there exists a single intervening landmark such as a road or a railroad track. The property adjacent to or within sight of his bona fide established place of business must display the same permanent sign as the bona fide established place of business pursuant to item (2). The adjacent property or the property within sight of his bona fide established place of business need not include a permanent, enclosed building or structure, but all records for business conducted on the adjacent property must be maintained at the bona fide established place of business pursuant to this section. Any sales transactions pursuant to this section must take place at the location of the bona fide established place of business. Dealers applying for a license under this item must declare to the department on the dealer license application the street address of the adjacent property or property within sight of his bona fide established place of business and affirm that the dealer has met any local requirements to lawfully conduct business at that location.

HISTORY: 1984 Act No. 511, Section 1; 2023 Act No. 51 (S.549), Section 26, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Sections 34 and 40(D), provide as follows:

"SECTION 34. Dealers subject to the provisions contained in Section 56-14-50, 56-15-330, or 56-16-160 who maintain business

operations on adjacent properties or properties within sight as described in the code section applicable to the dealer but who do not meet the requirements of Section 56-14-50, 56-15-330, or 56-16-160, as applicable to the dealer and as amended by this act may be grandfathered by the Department of Motor Vehicles for the remainder of the license under which the dealer is operating as of the effective date of this act."

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 26, added (4).

SECTION 56-16-170.

Records of transfers; organization and legibility; penalties.

(A) Every dealer or wholesaler shall keep complete records of each transaction under which a motorcycle is transferred for a period of not less than four years from the date of the transaction. The records must show the true name and correct address of the person or persons from whom the motorcycle was acquired and the date of the transaction; a correct description of the motorcycle, when transferred; the true name and correct address of the person to whom the motorcycle was transferred; and the date of the transaction. The description of the motorcycle must include the motorcycle identification number, make, model, type of body, and the odometer readings at the time the motorcycle was transferred to and from the dealer or wholesaler. These records must be open at all reasonable times for inspection and copying by the Department of Motor Vehicles or any of its duly authorized agents.

(B) The records kept by the dealer or wholesaler must be maintained in a reasonably organized and orderly fashion with all entries being legible to the ordinary person upon inspection. Any records which are illegible or incapable of accurate interpretation by either the recordkeeper or the department's inspector or agent are not in compliance with this section.

(C) If any dealer or wholesaler fails to keep the required records or fails to make them available to the department or its duly authorized agents immediately upon a reasonable request, the dealer or wholesaler is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty dollars nor more than two hundred dollars or imprisoned for up to thirty days. The failure to keep or to make available to the department or its duly authorized agents complete records on each separate motorcycle constitutes a separate offense.

HISTORY: 1984 Act No. 511, Section 1; 1996 Act No. 459, Section 230.

SECTION 56-16-180.

Denial, suspension, or revocation of motorcycle dealer license.

The department may deny, suspend, or revoke an applicant or licensee for a motorcycle dealer license, to include existing licenses in the name of the same applicant, for any reason prescribed in Section 56-15-350.

HISTORY: 1984 Act No. 511, Section 1; 2006 Act No. 304, Section 2, eff May 24, 2006; 2008 Act No. 279, Section 13, eff October 1, 2008; 2023 Act No. 51 (S.549), Section 27, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 27, rewrote the section.

SECTION 56-16-200.

Civil actions; damages; effect of judgments as prima facie evidence.

(1) In addition to temporary or permanent injunctive relief as provided in Section 56-16-100(3)(c), any person who is injured in his business or property by reason of anything forbidden in this chapter may sue therefor in the court of common pleas and recover double the actual damages by him sustained, and the cost of suit, including a reasonable attorney's fee.

(2) When the action is one of common or general interest to many persons or when the parties are numerous and it is impracticable to bring them all before the court, one or more may sue for the benefit of the whole, including actions for injunctive relief.

(3) In an action for money damages, if the jury finds that the defendant acted maliciously, the jury may award punitive damages not to exceed three times the actual damages.

(4) A final judgment, order, or decree rendered against a person in any civil, criminal, or administrative proceeding under the United States antitrust laws, under the Federal Trade Commission Act, or under this chapter constitutes prima facie evidence against the person subject to the conditions of the United States Antitrust Law (15 U.S.C. Section 16).

HISTORY: 1984 Act No. 511, Section 1.

SECTION 56-16-210.

Contracts violating provisions of this chapter.

Any contract or part thereof or practice thereunder in violation of any provision of this chapter is against public policy and is void and unenforceable.

HISTORY: 1984 Act No. 511, Section 1.

Title 56 - Motor Vehicles

CHAPTER 17

Criminal Penalties

SECTION 56-17-10.

Willful failure to purchase license, keep records, or supply information in violation of law; willful falsification of information.

A person required by a provision of law or by regulation to purchase a license, keep any records, or supply any information, who wilfully fails to purchase a license, keep the records, or supply the information or who wilfully falsifies information so supplied, at the time or times required by law or regulation, in addition to other penalties provided by law, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than one year, or both, including the cost of prosecution.

HISTORY: 1996 Act No. 459, Section 231.

Title 56 - Motor Vehicles

CHAPTER 19

Protection of Titles to and Interests in Motor Vehicles

ARTICLE 1

General Provisions

SECTION 56-19-10.

Definitions.

For the purposes of this chapter and Chapter 21, Title 16, the following terms are defined as follows:

- (1) "Authorized emergency vehicle" means vehicles of the fire department, police vehicles, and the ambulances and emergency vehicles of municipal departments or public service corporations designated or authorized by the chief of police or governing body of a municipality.
- (2) "Bicycle" means a device propelled solely by pedals, operated by one or more persons, and having two or more wheels, except childrens' tricycles.
- (3) "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (4) "Dealer" or "motor vehicle dealer" means both "dealer" and "wholesaler", as defined in Chapter 15 of this title.
- (5) Reserved.
- (6) "Essential parts" means all integral and body parts of a vehicle of a type required to be registered under this title, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation.
- (7) Reserved.
- (8) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.
- (9) "Foreign vehicle" means every vehicle of a type required to be registered under this title brought into this State from another state, territory, or country, other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this State.
- (10) "House trailer" means:
 - (a) a trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or
 - (b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in subitem (a) of this item, but which is used instead permanently or temporarily for the advertising, sales, display, or promotion of merchandise or services or for another commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.
- (11) "Identifying number" means the numbers and letters, if any, on a vehicle designated by the Department of Motor Vehicles for the purpose of identifying the vehicle.
- (12) "Implement of husbandry" means every vehicle, including mobile barns, designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.
- (13) "Lienholder" means a person holding a security interest in a vehicle.
- (14) "Mail" means to deposit in the United States mail, properly addressed and with postage prepaid.
- (15) "Manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered under this title at an established place of business in this State.
- (16) Reserved.
- (17) Reserved.
- (18) Reserved.
- (19) Reserved.
- (20) Reserved.
- (21) Reserved.
- (22) "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole or by being boomed or otherwise secured to the towing vehicle and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.
- (23) "Previously registered vehicle" means a vehicle registered in this State on January 1, 1958, or a vehicle whose last registration before that date was in this State.
- (24) "Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.
- (25) "Registration" means the registration certificate or certificates and registration plates issued under the laws of this State pertaining to the registration of vehicles.
- (26) "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not constructed to carry any load on it, either independently or any part of the weight of a vehicle or load drawn.

(27) "School bus" means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or privately owned and operated for compensation for the transportation of children to or from school.

(28) "Security agreement" means a written agreement which reserves or creates a security interest.

(29) "Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation, conditional sale contract, conditional lease, chattel mortgage, or other lien or encumbrance, except taxes or attachment liens provided for in Section 29-15-20. The term includes the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions.

(30) "Semitrailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and that of its load rests upon or is carried by another vehicle.

(31) "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway including, but not limited to: ditch-digging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth-moving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earth-moving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

(32) "Specifically constructed vehicle" means every vehicle of a type required to be registered under this title not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(33) "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(34) "Trailer" means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(35) "Transporter" means every person engaged in the business of delivering vehicles of a type required to be registered under this title from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer.

(36) "Truck" means every motor vehicle designed, used, or maintained primarily for the transportation of property.

(37) "Truck tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load drawn.

(38) Reserved.

(39) "Mobile home" means every vehicle which is designed, constructed, and equipped principally as a permanent dwelling place and is equipped to be moved on streets and highways, but which exceeds the size limitations prescribed in Section 56-3-710 and which cannot be licensed and registered by the Department of Motor Vehicles as a "house trailer".

(40) "Odometer" means an instrument for measuring and recording the actual distance a motor vehicle travels while in operation; it does not include an auxiliary instrument designed to be reset by the operator of the motor vehicle for the purpose of recording the distance traveled on trips.

(41) "Odometer reading" means actual cumulative distance traveled disclosed on the odometer.

(42) "Odometer disclosure statement" means a statement, as prescribed by item (d) of subsection (1) of Section 56-19-240, certified by the owner of the motor vehicle to the transferee or to the Department of Motor Vehicles as to the odometer reading.

(43) Reserved.

(44) Reserved.

(45) Reserved.

(46) "Commercial truck" or "commercial motor vehicle (CMV)" as defined by the Federal Motor Carrier Safety Administration (FMCSA) means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (a) has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater;
- (b) has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater;
- (c) is designed to transport sixteen or more passengers, including the driver; or
- (d) is of any size and is used in the transportation of hazardous materials as that term is defined in 49 C.F.R. Section 390.5.

(47) "Motor home" means a vehicular unit designed to provide temporary living quarters built into an integral part of or permanently attached to a self-propelled motor vehicle chassis or van which unit contains permanently installed independent life support systems other than low voltage meeting the American National Standards Institute (ANSI) A119.2 Standard for Recreational Vehicles and provides at least four of the following facilities: cooking with onboard power source; gas or electric refrigerator; toilet with exterior evacuation; heating or air conditioning with onboard power source separate from the vehicle engine; a potable water supply system including a faucet, sink, and water tank with an exterior service connection; or separate 110-125 volt electric power supply. For purposes of this definition, a passenger-carrying automobile, truck, or van without permanently installed independent life support systems, including at least four of the indicated facilities, does not constitute a motor home.

(48) "Permanently installed" means built into or attached as an integral part of a chassis or van and designed not to be removed except for repair or replacement. A system which is readily removable or held in place by clamps or tie downs is not permanently installed.

(49) "Low voltage" means twenty-four volts or less.

(50) "Special mobile equipment" means every vehicle, with or without motive power, not designed or used primarily for the transportation of persons or pay-load property and incidentally operated or moved over the highways, including farm tractors, road construction and maintenance machinery, ditch-digging apparatus, well-boring apparatus, truck cranes or mobile shovel cranes, and similar vehicles; this enumeration is deemed partial and does not operate to exclude other vehicles which are within the general terms of this definition.

HISTORY: 1962 Code Section 46-139; 1957 (50) 595; 1972 (57) 2712; 1973 (58) 203, 348; 1974 (58) 2117; 1980 Act No. 385, Section 3; 1983 Act No. 118 Sections 9, 10; 1986 Act No. 528, Sections 13-16; 1991 Act No. 94, Section 8; 1992 Act No. 486, Sections 9, 10; 1993 Act No. 181, Section 1490; 1996 Act No. 459, Sections 232, 246A; 2000 Act No. 375, Section 10; 2008 Act No. 317, Section 2, eff June 19, 2008; 2016 Act No. 245 (H.5089), Section 1, eff February 1, 2017; 2017 Act No. 34 (S.444), Sections 6, 7, eff November 10, 2017; 2017 Act No. 89 (H.3247), Section 31, eff November 19, 2018.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments made by 2017 Act No. 34 and 2017 Act No. 89 were read together.

Effect of Amendment

2017 Act No. 34, Section 6, reserved (44), which related to the definition of "automotive three-wheel vehicle".

2017 Act No. 34, Section 7, reserved (45), which related to the definition of "motorcycle three-wheel vehicle".

2017 Act No. 89, Section 31, reserved (5), (16) to (21), (38), and (43) to (45), which had related to the definitions of "driver", "motor vehicle", "motorcycle", "motor-driven cycle", "nonresident", "operator", "owner", "vehicle", "moped", "Automotive three-wheel vehicle", and "Motorcycle three-wheel vehicle", respectively; and made nonsubstantive changes.

SECTION 56-19-20.

Administration and enforcement.

The Department of Motor Vehicles is hereby vested with the power and is charged with the duty of observing, administering and enforcing the provisions of this chapter and Chapter 21 of Title 16.

HISTORY: 1962 Code Section 46-140; 1957 (50) 595.

SECTION 56-19-40.

Department of Motor Vehicles shall examine all applications; investigations; rejections.

The Department of Motor Vehicles shall examine and determine the genuineness, regularity and legality of every application for registration of a vehicle or for a certificate of title therefor and of any other application lawfully made to the Department and may in all cases make investigations as may be deemed necessary or require additional information and shall reject any such application if not satisfied of the genuineness, regularity or legality thereof or the truth of any statement contained therein, or for any other reason, when authorized by law.

HISTORY: 1962 Code Section 46-142; 1957 (50) 595.

SECTION 56-19-50.

Department of Motor Vehicles shall seize expired, fictitious and certain other certificates, cards, permits, licenses, and plates.

The Department of Motor Vehicles may take possession of any certificate of title, registration card, permit, license or registration plate issued by it (a) upon expiration, revocation, cancellation or suspension thereof, (b) which is fictitious or (c) which has been unlawfully or erroneously issued.

HISTORY: 1962 Code Section 46-143; 1957 (50) 595.

SECTION 56-19-60.

Method of giving notice; proof of service.

Whenever the Department of Motor Vehicles is authorized or required to give any notice under this chapter or Chapter 21 of Title 16, unless a different method of giving such notice is otherwise expressly prescribed, such notice shall be given either by personal delivery thereof to the person to be so notified or by deposit in the United States mail of such notice by certified mail in an envelope with postage prepaid, addressed to such person at his address as shown by the records of the Department. The giving of notice by mail is complete upon the expiration of ten days after the deposit of the notice. Proof of the giving of notice in either such manner may be made by the certificate of any officer or employee of the Department or affidavit of any person over eighteen years of age, naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof.

HISTORY: 1962 Code Section 46-144; 1957 (50) 595.

SECTION 56-19-70.

Refunds of fees.

Whenever any application to the Department of Motor Vehicles is accompanied by any fee as required by law and such application is refused or rejected, the fee shall be returned to the applicant.

Whenever the Department through error collects any fee not required to be paid under this chapter, the fee may be refunded on its own initiative and shall be refunded to the person paying the fee upon application therefor made within six months after the date of such payment.

HISTORY: 1962 Code Section 46-145; 1957 (50) 595.

SECTION 56-19-80.

Disposition of fees and penalties.

All fees and penalties collected by the Department of Motor Vehicles pursuant to the provisions of this chapter or Chapter 21 of Title 16 shall be placed in the state general fund for the administration of this chapter and for other department purposes."

HISTORY: 1962 Code Section 46-146; 1957 (50) 595; 1993 Act No. 181, Section 1491.

SECTION 56-19-90.

Forms.

The Department of Motor Vehicles shall prescribe and provide suitable forms of applications, certificates of title and all other forms requisite or deemed necessary to carry out the provisions of this chapter and Chapter 21 of Title 16.

HISTORY: 1962 Code Section 46-147; 1957 (50) 595.

SECTION 56-19-110.

Judicial review of Department of Motor Vehicle's acts.

A person aggrieved by an act or omission to act by the Department of Motor Vehicles under this chapter or Chapter 21 of Title 16 is also entitled to a review thereof by the circuit court in accordance with laws of this State relating to appeals.

HISTORY: 1962 Code Section 46-149; 1957 (50) 595.

ARTICLE 3

Certificates of Title

SECTION 56-19-210.

Certificate of title required to sell or mortgage vehicle or mobile home; exception.

It shall be unlawful for any person to sell or offer for sale or mortgage in this State any vehicle of a type required to be registered and licensed in this State, or any mobile home, unless a certificate of title has been issued therefor and is currently valid; but this provision shall not apply to South Carolina dealers in the sale or offering for sale of new vehicles or mobile homes for which there is a manufacturer's certificate of origin made out to the person offering such vehicle or mobile homes for sale.

HISTORY: 1962 Code Section 46-150; 1957 (50) 595; 1972 (57) 2712.

SECTION 56-19-220.

Exemption of certain vehicles.

No certificate of title need be obtained for:

- (1) A vehicle owned by the United States unless it is registered in this State;
- (2) A vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration, or a vehicle used by the manufacturer solely for testing;
- (3) A vehicle owned by a nonresident of this State and not required by law to be registered in this State;
- (4) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;
- (5) A vehicle moved solely by animal power;
- (6) An implement of husbandry;
- (7) Special mobile equipment not required to be registered and licensed in this State;
- (8) A pole trailer;
- (9) A vehicle not required to be licensed and registered in this State, except mobile homes;
- (10) A vehicle used by its manufacturer in a benefit program for the manufacturer's employees;
- (11) A vehicle used by its manufacturer for testing, distribution, evaluation, and promotion, subject to the limitation in Section 56-3-2332(B)(2); or
- (12) A moped.

HISTORY: 1962 Code Section 46-150.1; 1957 (50) 595; 1972 (57) 2712; 1997 Act No. 155, Part II, Section 32B; 2017 Act No. 89 (H.3247), Section 32, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 32, in (9), substituted "A vehicle" for "Vehicles"; added (12), relating to mopeds; and made nonsubstantive changes.

SECTION 56-19-230.

Owners shall apply for certificates.

Except as otherwise provided for in this chapter, every owner of a vehicle which is in this State and for which no certificate of title has been issued by the Department of Motor Vehicles shall make application to the Department for a certificate of title of the vehicle.

HISTORY: 1962 Code Section 46-150.2; 1957 (50) 595.

SECTION 56-19-240.

Application for certificate; form and contents.

(A) An application for a certificate of title for a vehicle in this State must be made by the owner to the Department of Motor Vehicles on the form it prescribes and must contain or be accompanied by:

- (1) if the owner is an individual:
 - (a) the South Carolina residence address of the owner and mailing address, if different from residence address;
 - (b) the full legal name as it appears on the identification provided in item (d);
 - (c) the issuing state and number of the identification provided in item (d);

(d) in order to fulfill the requirements in items (a) through (c), the owner must provide one of the following:

(i) the owner's South Carolina driver's license or South Carolina identification card;

(ii) the owner's home state driver's license or home state special identification card and valid active duty military identification card if the owner is a person on active military duty and is stationed in this State;

(iii) the owner's home state driver's license or home state special identification card and proof of enrollment in a school in this State if the owner is a permanent resident of another state but is currently enrolled in a school in this State; or

(iv) the owner's home state driver's license or home state special identification card if the owner or co-owner intends to principally garage the vehicle in this State. "Principally garage" means the vehicle is garaged for six or more months of the year on property in this State which is owned, leased, or otherwise lawfully occupied by the owner of the vehicle. The application for a certificate of title must include the South Carolina residence address of the property where the vehicle is housed;

(2) if the owner is a business:

(a) a social security number, if the business is a sole proprietorship with no employees or a Federal Employer Identification Number (FEIN), if the business has employees; and

(b) a South Carolina physical address of the bona fide place of business operations for the business unless the owner is a bona fide leasing company;

(3) for vehicles that have more than one owner, only one co-owner must provide the information required pursuant to items (1) or (2) of this subsection;

(4) an owner who would otherwise be capable of attaining a driver's license or special identification card from this State, except for a medical or physical condition that can be documented and verified by the department, shall be issued a title and registration if the owner provides a signed affidavit certifying that the owner intends to principally garage the vehicle in this State, that the vehicle will be driven by a driver who is not the owner, and if the owner provides the South Carolina address where the vehicle will be principally garaged;

(5) a description of the vehicle, including, so far as the following data exists, its make, model, year, vehicle identification number, type of body, odometer reading at the time of application, and whether new or used;

(6) the date of acquisition by applicant, the name and address of the person from whom the vehicle was acquired, and the names and addresses of any lienholders in the order of their priority and the dates of their security agreements;

(7) an odometer disclosure statement made by the transferor of the vehicle and acknowledged by the transferee. The statement must be in compliance with federal guidelines and as prescribed by the department. Where more than one transfer has intervened between the previous certificate of title and the application for a new certificate of title, it must be shown that the certificate of title has been signed by the owner or by the owner's attorney in fact, and there must be for each intervening transfer thereafter a bill of sale in a form approved by the department, including a completed odometer disclosure statement. Additionally, the odometer disclosure statement on the application form must be completed by the applicant;

(8) any further information or documentation the department reasonably requires to enable it to determine: the identity of the vehicle, whether the owner is entitled to a certificate of title, the existence or nonexistence of security interests in the vehicle, and the accuracy of the odometer disclosure statement.

(B) If the application is not for the first certificate of title, it shall be accompanied by the last certificate of title previously issued for the vehicle, whether issued by this State or another state or country.

(C) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and the date of his security agreement and be signed by the dealer as well as the owner, and the dealer promptly shall mail or deliver the application to the department. If the application refers to a new vehicle purchased from a dealer, the application also shall be accompanied by the manufacturer's certificate of origin.

(D) The department will issue a title and registration only for vehicles that are physically located and primarily operated in this State. Vehicles that are purchased for primary operation in another state or a foreign jurisdiction cannot be titled and registered in South Carolina.

(E) A person who knowingly gives a false statement on the application or knowingly gives a false statement concerning the odometer reading on an odometer disclosure statement is guilty of a misdemeanor and, upon conviction, is subject to a fine of up to one thousand dollars or imprisonment of up to one year, or both. These penalties are in addition to the penalties provided by the federal odometer law 49 U.S.C. 32701-32711 (Title 49, Subtitle VI, Part C, Chapter 327).

(F) In addition to the other information required in an application, the application for title for a mobile or manufactured home must include the address of the site on which the home is to be placed if different from the owner's address.

HISTORY: 1962 Code Section 46-150.3; 1957 (50) 595; 1980 Act No. 385, Section 4; 1990 Act No. 577, Section 1; 1994 Act No. 506, Section 15; 1996 Act No. 459, Section 233; 2006 Act No. 304, Section 3, eff May 24, 2006; 2011 Act No. 14, Section 1, eff January 1, 2012; 2012 Act No. 264, Section 8, eff June 18, 2012.

SECTION 56-19-250.

Department of Motor Vehicles shall check application against list of stolen and converted vehicles.

The Department of Motor Vehicles, upon receiving an application for a first certificate of title, shall check the identifying number of the vehicle shown in the application against the record of stolen and converted vehicles required by Section 56-19-850 to be maintained by the Department.

HISTORY: 1962 Code Section 46-150.4; 1957 (50) 595.

SECTION 56-19-260.

Filing application; issuance of certificate.

The Department of Motor Vehicles shall file each application received and, when satisfied as to its genuineness and regularity and that the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of title of the vehicle.

HISTORY: 1962 Code Section 46-150.5; 1957 (50) 595.

SECTION 56-19-265.

Liens or encumbrances recorded on motor vehicles or titled mobile homes; transmission of lien information; transaction fees; continuation statement.

(A) Any liens or encumbrances on a motor vehicle or titled mobile home must be noted on the printed title or electronically through the Department of Motor Vehicles' Electronic Title and Lien System. The department shall transmit the lien to the first lienholder and notify the first lienholder of additional liens. This transmittal must be done electronically for business entities or by paper certificate for nonbusiness entities (persons purchasing vehicles for personal use from persons selling vehicles they have used primarily for personal use). Lien recordings and subsequent lien satisfactions may be electronically transmitted to the department and shall include the name and address of the person satisfying the lien. Electronic transmission of liens and lien satisfaction does not require a certificate of title until the last lien is satisfied and a clear certificate of title is issued to the owner of the motor vehicle or mobile home. The owner has the option to retain the electronic copy of the title with the department once all liens are satisfied. When a motor vehicle or mobile home is subject to an electronic lien, the certificate of title for the motor vehicle or mobile home is considered to be physically held by the lienholder for purposes of compliance with state or federal odometer disclosure requirements, and a duly certified copy of the department's electronic record of the lien is admissible in any civil, criminal, or administrative proceeding in this State as evidence of the existence of the lien. The lienholder shall have the option to receive a paper certificate of title and to receive notices of subsequent liens and satisfaction of liens by way of the United States Postal Service. Business entities are subject to fees contained in subsection (D).

(B) The department is authorized to convene a working group chaired by the director of the department or his designee for the purpose of assisting in the development of program specifications governing the transmission of electronic lien information between lienholders and the department, and maximize the use of the program by various lien stakeholders. The working group will be composed of members of the lienholder community, representing applicable industries. The director is authorized to appoint members of the working group to ensure that all stakeholders are represented. The working group will be a standing group convened on a regular basis until all specifications have been developed. The department also is charged with promulgating regulations pursuant to the specifications and standards for lien recording and releasing developed by the working group.

(C) All entities submitting lien information electronically under this program are required to comply with all regulations.

(D) The department is authorized to collect a transaction fee from commercial entities who either transmit or retrieve data from the department pursuant to this section. The fee must not exceed five dollars for each transaction and must be agreed to as part of the program specifications developed by the working group. These fees must be placed by the State Treasurer into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(E) Commercial entities and lenders who either transmit or retrieve data from the department pursuant to this section, notwithstanding Sections 37-2-202 and 37-3-202, may collect transaction fees from owners of the vehicles or mobile homes not to exceed a fee of five dollars for each transaction which must be agreed to as part of the program specifications developed by the working group. All fees charged by the department to any party as to a titled motor vehicle, motor home, or mobile home for purposes of transmittal or retrieval of this data is an "official fee" as referenced in Sections 37-2-202 and 37-3-202.

(F) All businesses and commercial lienholders who are regularly engaged in the business or practice of selling motor vehicles as dealers licensed under Chapter 15 of this title or in the business or practice of financing motor vehicles shall utilize the electronic lien system to transmit and receive electronic lien information as described by subsection (A). The department shall maintain contact information on its website for service providers providing an electronic interface between the department, lienholders and sellers of motor vehicles. The department may establish procedures to ensure businesses comply with use of the electronic lien system and to deal with valid exceptions as determined by the department.

(G) Any lien upon a vehicle titled by the State, except upon vehicles defined as motor homes, mobile homes, special mobile equipment, or commercial trucks, shall be deemed effective for a period of twelve years from the date the lien was perfected. The effectiveness of the lien lapses at the end of this twelve-year period unless a continuation statement is filed pursuant to this subsection by the entity existing on the current title as lienholder using the application process acceptable by the Department of Motor Vehicles. The department shall publish forms for the purpose of filing a continuation statement. The lienholder shall not make application for lien continuation until no more than six months prior to lien expiration. Upon a timely filing of a continuation statement in accordance with this subsection, the lien will be effective for a period of two additional years from the date of the filing of the continuation statement. The responsibility of lien continuation lies with the lender. The twelve-year effective lien period refers to the age of the lien, not the age of the vehicle.

HISTORY: 2004 Act No. 274, Section 1; 2008 Act No. 290, Section 1, eff June 11, 2008; 2014 Act No. 201 (H.3904), Section 2, eff June 2, 2014; 2016 Act No. 275 (S.1258), Section 82, eff July 1, 2016; 2016 Act No. 245 (H.5089), Section 2, eff February 1, 2017.

SECTION 56-19-270.

Refusal of certificate.

The Department of Motor Vehicles shall refuse issuance of a certificate of title if any required fee is not paid or if it has reasonable grounds to believe that:

(1) The applicant is not the owner of the vehicle;

(2) The application contains a false or fraudulent statement; or

(3) The applicant fails to furnish required information or documents or any additional information the Department reasonably requires.

HISTORY: 1962 Code Section 46-150.6; 1957 (50) 595.

SECTION 56-19-280.

Refusal of certificate; vehicle reported stolen or converted.

When the theft or conversion of a vehicle is reported to the Department of Motor Vehicles pursuant to Sections 56-19-810 or 56-19-820, until the department learns of its recovery or that the report of its theft or conversion was erroneous, it must not issue a certificate of title for the vehicle. A title may be issued on a vehicle that is reported stolen only in cases where the settlement to an insurance company is involved.

HISTORY: 1962 Code Section 46-150.7; 1957 (50) 595; 1996 Act No. 459, Section 234.

SECTION 56-19-290.

Contents of certificate.

Section effective until July 1, 2025. See, also, Section 56-19-290 effective July 1, 2025.

Each certificate of title issued by the Department of Motor Vehicles shall contain:

(1) The date issued;

(2) The name and address of the owner;

(3) The names and addresses of any lienholders, in the order of priority as shown on the application, and dates of the liens, or if the application is based on a certificate of title, as shown on the certificate;

(4) The title number assigned to the vehicle;

(5) A description of the vehicle including, so far as the following data exists: its make, model, vehicle identification number, odometer reading at the time of application, and type of body;

(6) Any other data the Department prescribes.

The certificate of title shall contain forms for assignment and warranty of title by the owner and for reassignment and warranty of title by a dealer and may contain forms for application for a certificate of title by a transferee, the naming of a lienholder and the assignment or release of the security interest of a lienholder.

HISTORY: 1962 Code Section 46-150.8; 1957 (50) 595; 1980 Act No. 385, Section 5; 1990 Act No. 577, Section 2.

SECTION 56-19-290.

Contents of certificate.

Section effective July 1, 2025. See, also, Section 56-19-290 effective until July 1, 2025.

Each certificate of title issued by the Department of Motor Vehicles shall contain:

(1) the date issued;

(2) the name and address of the owner;

(3) the names and addresses of any lienholders, in the order of priority as shown on the application, and dates of the liens, or if the application is based on a certificate of title, as shown on the certificate;

(4) the title number assigned to the vehicle;

(5) a description of the vehicle including, so far as the following data exists: its make, model, vehicle identification number, odometer reading at the time of application, and type of body;

(6) the names of any Transfer on Death beneficiary established upon such title pursuant to Section 62-6-401; and

(7) any other data the department prescribes.

The certificate of title shall contain forms for assignment and warranty of title by the owner and for reassignment and warranty of title by a dealer and may contain forms for application for a certificate of title by a transferee, the naming of a lienholder and the assignment or release of the security interest of a lienholder.

HISTORY: 1962 Code Section 46-150.8; 1957 (50) 595; 1980 Act No. 385, Section 5; 1990 Act No. 577, Section 2; 2024 Act No. 200 (H.4234), Section 27, eff July 1, 2025.

Editor's Note

2024 Act No. 200, Section 30, provides as follows:

"SECTION 30. SECTIONS 1-21 of this act take effect upon approval by the Governor and their provisions shall apply to all applicable actions, proceedings, and matters filed on and after the effective date; SECTIONS 22-29 of this act take effect on July 1, 2025."

Effect of Amendment

2024 Act No. 200, Section 27, inserted (6), redesignated former (6) as (7), and made nonsubstantive changes.

SECTION 56-19-300.

Contents of certificate for vehicle last registered where lienholders not named on certificate.

A distinctive certificate of title shall be issued for a vehicle last previously registered in another state or country, the laws of which do not require that lienholders be named on a certificate of title to perfect their security interests. The certificate shall contain the legend, "THIS VEHICLE MAY BE SUBJECT TO AN UNDISCLOSED LIEN," and may contain any other information the Department of Motor Vehicles prescribes.

HISTORY: 1962 Code Section 46-150.9; 1957 (50) 595.

SECTION 56-19-310.

Numbering certificates issued to successive owners; two transfers when auctioneer gives title.

The certificate of title issued to the first owner of a new vehicle must be designated by the letter suffix "A" after the title number. Titles issued to subsequent owners of such a vehicle must be designated "B", "C", "D", and "E" in the order of ownership. Titles issued to subsequent owners shall contain no letter suffix.

HISTORY: 1962 Code Section 46-150.10; 1957 (50) 595; 1996 Act No. 459, Section 235.

SECTION 56-19-320.

Certificate as prima facie evidence of facts.

A certificate of title issued by the Department of Motor Vehicles is prima facie evidence of the facts appearing on it.

HISTORY: 1962 Code Section 46-150.11; 1957 (50) 595.

SECTION 56-19-330.

Record of certificates issued.

The Department of Motor Vehicles shall maintain a record of all certificates of title issued by it.

HISTORY: 1962 Code Section 46-150.12; 1957 (50) 595.

SECTION 56-19-340.

Certificate mailed to first lienholder or, if none, to owner.

The certificate of title must be mailed to the first lienholder named in it or given to the lienholder's authorized agent or, if none, to the owner.

HISTORY: 1962 Code Section 46-150.13; 1957 (50) 595; 1963 (53) 161; 1996 Act No. 459, Section 236.

SECTION 56-19-350.

Duplicate certificates; surrender of recovered original.

If a certificate of title is lost, stolen, mutilated or destroyed or becomes illegible, the owner or legal representative of the owner named in the certificate, as shown by the records of the Department of Motor Vehicles, shall promptly make application for and may obtain a duplicate upon furnishing information satisfactory to the Department. The duplicate certificate of title shall contain the legend, "THIS IS A DUPLICATE CERTIFICATE AND MAY BE SUBJECT TO THE RIGHTS OF A PERSON UNDER THE ORIGINAL CERTIFICATE." It shall be mailed to the owner named in it or his legal representative.

A person recovering an original certificate of title for which a duplicate has been issued shall promptly surrender the original certificate to the Department.

HISTORY: 1962 Code Section 46-150.14; 1957 (50) 595.

SECTION 56-19-360.

Procedures for voluntary transfer; duties of transferor and transferee; effective time of transfer.

If an owner, manufacturer or dealer transfers his interest in a vehicle other than by the creation of a security interest, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to transferee in the space provided therefor on the certificate or as the Department of Motor Vehicles prescribes and cause the certificate and assignment to be mailed or delivered to the transferee or to the Department.

Except as provided in Section 56-19-370, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title in the space provided therefor on the certificate or as the Department prescribes and cause the certificate and application to be mailed or delivered to the Department.

Except as provided in Section 56-19-370, and as between the parties, a transfer by an owner is not effective until the provisions of this section have been complied with.

HISTORY: 1962 Code Section 46-150.15; 1957 (50) 595.

SECTION 56-19-370.

Procedures for voluntary transfer; dealer purchasing vehicle for resale.

(A) If a dealer buys a vehicle and holds it for resale and procures the certificate of title from the owner within forty-five days after delivery to him of the vehicle, he need not send the certificate to the Department of Motor Vehicles, but, upon transferring the vehicle to another person other than by the creation of a security interest, promptly shall execute the assignment and warranty of title by a dealer, showing the names and addresses of the transferee and of any lienholder holding a security interest created or reserved at the time of the resale and the date of his security agreement, in the spaces provided on the certificate or as the department prescribes, and mail or deliver the certificate to the department with the transferee's application for a new certificate.

(B)(1) The dealer must properly title and, if applicable, register the vehicle within forty-five days after the sale. A dealer who receives in a timely manner a title lien release from a financial institution, titling agent, or another state department of motor vehicles, or its equivalent, and who fails to either properly title or, if applicable, register the vehicle the dealer sold within forty-five days after the sale may be assessed points against his dealer record pursuant to Section 56-37-30.

(2) If the department has reason to believe that the dealer knowingly did not properly title, or if applicable, register the vehicle within forty-five days after the sale, the dealer is guilty of a misdemeanor and must be fined not less than five hundred dollars or imprisoned not more than thirty days, or both, and is further subject to the provisions of Section 56-15-350.

(3) If a title is in suspended status, the department must make the information regarding the reason for suspension available in a timely manner through the third-party provider pursuant to Section 56-3-210.

(4) No dealer may be prosecuted for not properly titling or registering a vehicle within forty-five days if the department has placed the title in suspended status or if a financial institution has not released the lien in a timely manner.

HISTORY: 1962 Code Section 46-150.16; 1957 (50) 595; 1995 Act No. 42, Section 2; 2023 Act No. 51 (S.549), Section 28, eff

January 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, the reference in (B)(1) to "Section 56-37-370" was changed to "Section 56-37-30" to correct a scrivener's error.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Effect of Amendment

2023 Act No. 51, Section 28, inserted the (A) designator, and added (B).

SECTION 56-19-380.

Procedures for voluntary transfer; issuance of new certificate.

The Department of Motor Vehicles, upon receipt of a properly assigned certificate of title, with an application for a new certificate of title, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner and mail it to the owner named in it or his legal representative.

HISTORY: 1962 Code Section 46-150.17; 1957 (50) 595.

SECTION 56-19-390.

Procedures for involuntary transfer or repossession.

(1) If the interest of an owner in a vehicle passes to another other than by voluntary transfer, the transferee shall, except as provided in subsection (2) of this section, promptly mail or deliver to the Department of Motor Vehicles the last certificate of title, if available, proof of the transfer and his application for a new certificate in the form the Department prescribes.

(2) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a lienholder named in the certificate of title, or by foreclosure of a statutory lien or sale pursuant to Section 29-15-10, the transferee shall promptly mail or deliver to the department the last certificate of title or order of court pertaining to sale, his application for a new certificate in the form the department prescribes and an affidavit made by or on behalf of the lienholder that the vehicle was repossessed and that the security interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement, or by foreclosure of a statutory lien. If the lienholder succeeds to the interest of the owner and holds the vehicle for resale, he need not secure a new certificate of title but, upon transfer to another person, shall promptly mail or deliver to the transferee or to the department the certificate, affidavit and other documents required to be sent to the department by the transferee, and the department shall, upon request, issue a new title free and clear of prior liens and encumbrances.

HISTORY: 1962 Code Section 46-150.18; 1957 (50) 595; 1977 Act No. 158; 1993 Act No. 181, Section 1492.

SECTION 56-19-400.

Procedures for involuntary transfer or repossession; issuance of new certificate.

The Department of Motor Vehicles, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall issue a new certificate of title in the name of the transferee as owner. If the outstanding certificate of title is not delivered to it, the Department shall make demand therefor from the holder thereof.

HISTORY: 1962 Code Section 46-150.19; 1957 (50) 595.

SECTION 56-19-410.

Procedures for involuntary transfer or repossession; surrender of old certificate; effect of surrender and issuance of new certificate.

A person holding a certificate whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the Department of Motor Vehicles upon request of the Department. The delivery of the certificate pursuant to the request of the Department does not affect the rights of the person surrendering the certificate, and the action of the Department in issuing a new certificate of title as provided in Section 56-19-400 is not conclusive upon the rights of an owner or lienholder named in the old certificate.

HISTORY: 1962 Code Section 46-150.20; 1957 (50) 595.

SECTION 56-19-420.

Fee; allocation.

Text of (A) effective until July 1, 2025.

(A) The Department of Motor Vehicles shall charge fifteen dollars for:

- (1) the issuance of a certificate of title;
- (2) the transfer of a certificate of title; or
- (3) the issuance of a duplicate certificate of title.

Text of (A) effective July 1, 2025.

(A) The Department of Motor Vehicles shall charge fifteen dollars for:

- (1) the issuance of a certificate of title;
- (2) the transfer of a certificate of title;
- (3) the issuance of a duplicate certificate of title; or
- (4) the establishment, modification, or revocation of Transfer on Death beneficiaries pursuant to Section 62-6-401.

(B) Five dollars of the fee contained in this section must be placed in a special earmarked account by the Comptroller General and

must be distributed in the following manner:

(1) the first one million dollars must be credited to the general fund of the State to offset a portion of state individual income tax revenue not collected pursuant to the subsistence allowance allowed pursuant to Section 12-6-1140(6); and

(2) the remainder must be allocated to the Department of Public Safety and used to support highway patrol programs.

(C) Notwithstanding any other provision of law, five dollars of the fee contained in this section must be placed in the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General.

HISTORY: 1962 Code Section 46-150.21; 1957 (50) 595; 1972 (57) 3013, 3088; 1976 Act No. 738 Section 6; 1986 Act No. 540, Part II, Section 42C; 2002 Act No. 349, Section 1; 2003 Act No. 51, Section 16; 2008 Act No. 353, Section 2, Pt 12C.2, eff July 1, 2008; 2016 Act No. 275 (S.1258), Section 83, eff July 1, 2016; 2024 Act No. 200 (H.4234), Section 28, eff July 1, 2025.

Editor's Note

2024 Act No. 200, Section 30, provides as follows:

"SECTION 30. SECTIONS 1-21 of this act take effect upon approval by the Governor and their provisions shall apply to all applicable actions, proceedings, and matters filed on and after the effective date; SECTIONS 22-29 of this act take effect on July 1, 2025."

Effect of Amendment

2024 Act No. 200, Section 28, in (A), inserted (4), and made nonsubstantive changes.

SECTION 56-19-425.

Fee for furnishing odometer reading.

The Department of Motor Vehicles shall be authorized to charge a fee of three dollars for furnishing the odometer reading or other odometer information concerning a particular vehicle to a requesting party.

HISTORY: 1980 Act No. 385, Section 6; 1993 Act No. 181, Section 1493.

SECTION 56-19-430.

Assignment of new identifying number; issuance of new, or endorsement of, original certificate.

The Department of Motor Vehicles may assign a new identifying number to a vehicle if it has none, its identifying number is destroyed or obliterated or its motor is changed and shall either issue a new certificate of title showing the new identifying number or make an appropriate endorsement on the original certificate.

HISTORY: 1962 Code Section 46-150.22; 1957 (50) 595.

SECTION 56-19-440.

Suspension or revocation of certificate.

The Department of Motor Vehicles shall suspend or revoke a certificate of title:

(1) If it finds

(a) the certificate of title was fraudulently procured or erroneously issued or

(b) the vehicle has been scrapped, dismantled or destroyed;

(2) When the Department determines that the fee has not been paid and such fee is not paid under reasonable notice and demand; or

(3) When the Department determines that the owner has committed any offense under this chapter or Chapter 21 of Title 16 involving the certificate to be suspended or revoked.

HISTORY: 1962 Code Section 46-150.23; 1957 (50) 595.

SECTION 56-19-450.

Effect of suspension or revocation on validity of security interest.

Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.

HISTORY: 1962 Code Section 46-150.24; 1957 (50) 595.

SECTION 56-19-460.

Surrender of suspended or revoked certificate.

When the Department of Motor Vehicles suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the Department.

HISTORY: 1962 Code Section 46-150.25; 1957 (50) 595.

SECTION 56-19-470.

Seizure of suspended or revoked certificate.

The Department of Motor Vehicles may seize and impound any certificate of title which has been suspended or revoked.

HISTORY: 1962 Code Section 46-150.26; 1957 (50) 595.

SECTION 56-19-480.

Transfer and surrender of certificates, license plates, registration cards and manufacturers' serial plates of vehicles sold as salvage, abandoned, scrapped, or destroyed.

(A) An owner who scraps, dismantles, destroys, or in any manner disposes to another, except to a demolisher or secondary metals recycler, as salvage, a motor vehicle otherwise required to be titled in this State immediately shall mail or deliver to the Department of Motor Vehicles the vehicle's certificate of title notifying the department to whom the vehicle is delivered together with a report indicating the type and severity of any damage to the vehicle. A person or entity who disposes of a vehicle to a demolisher or secondary metals recycler shall provide the vehicle's title certificate to the demolisher or secondary metals recycler so that the demolisher or secondary metals recycler can surrender the title certificate to the Department of Motor Vehicles pursuant to Sections 56-5-5670 and 56-5-5945.

(B) If a vehicle is acquired by an insurance company in settlement of a claim to the vehicle by fire, flood, collision, or other causes, or is left with the claimant after being declared a total loss by the insurance company, the company or its agent immediately shall deliver to the department the certificate of title together with a report indicating the type and severity of damage to the vehicle. If an insurance company or its agent is unable to obtain the certificate of title from the claimant within thirty days after acceptance by the claimant of an offer in settlement of total loss, the insurance company or its agent, on a form prescribed by the department, may submit an application to the department for a salvage, salvage flood, or salvage fire, as defined in Section 56-1-10, certificate of title. The application shall include evidence that the insurance company or its agent has fulfilled its settlement with and made two or more written attempts to obtain the certificate of title from the claimant. At such time as the insurance company may thereafter transfer the damaged vehicle, the company or its agent shall notify the department to whom the transfer was made on a form prescribed by the department. When an insurance company obtains a title to a vehicle from settling a total loss claim, the insurance company may obtain a title to the vehicle designated as "salvage", "salvage flood", or "salvage fire", as defined in Section 56-1-10. The insurance company must pay the title fee contained in Section 56-19-420.

(C) All insurance companies which make payments on liability, collision, fire, theft, or comprehensive policies for damaged motor vehicles in this State shall allow department officials to examine all records of the company which pertain to payments made pursuant to the policies during normal working hours.

(D) Vehicles acquired by insurance companies as outlined above are exempt from ad valorem property taxes and inventory taxes, and the transfers of the vehicles to and from insurance companies exempt from sales taxes.

(E) If a salvage, salvage flood, or salvage fire vehicle is rebuilt, a regular certificate of title may not again be issued except upon submission of an application stating that the vehicle has been rebuilt and containing the information ordinarily required by the department for the issuance of a certificate of title as well as any information the department may require about the identity of the vehicle, the source and cost of any parts used in, and the extent of any repairs or other work done to the vehicle. The owner shall follow the procedure prescribed by the department if he is seeking a rebuilt brand on a title. Any regular certificate of title issued by the department for a previously salvaged vehicle must be annotated to show that the vehicle was "salvaged rebuilt" and the reason why the vehicle was "salvage rebuilt", "salvage flood rebuilt", or "salvage fire rebuilt".

(F) The manufacturer's serial plate or vehicle identification number (VIN) plate must remain with the vehicle at all times until the vehicle is shredded, crushed, melted, or otherwise destroyed.

(G) For purposes of this section, a "salvage vehicle", and a "vehicle declared to be a total loss" are all synonyms and are defined to be any motor vehicle which is damaged to the extent that the cost of repairing the motor vehicle, including both parts and reasonable market charges for labor, equal or exceed seventy-five percent of the fair market value of the motor vehicle. The provisions contained in this section do not apply to a motor vehicle that has a fair market value of two thousand dollars or less, or an antique motor vehicle as defined by Section 56-3-2210. When an insurance company is involved, the fair market value of the vehicle must be determined as of the date immediately before the event which gave rise to the claim. When an insurance company is not involved, then the fair market value must be determined as of the last day on which the vehicle was lawfully operated on a public highway or the last day on which it was registered, whichever is later.

(H) A person violating any provision of this section is guilty of a misdemeanor and, upon conviction, for a first offense, must be fined not less than two nor more than five hundred dollars, or imprisoned for not more than thirty days, or both. For a second or subsequent offense, the fine must not be less than five hundred dollars and not more than one thousand dollars or imprisonment for not more than one year, or both.

HISTORY: 1962 Code Section 46-150.27; 1957 (50) 595; 1966 (54) 2303; 1972 (57) 2440; 1985 Act No. 198, Section 1; 1996 Act No. 459, Section 237; 2003 Act No. 52, Sections 1, 2; 2012 Act No. 242, Section 10, eff December 15, 2012; 2019 Act No. 17 (H.3310), Section 1, eff April 3, 2019; 2021 Act No. 27 (H.3101), Section 3, eff October 25, 2021.

Effect of Amendment

2019 Act No. 17, Section 1, in (B), inserted the second and third sentences, providing a procedure for an insurance company or its agent to obtain a certificate of title for a vehicle from the Department of Motor Vehicles when a claimant fails to deliver the title under certain circumstances.

2021 Act No. 27, Section 3, rewrote the section.

SECTION 56-19-485.

Vehicle title-brand designations.

(A) Notwithstanding any other provision of law, whenever any motor vehicle with a vehicle title brand as defined in Section 56-1-10 is transferred in this State pursuant to Section 56-19-480, whether the vehicle was, immediately before such transfer, titled in this State or in another state, the vehicle title shall maintain the designated brand to inform the transferee of the exact condition of the vehicle. No out-of-state vehicle or South Carolina registered vehicle shall be registered under the laws of this State without such designation, and this designation must be applied to all subsequent transfers of the vehicle. If the title-brand designation of a vehicle titled in another jurisdiction does not match exactly the definitions contained in Section 56-1-10, the department shall determine which of the title branding definitions in Section 56-1-10 most nearly describes the condition of the vehicle when titling it in South Carolina. The department shall apply that brand to the vehicle and it should remain on the vehicle through any subsequent transfers in South Carolina. The department may add other nonsalvage brands, outside of those defined in Section 56-1-10, to vehicle titles to properly classify vehicles and the use of those vehicles as it pertains to vehicle operation in South Carolina. Any vehicle previously title-branded in another state must be title-branded as the department deems appropriate pursuant to this section without regard to whether the vehicle was subsequently titled in a jurisdiction without a title brand.

The provisions of this section apply to transfers of vehicles in all of the circumstances described in Section 56-19-480.

(B) Notwithstanding the provisions of this section, the owner of a vehicle whose total cost of repair, including all labor and parts, is estimated to be seventy-five percent or more of the fair market value of the vehicle must provide the Department of Motor Vehicles an affidavit from a person who reconstructs or rebuilds a vehicle indicating the cost of repair along with other data the department may prescribe to obtain a certificate of title. The provisions contained in this section do not apply to a motor vehicle that has a fair market value of two thousand dollars or less, or an antique motor vehicle as defined by Section 56-3-2210. A certificate of title issued for a vehicle described in this paragraph must be annotated to indicate the motor vehicle is designated "salvage" as applicable to the extent necessary to inform the transferee of the exact condition of the vehicle. A salvaged out-of-state vehicle or South Carolina registered vehicle may not be registered in this State without this designation, and this designation must be applied to subsequent transfer of the vehicle.

(C) If a vehicle's Manufacturer's Certificate of Origin is branded with a designation, the department shall apply that same brand to the vehicle and it should remain with the vehicle through any subsequent transfers in South Carolina. If the title-brand designation of the Manufacturer's Certificate of Origin does not match exactly the definitions in Section 56-1-10, the department shall determine which title branding definition in Section 56-1-10 most nearly describes the condition of the vehicle when titling it in South Carolina.

HISTORY: 1995 Act No. 101, Section 1; 2003 Act No. 52, Section 3; 2021 Act No. 27 (H.3101), Section 4, eff October 25, 2021.
Effect of Amendment

2021 Act No. 27, Section 4, rewrote the section.

SECTION 56-19-490.

"Lemon Law" returns; notification; penalties.

(A) In every sale or transfer of a motor vehicle returned to the manufacturer under the provisions of Chapter 28, Title 56, a similar statute of another state, or as the result of a legal action, the title must have the following sentence printed on its face in large, bold, uppercase type: "RETURNED TO MANUFACTURER UNDER LEMON LAW OR OTHER PROCEEDING." The notice required under the provisions of this subsection must continue to appear on each title issued as a result of any subsequent sale or transfer of that motor vehicle.

(B) Any person who transfers or attempts to transfer a motor vehicle in violation of this section is subject to a fine of not less than five hundred dollars nor more than five thousand dollars if the person had knowledge that the motor vehicle was returned to the manufacturer for failure to meet express warranties under a "lemon law" or other similar proceeding.

HISTORY: 2000 Act No. 287, Section 6.

SECTION 56-19-495.

Establishment of working group to develop process for titling vehicles for which no title can be provided.

The Department of Motor Vehicles shall convene a working group chaired by the Director of the Department of Motor Vehicles, or the director's designee, for the purpose of assisting in the development of a process to be used for the titling of vehicles in this State for which no title can be provided, and assisting in the development of forms and regulations pursuant to this section. The working group must consist, at a minimum, of representative stakeholders from the classic car, dealer, insurance and lienholder industries, as well as from law enforcement agencies.

HISTORY: 2012 Act No. 264, Section 12, eff June 18, 2012.

ARTICLE 4

Retirement of Title Certificate to Manufactured Homes

SECTION 56-19-500.

Definitions.

As used in this article:

(1) "Affixed" means that the manufactured home is installed in accordance with the state required installation standards, with wheels, axles, and towing hitch removed, and with the owner of the home having an intention that the manufactured home becomes an improvement to the real property whereon it is situated as evidenced by the filing of the affidavits provided in this article. The filing of the affidavits provided for in this article is conclusive proof of the intent to affix the manufactured home to real property.

(2) "Division" means the Department of Motor Vehicles.

(3) "Homeowner" means, when referring to a manufactured home for which a title certificate is issued as required by Section 56-19-210, the person identified on the title certificate as the owner of the "manufactured home".

(4) "Manufactured home" means a "mobile home" as defined by law or a structure, transportable in one or more sections, which (a) in the traveling mode is eight body feet or more in width, or forty body feet or more in length, or (b) when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it.

(5) "Owner" means, when referring to a manufactured home for which the title certificate has been retired either pursuant to the procedure utilized before the effective date of this article by the department or pursuant to this article, the person who owns the real property or has a recorded leasehold estate of thirty-five or more years on the real property upon which the manufactured home has become affixed and the instrument creating the leasehold estate authorizes the lessee to encumber the real property with a lien.

(6) "Retire the title certificate" means to cancel through the procedure established by this article an existing manufactured home title certificate issued by this State.

(7) "Secured party" means any lienholder identified on the title certificate of a manufactured home, or the lender securing a loan through a mortgage, deed of trust, or real estate contract when referring to real property or real property to which a manufactured home has been affixed and the title certificate retired.

(8) "Security interest" means an interest in property to secure payment of a loan made by a secured party to a borrower or a lien created by operation of law.

(9) "Sever" means to physically remove the manufactured home from the real property to which it is affixed.

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-510.

Owner affixing manufactured home to real property; Manufactured Home Affidavit for the Retirement of Title Certificate; recording and form of affidavit.

(A) An owner of a manufactured home may affix the home to real property by:

(1) installing the home in accordance with the required installation standards and removing the wheels, axles, and towing hitch; and

(2) filing with the register of deeds or clerk of court, as appropriate, for the county in which the manufactured home is located the Manufactured Home Affidavit for the Retirement of Title Certificate in the form prescribed in this article together with proof of ownership as evidenced by a copy of the most recent deed of record or other instrument vesting title, and paying the filing fee required for affidavits by Section 8-21-310.

(B) The register of deeds or clerk of court must record the affidavit as if it were a deed to real property with the homeowner being identified as grantor and give notification to the county assessor.

(C) Upon the filing of the affidavit, the manufactured home is to be treated for all purposes except condemnation as real property and title to the manufactured home is thereby vested in the lawful owner of the real property to which it is affixed. A warning notice to those filing the affidavit must be included in the affidavit.

(D) The Manufactured Home Affidavit for the Retirement of Title Certificate must be in the following form:

STATE OF SOUTH CAROLINA) MANUFACTURED HOME) AFFIDAVIT FOR) RETIREMENT OF TITLE COUNTY OF
_____) CERTIFICATE

(1) Name of Owner:_____

(2) Description of Manufactured Home:

Date of Manufacture: Manufacturer: Model year: Make: Width: Length: Identification Number (VIN):

(3) Check whichever is applicable:

_____The above described manufactured home is not subject to a security lien.

_____The above described manufactured home is subject to a security lien and a separate affidavit, as required by law, will be filed naming the secured parties.

(4) Check whichever is applicable:

_____The above described manufactured home is located in a jurisdiction with locally enforced building and safety codes adopted pursuant to Title 6, Chapter 9 and attached to this form is written evidence of compliance with the applicable codes as of the date the manufactured home was permanently affixed to the above described real property. Written evidence of compliance includes, but is not limited to, a copy of a certificate of occupancy, a statement from the code enforcement office, an inspection report, or any documentation of similar effect from the local code enforcement office having the appropriate jurisdiction. Only one document should be attached to this form.

_____The above described manufactured home is not located in a jurisdiction with locally enforced building and safety codes adopted pursuant to Title 6, Chapter 9 applicable to manufactured homes.

(5) Full legal description of the property to which the manufactured home is currently, or is to be, affixed using metes and bounds or reference to recorded plat by book and page. (A separate sheet identified as "Exhibit A" may be attached.)

(6) Derivation: This being the identical or a portion of property conveyed or leased to the owner by deed or lease from

_____ and recorded _____ in Book _____ at page

_____.

Tax map number _____

Tax billing address _____

(7) The above-described manufactured home is permanently affixed or is to be permanently affixed to the above-described real property and the title certificate is to be retired in accordance with applicable law.

(8) Check if applicable:

_____The owner of the manufactured home owns or has a leasehold estate of thirty-five or more years in the real property to which the manufactured home is affixed.

(9) WARNING: the execution and filing of this affidavit transfers ownership of the manufactured home to the lawful owner of the real property to which it is affixed.

The owner certifies that the above information provided by the owner is true and correct to the best information and belief of the owner.

Date: Signature of owner: Type or print name of owner Witness: Witness:

STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that (s)he saw _____, sign, seal, and deliver the foregoing Affidavit and that

(s)he, together with _____ witnessed the execution thereof.
SWORN to before me this _____ day of Notary Public for _____ (L.S.) My Commission Expires:

HISTORY: 2003 Act No. 88, Section 2; 2005 Act No. 12, Section 4, eff upon approval (became law without the Governor's signature on January 13, 2005).

SECTION 56-19-520.

Retirement of the title certificate to a manufactured home; release of lien; Satisfaction Affidavit.

(A) Commencing nine months following the effective date of this article, the Department of Motor Vehicles must retire the title certificate to the manufactured home upon receipt of the following:

(1) a clocked and stamped copy of the Manufactured Home Affidavit for the Retirement of Title Certificate filed with the Register of Deeds or Clerk of Court;

(2) the title certificate for the manufactured home, with either a release of lien or the consent of any secured party to the retirement of the title certificate indicated in writing on the title certificate by each secured party which authorizes the department to cancel its record of any lien as if it had been released. The release of lien may be accomplished by the appropriate notation on the title certificate or by an affidavit on the form provided in this article. Any licensed attorney admitted to practice in this State who can provide proof of payment of funds by evidence of payment made payable to a secured party or other party entitled to receive payment may record or cause to be recorded an affidavit duly executed in the presence of two witnesses and probated or acknowledged which states that full balance or payoff amount of the lien or other instrument securing the payment of money and being a lien upon the manufactured home has been made and that evidence of payment from the secured party exists. This affidavit, duly recorded in the appropriate county, shall serve as notice of satisfaction of the security interest and release of the lien upon the manufactured home. The filing of the affidavit with the department shall be sufficient to satisfy, release, or discharge the lien. This item may not be construed to require an attorney to record an affidavit or to create liability for failure to file the affidavit. The licensed attorney signing the affidavit which is false is guilty of perjury in violation of Section 16-9-10 and shall be liable for damages that any person may sustain as a result of the false affidavit, including reasonable attorney's fee incurred in connection with the recovery of the damages;

(3) a receipt demonstrating payment of the most recently billed property taxes for the manufactured home; and

(4) payment of a fee established by the department not to exceed fifty dollars for retirement of the title certificate and, notwithstanding any other provision of law, the fee collected by the department must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(B) The affidavit referred to in subsection (A) must be as follows:

STATE OF SOUTH CAROLINA)) SATISFACTION AFFIDAVIT COUNTY OF _____)

The undersigned on oath, being first duly sworn, hereby certifies:

(1) The undersigned is a licensed attorney admitted to practice in the State of South Carolina.

(2) With respect to the security interest given by _____ to _____ and dated _____:

(a) ☐ that the undersigned was given written payoff information and made the payoff and is in possession of a canceled check to the secured party; or

(b) ☐ that the undersigned was given written payoff information and made the payoff by wire transfer or other electronic means to the secured party and has confirmation from the undersigned's bank of the transfer to the account provided by the secured party. Under penalties of perjury, I declare that I have examined this affidavit this _____ day of _____ and, to the best of my knowledge and belief, it is true, correct, and complete.

Witness: _____ Signature Witness: _____ Name (Please print) Attorney's Bar Number Street Address City, State, Zip Code Telephone

STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing Affidavit and that he, together with _____ witnessed the execution thereof.

Subscribed and sworn to before me

this _____ day of _____

Notary Public for _____ (L.S.)

My commission expires: _____

(C) Upon presentation to the department of the material required by this section, the department is directed to mark the lien on the manufactured home satisfied.

HISTORY: 2003 Act No. 88, Section 2; 2016 Act No. 275 (S.1258), Section 84, eff July 1, 2016.

SECTION 56-19-530.

Records of retired title certificates; written confirmation to homeowner.

The Department of Motor Vehicles must maintain a record of each manufactured home title certificate retired under this article, and provide written confirmation of the retirement of the title certificate to the homeowner.

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-540.

Retirement of title certificate when lien reflected on affidavit but not evidenced by mortgage; separate Manufactured Home Lien Affidavit to be filed; form.

(A) If at the time of the filing of the Manufactured Home Affidavit for the Retirement of Title Certificate by the Register of Deeds or Clerk of Court, the manufactured home is subject to a lien reflected on the affidavit but not otherwise evidenced by a mortgage, then a separate Manufactured Home Lien Affidavit in the form prescribed by this article is also to be filed. Payment must also be made of the filing fee for affidavits provided in Section 8-21-310. Upon filing, the lien becomes a lien against the real property to which the manufactured home is affixed and is to be indexed in the name of the owner identified on the Manufactured Home Lien Affidavit as mortgagor and secured parties, as mortgagees. Any lien on the manufactured home at the time of retirement of the title certificate must be perfected and have priority in the manner provided for a lien on real property.

(B) The Manufactured Home Lien Affidavit must be in the following form:

STATE OF SOUTH CAROLINA) MANUFACTURED HOME) LIEN AFFIDAVIT COUNTY OF _____)

(1) Name of Owner: (2) Description of Manufactured Home: Date of Manufacture: Manufacturer: Model year: _____
Make: Width: _____ Length: Identification Number (VIN): _____

(3) The above described manufactured home is subject to a security lien and all secured parties with mailing addresses are listed below:

(4) Full legal description of new property to which manufactured home is to be affixed using metes and bounds or reference to recorded plat by book and page. (A separate sheet identified as "Exhibit A" may be attached.)

(5) Derivation: This being the identical or a portion of property conveyed or leased to the owner by deed or lease from _____ and recorded _____ in Book _____ at page _____.

Tax map number _____

Tax billing address _____

(6) Name of owner of real property if different from owner of manufactured home.

(7) The owner of the manufactured home affidavit was recorded on _____, in book _____, at page _____, in the County of _____.

The owner certifies that the above information provided by the owner is true and correct to the best information and belief of the owner.

Date: _____ Signature of Owner Type or print name of owner Witness: Witness:

STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing Affidavit and that he, together with _____ witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-550.

Severance of manufactured home from real property when it will be affixed to real property in new location; filing of Manufactured Home Severance Affidavit; if not to be affixed to real property, Attorney Affidavit of Security Interests of Record reflecting liens to be filed.

(A) A manufactured home for which the title certificate has been retired may be severed from real property only in accordance with the procedures prescribed in this article. Any person who removes a manufactured home for which the title certificate has been retired from the real property to which it has been affixed in a manner inconsistent with requirements of this article is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars.

(B) If a manufactured home for which the title certificate has been retired is to be severed from the real property to which it is affixed, it is not necessary for the owner of the manufactured home to obtain a new title certificate if the manufactured home is to be affixed to real property in its new location. However, the owner shall file a Manufactured Home Severance Affidavit in the form prescribed in this article with the Register of Deeds or Clerk of Court in the county or counties from which the manufactured home is being moved and where it is to be relocated and pay a fee for the filing of affidavits provided by Section 8-21-310. No manufactured home that is to be severed may be transported without first obtaining the appropriate moving permit and a receipt indicating payment of any taxes accrued, due, or payable on the manufactured home.

(C) The Manufactured Home Severance Affidavit must be in the following form:

STATE OF SOUTH CAROLINA)) MANUFACTURED HOME) SEVERANCE AFFIDAVIT COUNTY OF _____)

OWNERS SECTION

(1) Name of Owner: (2) Description of Manufactured Home: Date of Manufacture: Manufacturer: Model year: _____

Make: Width: _____ Length: Identification Number (VIN): _____

(3) Check whichever is applicable:

_____ The above described manufactured home will be removed from its current location and will not be permanently affixed in a new location.

_____ The above described manufactured home will be removed from its current location and will be permanently affixed in a new location.

(4) Full legal description of new property to which manufactured home is to be affixed using metes and bounds or reference to recorded plat by book and page. (A separate sheet identified as "Exhibit A" may be attached.)

(5) Derivation: This being the identical or a portion of property conveyed or leased to the owner by deed or lease from _____ and recorded _____ in Book _____ at page _____.

Tax map number _____

Tax billing address _____

(6) Name of owner of real property if different from owner of manufactured home.

(7) The initial manufactured home affidavit was recorded on _____, in book _____, at page _____, in the County of _____.

The owner certifies that the above information provided by the owner is true and correct to the best information and belief of the owner.

Date: _____ Signature of Owner Type or Print Name of Owner Witness: Witness:

STATE OF SOUTH CAROLINA)) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing affidavit and that he, together with _____ witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

SECURED PARTY SECTION

(1) Names and mailing address of all parties with a security interest in the manufactured home:

(2) Consent to sever. This section must be completed by each secured party and the signature of each must be notarized. By my (our) signature(s) affixed hereto I (we) consent to the severance of the within described manufactured home from the real property identified herein.

Date: Signature of secured party Witness: Signature of secured party Witness: Print or type name of secured party Print or type name of secured party Date: Signature of secured party Witness: Signature of secured party Witness: Print or type name of secured party Print or type name of secured party

STATE OF SOUTH CAROLINA)) COUNTY OF _____) PROBATE

Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing consent to sever and that he, together with _____ witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

(D) If the manufactured home will not be affixed to real property, it is necessary for the owner of the manufactured home to obtain a new title certificate from the Department of Motor Vehicles by filing with the department an application for title on the form prescribed by the department, by paying the fee established by Section 56-19-420, and by furnishing a stamped, clocked copy of the Manufactured Home Severance Affidavit which must contain an affidavit executed by a licensed South Carolina attorney identifying in the order of their priority any secured party having a security interest in the real property. Liens reflected on the Manufactured Home Severance Affidavit must be reflected on the title certificate in order of their priority.

(E) The attorney's affidavit required by subsection (D) must be in the following form:

STATE OF SOUTH CAROLINA) ATTORNEY AFFIDAVIT OF) SECURITY INTERESTS OF COUNTY OF _____) RECORD

The undersigned on oath, being duly sworn, hereby certifies as follows:

(1) The undersigned is a licensed attorney admitted to practice in the State of South Carolina.
(2) The undersigned has conducted an examination of the real property records in the office of the Register of Deeds or Clerk of Court in the county of _____, and states that the following security interests listed below in their order of priority are recorded and in the undersigned's opinion are perfected as to the manufactured home identified in the attached Severance Affidavit. The parties are listed by name and address in order of priority of security interest:
Date: Signature of attorney Printed name of attorney and Bar Number Street Address City, State, Zip Code Witness: Witness:
STATE OF SOUTH CAROLINA) COUNTY OF _____) PROBATE
Before me, the undersigned Notary Public, personally appeared _____, who, being duly sworn, deposed and said that he saw _____, sign, seal, and deliver the foregoing Affidavit and that he, together with _____, witnessed the execution thereof.

SWORN to before me this

_____ day of _____

Notary Public for _____ (L.S.)

My Commission Expires: _____

(F) If a manufactured home which is to be severed from real property is subject to a lien or mortgage, the manufactured home may not be severed without the notarized, written consent of the lienholder to the severance and the discharge or release of the lien or mortgage as to the manufactured home as provided by law.
(G) Notwithstanding the provisions of this article, the security interest in a manufactured home in which the title certificate has been retired shall continue notwithstanding any relocation unless the lien on the manufactured home has been satisfied of record as required by law as to the satisfaction of liens or the lender indicates consent to the relocation on the Severance Affidavit provided for in subsection (C) and the owner files the affidavit with the Register of Deeds or Clerk of Court with whom the Manufactured Home Affidavit for Retirement of title certificate is filed.
(H) A copy of the application for a new title certificate along with the Manufactured Home Severance Affidavit required by this article must also be filed in the office of the Register of Deeds or Clerk of Court for the county in which is located the real property from which the manufactured home is severed together with payment of the fee for the filing of affidavits provided by Section 8-21-310.

HISTORY: 2003 Act No. 88, Section 2.

SECTION 56-19-560.

Manufactured home treated as real property.

Upon an owner of a manufactured home meeting all requirements of this article for retiring the title certificate on his manufactured home and having the manufactured home and the real property to which it is affixed classified as real property, the register of deeds or clerk of court in the county where it is located in all indexes and transactions regarding the manufactured home and the real property to which it is affixed must confer upon it the treatment required by Section 56-19-510(C) and may not in any particulars still treat the manufactured home as personal property.

HISTORY: 2005 Act No. 174, Section 1, eff June 7, 2005.

ARTICLE 5

Secured Interests and Other Liens

SECTION 56-19-610.

Chapter inapplicable to certain liens and security interests.

This chapter does not apply to or affect:

- (1) A lien given by statute or rule of law to a supplier of services or materials for the vehicle;
- (2) A lien given by statute to the United States, this State or any political subdivision of this State, if such lien is recorded on the title;
- (3) A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale; or
- (4) Attachment liens provided for in Section 29-15-20.

HISTORY: 1962 Code Section 46-150.41; 1957 (50) 595.

SECTION 56-19-620.

Security interest invalid against third parties unless properly perfected.

Unless excepted by Section 56-19-610, a security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or lienholders of the vehicle unless perfected as provided in this article. No other recordation shall be necessary to protect the interest of the lienholder.

HISTORY: 1962 Code Section 46-150.42; 1957 (50) 595; 1960 (51) 1730.

SECTION 56-19-630.

Perfecting security interest; time when effective.

A security interest is perfected by the delivery to the Department of Motor Vehicles of the existing certificate of title, if any, an application for a certificate of title containing the name and address of the lienholder and the date of his security agreement and the required fee. It is perfected as of the time of its creation if the delivery is completed within ten days thereafter, otherwise, as of the time of the delivery.

HISTORY: 1962 Code Section 46-150.43; 1957 (50) 595.

SECTION 56-19-650.

Procedure when owner creates security interest.

If an owner creates a security interest in a vehicle:

(1) The owner immediately shall execute the application, in the space provided for on the certificate of title or on a separate form the Department of Motor Vehicles prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder and the date of his security agreement, and cause the certificate, application, and the required fee to be delivered to the lienholder.

(2) The lienholder immediately shall cause the certificate, application, and the required fee to be mailed or delivered to the department.

(3) If the certificate of title is in the possession of a lienholder and a supplemental lien is created by the owner, the subsequent lienholder shall secure the title from the first lienholder and forward to the department the required application and the title for perfecting the lien, together with the required fee. The department when satisfied that the application is in order shall issue a new certificate of title containing the name and address of the new lienholder and mail the certificate to the first lienholder named on it. The delivery of the certificate does not affect the rights of the first lienholder under his security agreement.

HISTORY: 1962 Code Section 46-150.45; 1957 (50) 595; 1963 (53) 161; 1996 Act No. 459, Section 238.

SECTION 56-19-660.

Filing notices of security interests; record.

The Department of Motor Vehicles shall file each notice of security interest received by it with the required fee and maintain a record of all notices of security interests filed by it.

HISTORY: 1962 Code Section 46-150.46; 1957 (50) 595.

SECTION 56-19-670.

Assignment of security interest; perfection; filing.

A lienholder may assign, absolutely or otherwise, his security interest in the vehicle to a person other than the owner without affecting the interest of the owner or the validity of the security interest, but any person without notice of the assignment is protected in dealing with the lienholder as the holder of the security interest, and the lienholder remains liable for any obligations as lienholder until an assignment by the lienholder is delivered to the Department of Motor Vehicles as provided in this section.

The assignee may, but need not, to perfect the assignment, deliver to the department an assignment by the lienholder in the form the department prescribes with the required fee.

The Department shall file each assignment received by it with the required fee and note the assignee as lienholder upon the record of security interests maintained by the Department pursuant to Section 56-19-660.

HISTORY: 1962 Code Section 46-150.47; 1957 (50) 595; 1990 Act No. 577, Section 3(A).

SECTION 56-19-680.

Satisfaction of security interest for which certificate is in possession of lienholder; filing release.

(1) Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of the lienholder, he shall, within ten days after demand and, in any event, within thirty days, execute a release of his security interest, in the space provided therefor on the certificate or as the Department of Motor Vehicles prescribes, and mail or deliver the certificate and release to the Department which shall file the release and note it upon the record of security interest maintained by the Department pursuant to Section 56-19-660. The Department shall then mail the certificate to the next lienholder or if no other lienholder, then to the owner. No charge shall be made by the lienholder for executing such release.

(2) Upon the satisfaction of a security interest in a vehicle for which the certificate of title is in the possession of a prior lienholder, the lienholder whose security interest is satisfied shall within ten days after demand, and, in any event, within thirty days execute a release in duplicate in the form the Department prescribes and deliver or mail a copy to the owner and a copy to the Department for notation upon the record of security interests maintained by the Department pursuant to Section 56-19-660.

(3) Upon failure of the lienholder to forward the certificate to the Department as required by this article he shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 46-150.48; 1957 (50) 595, 1963 (53) 161.

SECTION 56-19-700.

Security interests in previously registered vehicles not needing certificates unaffected.

This chapter shall in no wise affect or impair any chattel mortgage, lien or other security interest in a previously registered vehicle for which no certificate of title or application for a certificate of title is required under this chapter.

HISTORY: 1962 Code Section 46-150.50; 1957 (50) 595.

SECTION 56-19-710.

Continuation of security interests previously perfected under other laws.

If a security interest in a previously registered vehicle was perfected under any other applicable law of this State on January 1, 1958, the security interest shall continue perfected until its perfection lapses under the law under which it was perfected or would lapse in the absence of a further recording or until the earlier lapse of two years and nine months from January 1, 1958 and thereafter, if previously perfected under this article.

HISTORY: 1962 Code Section 46-150.51; 1957 (50) 595.

SECTION 56-19-720.

Sale or security interest not created by terminal rental adjustment clause in motor vehicle or trailer lease.

Notwithstanding another provision of law, a transaction involving a motor vehicle or trailer does not create a sale or security interest merely because the agreement contains a terminal rental adjustment clause which provides that the rental price may be or must be adjusted either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

HISTORY: 1998 Act No. 406, Section 1.

Editor's Note

1998 Act No. 406, Section 2, provides as follows:

"The clarification of existing law in Section 56-19-720 of the 1976 Code as contained in Section 1 of this act must be given effect in all court cases brought on or after the effective date of this act."

ARTICLE 7

Stolen, Converted, or Unclaimed Vehicles

SECTION 56-19-810.

Peace officers shall report theft or recovery of vehicles.

A peace officer who learns of the theft of a vehicle not since recovered or of the recovery of a vehicle whose theft or conversion he knows or has reason to believe has been reported to the Department of Motor Vehicles shall forthwith report the theft or recovery to the Department.

HISTORY: 1962 Code Section 46-150.61; 1957 (50) 595.

SECTION 56-19-820.

Owners of lienholders may report thefts or conversions; Department of Motor Vehicles may disregard report; recovery to be reported.

An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the Department of Motor Vehicles, but the Department may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A person who has so reported the theft or conversion of a vehicle shall forthwith after learning of its recovery report the recovery to the Department.

HISTORY: 1962 Code Section 46-150.62; 1957 (50) 595.

SECTION 56-19-830.

Liability of officer or agency for acting on false theft report.

No peace officer or government agency shall be criminally or civilly liable for any act done in good faith as a result of a false report of the theft of a vehicle if no liability would have resulted from such act had the report been true.

HISTORY: 1962 Code Section 46-150.63; 1957 (50) 595.

SECTION 56-19-840.

Unclaimed vehicles in garages and certain other places to be reported; loss of storage lien for failure to report.

A proprietor, an owner, or an operator of any towing company, storage facility, garage, or repair shop or any person who repairs or furnishes any material for the repair of a vehicle, where a vehicle remains unclaimed for a period of thirty days, must report the vehicle as unclaimed to the Department of Motor Vehicles within five days after the expiration of the thirty-day period. The report must be on a form prescribed by the department. The form may be submitted before the thirty-day period expires.

A vehicle is considered "unclaimed" when the owner of the vehicle has not reclaimed it within thirty days after notification pursuant to Sections 29-15-10 and 56-5-5630. A person who fails to report a vehicle as unclaimed in accordance with this section forfeits all claims, liens, or costs associated with the towing and storage.

HISTORY: 1962 Code Section 46-150.64; 1957 (50) 595; 2004 Act No. 269, Section 9.

SECTION 56-19-850.

Records of reports of stolen, converted, recovered, and unclaimed vehicles; distribution of lists.

The Department of Motor Vehicles shall maintain and appropriately index cumulative public records of stolen, converted, recovered and unclaimed vehicles reported to it pursuant to this article. The Department may make and distribute weekly lists of such vehicles so reported to it to peace officers.

HISTORY: 1962 Code Section 46-150.65; 1957 (50) 595.

ARTICLE 9

Titling of All-Terrain Vehicles

SECTION 56-19-1010.

Title for all-terrain vehicle (ATV); application.

An owner of an ATV may make application to the Department of Motor Vehicles for a title for the vehicle accompanied by the required fee and upon the appropriate form prescribed and furnished by the department. The application must be accompanied by a manufacturer's certificate of origin or previous title properly assigned to the applicant.

HISTORY: 2011 Act No. 24, Section 2, eff July 1, 2011.

SECTION 56-19-1020.

Application for title of previously-titled all-terrain vehicle (ATV) received by gift, trade, or other means; proof of ownership

When a person who is not a licensed ATV dealer receives by purchase, gift, trade, or by another means a vehicle that was titled in this State, the person who receives the vehicle may make application to the department for a title. The application must be accompanied by the required documents and fee for title. The department shall issue a certificate of title once it has received a properly completed application. An owner of an ATV, before the effective date of this article, who cannot provide proof of

ownership, may request an affidavit from the sheriff in the county in which he resides. The affidavit shall state that the sheriff finds the person making application for the title is the legal owner of the ATV. Before issuing the affidavit, the sheriff must verify through the National Crime Information Center that the ATV is not stolen. The department shall issue a title application to the owner upon presentation of the affidavit, application, and fee.

HISTORY: 2011 Act No. 24, Section 2, eff July 1, 2011.

SECTION 56-19-1030.

Title fee for all-terrain vehicle (ATV).

The title fee for an ATV is contained in Section 56-19-420(A). For purposes of this article, an all-terrain vehicle (ATV) is defined as provided in Section 50-26-20.

HISTORY: 2011 Act No. 24, Section 2, eff July 1, 2011.

Title 56 - Motor Vehicles

CHAPTER 21

Regulation of Traffic at State Institutions

SECTION 56-21-10.

Governing boards of state institutions may employ security personnel and make traffic regulations.

The governing boards of all State institutions which provide for the operation and parking of vehicles upon the grounds, streets, drives and alleys or any other institutional property under its control are hereby authorized to employ security personnel and to promulgate such traffic regulations as may be deemed necessary. Such regulations may include the following:

- (1) Fixing the rate of speed;
- (2) Assigning parking spaces and designating parking areas and assessing charges therefor;
- (3) Prohibiting parking in certain areas;
- (4) Removing vehicles parked in violation of regulations at the expense of the violator;
- (5) Instituting a system of registration for vehicle identification;
- (6) Issuing parking and traffic tickets.

HISTORY: 1962 Code Section 46-771; 1972 (57) 2268.

SECTION 56-21-20.

Unlawful parking at state institutions.

It shall be unlawful for any person to park a vehicle upon any property under the control of a State institution except in the manner designated by such institution.

HISTORY: 1962 Code Section 46-772; 1972 (57) 2268.

SECTION 56-21-30.

Posting of speed limit and parking regulation signs at state institutions.

Notice of speed limits and parking regulations on property of the State institutions shall be provided by the posting of conspicuous signs in places deemed appropriate.

HISTORY: 1962 Code Section 46-773; 1972 (57) 2268.

SECTION 56-21-40.

Fines and forfeitures shall go to state institutions.

All fines and bail forfeitures collected under the provisions of Sections 56-21-10 to 56-21-60 shall be deposited in the general fund of the particular State institution wherein the violation occurred.

HISTORY: 1962 Code Section 46-774; 1972 (57) 2268.

SECTION 56-21-50.

Jurisdiction of courts within area of state institutions; duty of county treasurer receiving fines or forfeitures.

The recorder, judge or the magistrate having jurisdiction within the area where such State institution is situate shall have jurisdiction to hear, try and determine violations of the provisions of Sections 56-21-10 to 56-21-60. The county treasurer who receives fines or bail forfeitures collected by the recorder, judge or magistrate for violations of the provisions of Sections 56-21-10 to 56-21-60 shall remit such fines or forfeitures to the institutions concerned.

HISTORY: 1962 Code Section 46-775; 1972 (57) 2268.

SECTION 56-21-60.

Penalties for traffic and parking offenses at state institutions.

Any person violating the provisions of Sections 56-21-10 to 56-21-50 shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed one hundred dollars or be imprisoned for a term not to exceed thirty days.

HISTORY: 1962 Code Section 46-776; 1972 (57) 2268.

SECTION 56-21-70.

Regulation of traffic and parking at State Hospital and Midlands Center; application of state laws.

The South Carolina Department of Mental Health may adopt and promulgate rules and regulations governing and controlling use of the roads, streets and parking facilities by operators of vehicles within the area and lands of the State Hospital and Midlands Center. No such rules and regulations shall be in conflict with any State law on the subject, all of such State laws being hereby declared in force and applicable to the roads, streets and parking facilities under the control and authority of the Department of Mental Health. Copies of the rules and regulations shall be filed with the administrative heads of both institutions, the Secretary of State, the Code Commissioner, the city of Columbia and the magistrate's office in Upper township in Richland County.

HISTORY: 1962 Code Section 46-808; 1959 (51) 484.

SECTION 56-21-80.

Enforcement of traffic and parking regulations at State Hospital and Midlands Center; summonses.

Marshals employed at both institutions shall enforce the laws, rules and regulations mentioned in Section 56-21-70 and shall issue summonses to all violators in the same manner as provided for highway patrolmen.

HISTORY: 1962 Code Section 46-809; 1959 (51) 484.

SECTION 56-21-90.

Jurisdiction of traffic and parking offenses at State Hospital and Midlands Center; forfeiture of bond.

Persons violating the provisions of any of the applicable laws, rules or regulations shall be tried by the magistrate or recorder having jurisdiction of the area in which the particular institution is situate; provided, any person who desires to forfeit bond may pay the

amount of the minimum fine to the treasurer of the State Hospital or Midlands Center.

HISTORY: 1962 Code Section 46-810; 1959 (51) 484.

SECTION 56-21-100.

Penalties for traffic and parking offenses at State Hospital and Midlands Center.

Any person violating the provisions of any of the rules and regulations prescribed by the Department of Mental Health shall, upon conviction, be fined not less than two dollars nor more than fifty dollars or be imprisoned for not more than fifteen days, in accordance with the schedule published by the Department. Violations of any other laws shall be punished as provided therefor.

HISTORY: 1962 Code Section 46-811; 1959 (51) 484.

SECTION 56-21-110.

Fines and forfeitures shall go to State Hospital or Midlands Center.

All fines and bail forfeitures collected under the provisions of Sections 56-21-70 to 56-21-100 shall be credited to the general fund of the State Hospital or Midlands Center, dependent upon where the violation occurred. All fines and bail forfeitures resulting from the enforcement of Sections 56-21-70 to 56-21-100 shall be forthwith forwarded by the city recorder or magistrate to the State Hospital or Midlands Center to be credited to their respective general funds.

HISTORY: 1962 Code Section 46-812; 1959 (51) 484.

Title 56 - Motor Vehicles

CHAPTER 23

Driver Training Schools

SECTION 56-23-10.

Licensing of driver education or training schools; classroom or behind the wheel training licenses.

A person may not engage in the business of training or educating persons to drive or operate motor vehicles or offer training or education to conduct either the classroom or the behind the wheel training, or both, for which a fee or charge is made, unless and until the person has obtained and holds a valid driver training school license issued by the Department of Motor Vehicles. A person may hold a license to teach classroom only or to teach behind the wheel training only. The licensee must have a permanent location in this State and all motor vehicles used for behind the wheel instruction must be registered in this State. If licensed for classroom training only, the motor vehicle requirement shall be waived.

HISTORY: 1962 Code Section 46-193; 1954 (48) 1536; 1993 Act No. 181, Section 1494; 1996 Act No. 459, Section 239; 2006 Act No. 328, Section 1, eff January 1, 2007.

SECTION 56-23-20.

Certain courses exempt.

Classroom courses offered by state institutions and duly accredited and approved colleges, public, parochial, and private high schools in which classroom driver education is part of the curriculum, instruction offered by an entity described in Section 33-49-160(A) that is providing instruction to employees of its member organizations, or to employers giving instruction to their licensed employees shall be exempt from registration and license under this chapter. Courses offered to adults under adult education programs shall not qualify for the exemption.

HISTORY: 1962 Code Section 46-194; 1954 (48) 1536; 1976 Act No. 738 Section 3; 1978 Act No. 450 Section 1; 2022 Act No. 126 (S.947), Section 1, eff April 4, 2022.

Effect of Amendment

2022 Act No. 126, Section 1, in the first sentence, inserted ", instruction offered by an entity described in Section 33-49-160(A) that is providing instruction to employees of its member organizations," following "part of the curriculum", and made a nonsubstantive change.

SECTION 56-23-30.

Application for license.

Applications for driver training school licenses shall be made to the Department of Motor Vehicles on such forms as the Department may prescribe, and all applicants shall furnish such information as may be required by the Department.

HISTORY: 1962 Code Section 46-194.1; 1954 (48) 1536.

SECTION 56-23-40.

License fees; expiration of license; use of proceeds; corporate bond.

The license fee for each driver training school licensed under the provisions of this chapter is two hundred dollars. Prior to operation, each licensed driver training school also must obtain a corporate surety bond in the amount of ten thousand dollars. The bond must be given to the department and executed by the applicant, as principal, and by a corporate surety company authorized to do business in this State, as surety. The bond must be conditioned upon the applicant or licensee complying with the statutes applicable to the license and as indemnification for loss or damage suffered by a person having retained services of a driver training school. Licenses issued pursuant to this section expire on the last day of the month, forty-eight months after the license is issued. The proceeds from the sale of driver training school licenses must be placed in the state general fund for the administration and enforcement of this chapter and title.

HISTORY: 1962 Code Section 46-194.2; 1954 (48) 1536; 1993 Act No. 181, Section 1495; 2006 Act No. 328, Section 2, eff January 1, 2007; 2023 Act No. 51 (S.549), Section 39, eff May 18, 2023.

Editor's Note

2023 Act No. 51, Section 40(F), provides as follows:

"[SECTION 40.](F) The remaining SECTIONS of this act, and Sections 56-3-214(A), 56-3-214(B)(1), 56-3-214(B)(2), 56-3-214(B)(3), 56-3-214(G), 56-1-20, 56-23-40, 56-23-60, and 56-23-105 take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 39, in the first sentence, substituted "The license fee" for "The annual license fee" and "two hundred dollars" for "fifty dollars", in the fifth sentence, substituted "expire on the last day of the month, forty-eight months after the license is issued" for "expire on June thirtieth of the license year of issue", and made nonsubstantive changes.

SECTION 56-23-50.

Denial, suspension, or revocation of license.

A license shall be denied any person failing to meet and maintain the minimum standards and conditions of operation established by the Department of Motor Vehicles pursuant to Section 56-23-60. The Department shall also have the right to revoke or suspend any license where the Department finds that the licensee has failed to maintain the required minimum standards or conditions of operation or conducts the school in any way inimical to the public interest or safety on the highways.

HISTORY: 1962 Code Section 46-194.3; 1954 (48) 1536.

SECTION 56-23-60.

Minimum standards and conditions of operation for schools; inspection of schools.

The Department of Motor Vehicles may establish minimum standards for the operation of driver training schools authorized to be licensed under the provisions of this chapter and prescribe conditions of operation of the schools. The minimum standards must include, but are not limited to, a requirement that driver training schools have or have access to sufficient facilities and equipment to conduct an eight-hour driver training course for a minimum of ten students. All activities and operations of licensed driver training schools are at all times subject to inspection or examination by authorized representatives of the department. In addition, records of these activities and operations must be made available at the permanent location in this State for review by the department upon its request.

HISTORY: 1962 Code Section 46-194.4; 1954 (48) 1536; 1988 Act No. 612, Section 2; 2006 Act No. 328, Section 3, eff January 1, 2007; 2023 Act No. 51 (S.549), Section 35, eff May 18, 2023.

Editor's Note

2023 Act No. 51, Section 40(F), provides as follows:

"[SECTION 40.](F) The remaining SECTIONS of this act, and Sections 56-3-214(A), 56-3-214(B)(1), 56-3-214(B)(2), 56-3-214(B)(3), 56-3-214(G), 56-1-20, 56-23-40, 56-23-60, and 56-23-105 take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 51, Section 35, in the second sentence, substituted "eight-hour driver training course" for "eight-hour defensive driving course".

SECTION 56-23-70.

Driver instructor qualifying courses; supervision by Department of Motor Vehicles.

Driver instructor qualifying courses may be conducted by recognized college, university, or driving school instructors who successfully have completed an approved forty-hour safety education course from a recognized college or university and have acquired an instructor permit from the Department of Motor Vehicles. Where such qualifying courses are offered, they must be supervised by the department and must be offered at least once a year.

HISTORY: 1962 Code Section 46-194.6; 1974 (58) 2251; 1993 Act No. 181, Section 1496; 2006 Act No. 328, Section 4, eff January 1, 2007.

SECTION 56-23-80.

Temporary driver instructor permits; fee.

Temporary instructor permits may be issued after special examination by the Department of Motor Vehicles and upon payment of a twenty-dollar fee to the department. Temporary instructor permits are valid for six months and until the next available and approved qualifying class, but in no event shall such permits exceed one year. A temporary driver instructor's activities and instruction are subject to an audit of driving skills and classroom teaching by authorized representatives of the department. The proceeds from the sale of temporary instructor permits must be deposited in the state general fund.

HISTORY: 1962 Code Section 46-194.7; 1974 (58) 2248; 2006 Act No. 328, Section 5, eff January 1, 2007.

SECTION 56-23-85.

Driver instructor permits required.

A person connected with driver training schools or private, parochial, or public high schools shall not engage in either classroom only instruction, or behind the wheel only instruction, or both, unless the person has obtained and holds a valid driver instructor permit or temporary driver instructor permit issued by the Department of Motor Vehicles.

Appropriate examination for an instructor permit must be at the discretion of the department. The annual fee for an instructor permit is twenty dollars, and all instructor permits expire on June thirtieth. Public and private high school instructors are not required to pay a fee for a permit. The proceeds from the sale of instructor permits must be deposited in the state general fund.

HISTORY: 1962 Code Section 46-194.8; 1976 Act No. 738 Section 4; 1978 Act No. 450 Section 2; 1993 Act No. 181, Section 1497; 2006 Act No. 328, Section 6, eff January 1, 2007.

SECTION 56-23-87.

Certificate of completion of driver's training course.

A person successfully completing a driver's training course conducted by a person holding a valid driver's instructor permit as provided for in Section 56-23-85 must be issued a certificate of completion by the entity conducting the course in a form consistent with regulations issued by the Department of Motor Vehicles.

HISTORY: 1998 Act No. 258, Section 5.

SECTION 56-23-90.

Penalties.

Any person violating any provisions of this chapter, or of any driver training school license issued pursuant to this chapter, shall be guilty of a misdemeanor and upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both, for such violation.

HISTORY: 1962 Code Section 46-194.5; 1954 (48) 1536.

SECTION 56-23-95.

Driver training school financial assistance.

All driver training schools licensed pursuant to the provisions of this chapter may offer financial assistance to students who attend public South Carolina high schools to cover the fees associated with the business of training or educating persons to drive or operate motor vehicles.

HISTORY: 2022 Act No. 126 (S.947), Section 2, eff April 4, 2022.

SECTION 56-23-100.

Promulgation of regulations.

The Department of Motor Vehicles may promulgate regulations to carry out the provisions contained in this chapter.

HISTORY: 2006 Act No. 328, Section 7, eff January 1, 2007.

SECTION 56-23-105.

"Classroom training" defined.

For purposes of this chapter, "classroom training" means either in-person, virtual, or remote online training. The online classroom training must utilize a student username and password, measure the amount of time that the student spends in the course, provide technical support to students that is available twenty-four hours per day, seven days per week, utilize personal validation questions which appear periodically throughout the entire course, have measures in place that prevent a student from completing more than four hours of instruction in a calendar day, and provide a final examination at the completion of the program. A passing score of 80 percent or higher is required. Students may take up to three attempts to pass the online test to successfully complete the course.

HISTORY: 2023 Act No. 51 (S.549), Section 36, eff May 18, 2023.

Editor's Note

2023 Act No. 51, Section 40(F), provides as follows:

"[SECTION 40.](F) The remaining SECTIONS of this act, and Sections 56-3-214(A), 56-3-214(B)(1), 56-3-214(B)(2), 56-3-214(B)(3), 56-3-214(G), 56-1-20, 56-23-40, 56-23-60, and 56-23-105 take effect upon approval by the Governor."

Title 56 - Motor Vehicles

CHAPTER 25

Nonresident Traffic Violator Compacts

SECTION 56-25-10.

Compacts enacted as law; duty of Department of Motor Vehicles

The Nonresident Traffic Violator Compacts of 1972 and 1977 (compacts) are enacted into law by reference and entered into with all other jurisdictions legally joining therein. The director of the Department of Motor Vehicles shall execute all documents and perform all other acts necessary to carry out the provisions of the compacts. The department shall maintain a current list of those jurisdictions which have entered into the compacts. The list and copies of the compacts shall from time to time be disseminated to those agencies and individuals who are responsible for enforcement of their provisions.

HISTORY: 1980 Act No. 461; 1986 Act No. 383, Section 2; 1993 Act No. 181, Section 1498; 1996 Act No. 459, Section 240.

SECTION 56-25-20.

Suspension of license for failure to comply with traffic citation or summons for litter violation; notification of licensing authority in compact jurisdiction.

When a South Carolina court or the driver licensing authority of a compact jurisdiction notifies the Department of Motor Vehicles that a resident of South Carolina or person possessing a valid South Carolina driver's license has failed to comply with the terms of a traffic citation or an official Department of Natural Resources summons for a littering violation issued in this or any compact jurisdiction, the department may suspend or refuse to renew the person's driver's license if the notice from a South Carolina court or the driver licensing authority of a compact jurisdiction is received no more than twelve months from the date on which the traffic citation or an official Department of Natural Resources summons for a littering violation was issued or adjudicated. The license must remain suspended until satisfactory evidence has been furnished to the department of compliance with the terms of the citation or an official Department of Natural Resources summons for a littering violation and any further order of the court having jurisdiction in the matter and until a reinstatement fee as provided in Section 56-1-390 is paid to the department. A person whose license is suspended under this section is not required to file proof of financial responsibility as required by the Financial Responsibility Act (Chapter 9 of Title 56) as a condition for reinstatement.

Upon notification by a South Carolina court that a nonresident licensed in a compact jurisdiction has failed to comply with the terms of a traffic citation or an official Department of Natural Resources summons for a littering violation, the department shall notify the licensing authority in the compact jurisdiction for such action as appropriate under the terms of the compacts.

HISTORY: 1980 Act No. 461; 1990 Act No. 596, Section 2; 1996 Act No. 459, Section 241; 2004 Act No. 306, Section 2.

SECTION 56-25-30.

Release of violator on personal recognizance; release of nonresident licensed by compact jurisdiction.

Any law enforcement officer who issues to a person a uniform traffic citation may, in addition to any other action authorized by law and subject to the exceptions noted in this section, allow the person to proceed without first either having to post bond or appear before a magistrate, recorder or other judicial officer if the person accepts the citation. Such acceptance shall constitute the person's recognizance to comply with the terms of the citation.

When issuing a citation for a traffic violation to a nonresident who is licensed by a compact jurisdiction, if the law enforcement officer receives the person's recognizance as above-described, the officer shall not, subject to the exceptions noted below, require the person to post bond but shall allow the person to proceed.

HISTORY: 1980 Act No. 461.

SECTION 56-25-40.

Violations for which person not entitled to release on personal recognizance; penalty for failure to appear as required by citation.

(a) No person shall be entitled to be released on personal recognizance pursuant to Section 56-25-30 if the officer requires the person to appear before a magistrate, recorder or other judicial officer or if the offense is:

(1) One which would result in the suspension or revocation of a person's license or privilege to drive under the laws of this State;

(2) A violation of Section 56-1-440 prohibiting the operation of a motor vehicle without a valid driver's license;

(3) A violation of a highway weight limitation.

(b) Any person who willfully fails to appear before the court as required by a uniform traffic citation without having posted such bond as may be required by the court or been granted a continuance by the court shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars or imprisoned not more than thirty days.

HISTORY: 1980 Act No. 461.

Title 56 - Motor Vehicles

CHAPTER 27

Professional Housemoving

SECTION 56-27-10.

Definitions.

As used in this chapter:

(a) "Person" means an individual, corporation, partnership, association, or any other business entity.

(b) "House" means a dwelling, building, or other structure in excess of fourteen feet in width.

(c) [Deleted]

HISTORY: 1984 Act No. 420; 1993 Act No. 181, Section 1499; 1996 Act No. 459, Section 246A.

SECTION 56-27-20.

License required.

All persons who engage in the profession of housemoving on roads and highways of this State must be licensed by the Department of Transportation.

HISTORY: 1984 Act No. 420.

SECTION 56-27-30.

Term of license; renewal; fee.

A license issued under the provisions of this chapter is effective for a period of one year from the date of issuance and is renewable on an annual basis. The annual and renewal fee for the license is contained in Section 57-3-130. All persons issued licenses under the provisions of this chapter are required to carry the license on their persons at all times when engaged in the profession of housemoving on the roads and highways of this State.

HISTORY: 1984 Act No. 420; 2012 Act No. 110, Section 1, eff February 1, 2012.

SECTION 56-27-40.

Insurance.

(a) No license may be issued or renewed pursuant to this chapter unless the applicant presents to the Department of Transportation a certificate of insurance from an insurance company licensed to do business in this State providing:

(1) Motor vehicle insurance with minimum coverage of one hundred thousand dollars for bodily injury to or death of one person in any one accident, three hundred thousand dollars for bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars for injury to or destruction of property of others in any one accident.

(2) Comprehensive general liability insurance with a minimum coverage of two hundred fifty thousand dollars combined single limit of liability.

(3) Workers' Compensation insurance that complies with Title 42 if the person licensed as a professional housemover is not exempt from the provisions of that title.

(b) The certificate shall provide for continuous coverage during the effective period of the license issued pursuant to this chapter.

HISTORY: 1984 Act No. 420.

SECTION 56-27-50.

Violations; penalties.

Any person violating the provisions of this chapter is deemed guilty of a misdemeanor and upon conviction must be fined:

(a) Not less than one hundred dollars for a first offense;

(b) Not less than five hundred dollars for a second offense;

(c) Not less than one thousand dollars for a third or subsequent offense.

HISTORY: 1984 Act No. 420.

Title 56 - Motor Vehicles

CHAPTER 28

Enforcement of Motor Vehicle Express Warranties

SECTION 56-28-10.

Definitions.

As used in this chapter:

- (1) "Consumer" means the purchaser or lessor, other than for purposes of resale, of a motor vehicle normally used for personal, family, or household purposes and subject to the manufacturer's express warranty, and any other person entitled by the warranty to enforce the obligations of the warranty.
- (2) "Manufacturer" means any person, resident, or nonresident, who manufactures or assembles or imports or distributes new motor vehicles which are to be sold in the State.
- (3) "Manufacturer's express warranty" or "warranty" means the written warranty, so labeled, of the manufacturer of a new motor vehicle, including any terms or conditions precedent to the enforcement of obligations under that warranty.
- (4) "Motor vehicle" means:
 - (a) a private passenger motor vehicle, as classified by Section 56-3-630, but excluding the living portion of recreational vehicles and off-road vehicles, which is sold and registered in this State; and
 - (b) a motorcycle as defined in Section 56-1-10(8), including a motorcycle three-wheel vehicle as defined in Section 56-1-10(18), which is sold and registered in this State.
- (5) A "new motor vehicle" means a motor vehicle which has been sold to a new motor vehicle dealer by a manufacturer and which has not been used for other than demonstration purposes and on which the original title has not been issued from the new motor vehicle dealer.
- (6) "Nonconformity" means a defect or condition that substantially impairs the use, value, or safety of a motor vehicle, but does not include a defect or condition that results from an accident, modification, or alteration of the motor vehicle by persons other than the manufacturer or its authorized service agent.

HISTORY: 1989 Act No. 142, Section 1; 1996 Act No. 459, Section 242; 2016 Act No. 157 (H.3788), Section 1, eff April 21, 2016.
SECTION 56-28-20.

Manufacturers to provide annual written summaries of certain motor vehicles; forms; records to be made available; penalties.

Every manufacturer, in a format and a form that must be mailed annually to each manufacturer approved by the Administrator of the Department of Consumer Affairs, shall provide a written summary of all motor vehicles repurchased or replaced under this chapter no less than once each calendar year. In addition, every manufacturer shall make available any paperwork, reports, or other information regarding vehicles subject to this chapter upon request by the administrator. Failure to supply either the written summaries of repurchased vehicles or respond to reasonable requests for information by the administrator subjects the manufacturer to an administrative penalty not to exceed one thousand dollars for each violation which the administrator in his discretion may impose.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-30.

Nonconformity with express warranties; notice required; repairs required.

If a new motor vehicle does not conform to all applicable express warranties within the first twelve months of purchase or the first twelve thousand miles of operation, whichever occurs first, and the consumer reports the nonconformity to the manufacturer or its agent during the term of the express warranties, the manufacturer, or its agent, shall make those repairs as are necessary to conform the vehicle to the express warranties at no cost to the consumer, notwithstanding the fact that the repairs are made after the expiration of the term.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-40.

Replacement of motor vehicle; refund of purchase price.

If, within the term specified in Section 56-28-30, the manufacturer, through its agents or authorized dealer, is unable to conform the motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use, market value, or safety of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall replace the motor vehicle with a comparable motor vehicle, or at its option, accept return of the vehicle from the consumer and refund to the consumer the full purchase price as delivered including applicable finance charges, sales taxes, license fees, registration fees, and any other similar governmental charges, less a reasonable allowance for the consumer's use of the vehicle. Refunds must be made to the consumer and lienholder, if any, as their interest may appear on the record of ownership kept by the Department of Motor Vehicles. A reasonable allowance for use must be that amount directly attributable to use by the consumer before his first report of the nonconformity to the manufacturer, agent, or dealer, and must be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator one hundred twenty thousand and having as its numerator the number of miles that the vehicle traveled before the first report of nonconformity. The consumer is not entitled to a refund or replacement if:

- (1) the nonconformity does not substantially impair the motor vehicle's use, market value, or safety;
- (2) the nonconformity is the result of abuse, neglect, or modification or alteration of the motor vehicle by the consumer.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-50.

Presumption of attempts to conform; information to be provided to consumers; obligations of manufacturer; costs and attorney's fees; notice requirements.

(A) It is presumed that a reasonable number of attempts have been undertaken to conform a motor vehicle to the applicable express warranties if:

(1) the same nonconformity has been subject to repair three or more times by the manufacturer, or its agent, within the express warranty term, but the nonconformity continues to exist; or

(2) the vehicle is out of service by reason of repair for a cumulative total of thirty or more calendar days during the express warranty. The term of an express warranty, and the twenty-day period must be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, fire, flood, or other natural disaster.

(B) The manufacturer must provide information regarding consumer complaint remedies with each new motor vehicle. It is the responsibility of the consumer, or his representative, before availing himself of the provisions of this chapter, to give written notification to the manufacturer of the need for the repair of the nonconformity, in order to allow the manufacturer a final opportunity to cure the alleged defect if the manufacturer has clearly and prominently informed the consumer of the requirement of written notification to the manufacturer at the time of sale. The manufacturer, within ten business days, must notify the consumer of a reasonably accessible repair facility of a franchised new vehicle dealer to conform the new vehicle to the express warranty. After delivery of the new vehicle to an authorized repair facility by the consumer, the manufacturer must attempt immediately to repair the vehicle within a period not to exceed ten business days in order to conform the new motor vehicle to the express warranty. If the manufacturer is unable to repair properly the vehicle within the final ten-business-day period, the manufacturer must replace the vehicle with an identical or reasonably equivalent vehicle or refund the purchase price subject to the provisions of Section 56-28-40.

(C) Upon notification from the consumer that the new vehicle has not been conformed to the express warranty, the manufacturer shall inform the consumer if an informal dispute settlement procedure has been established by the manufacturer as enumerated in Section 56-28-60. However, if prior notice by the manufacturer of an informal dispute settlement procedure has been given, no further notice is required.

(D) Any consumer who finally prevails in any action brought under this chapter, may be allowed by the court to recover as part of the judgment a sum equal to the aggregate amount of cost and expenses (including attorney's fees based on actual time expended) and other such costs which are directly attributable to the nonconformity of the motor vehicle determined by the court to have been reasonably incurred by the plaintiff for or in connection with the commencement and prosecution of such action, unless the court in its discretion determines that such an award of attorney's fees would be inappropriate.

(E) All written notifications required by this section shall be sent by registered, certified, or express mail.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-60.

Informal dispute settlement procedures.

If a manufacturer has established an informal dispute settlement procedure which substantially complies with Title 16 of the Code of Federal Regulations, Part 703, or if the manufacturer participates in a consumer-industry appeals, arbitration, or mediation panel or board, whose decisions are binding on the manufacturer, the provisions of Section 56-28-40 concerning refunds or replacement do not apply to any consumer who has not first resorted to those procedures or to the alternate procedure provided in Section 56-28-90.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-70.

Limitation of actions.

Any action brought under this chapter must be commenced within three years following the date of original delivery of the motor vehicle to the consumer.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-80.

Construction of chapter; reimbursement from dealer prohibited; exception.

Nothing in this chapter may be construed as imposing any liability on a motor vehicle dealer or creating a cause of action by a consumer against a motor vehicle dealer under Section 56-28-40. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including, but not limited to, any refunds or vehicle replacements incurred by the manufacturer arising out of this chapter in the absence of evidence that the related repairs had been carried out by the dealer in a manner substantially inconsistent with the manufacturer's published instructions.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-90.

State arbitration board may be established.

The Administrator of the Department of Consumer Affairs may establish by regulation a state arbitration board consisting of five members appointed by him to serve at his pleasure. The board shall review matters involving manufacturers that have not created an informal dispute settlement procedure that substantially complies with Title 16 of the Code of Federal Regulations, Part 703. The cost of the arbitration board must be borne by the manufacturer of the vehicle purchased or leased by the consumer.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-100.

Repurchased vehicles not to be resold; exceptions.

Any vehicle required to be repurchased by a manufacturer under this chapter or any other provision of law relating to motor vehicle warranties may not be resold, reassigned, or retransferred, either at wholesale or retail in this State, unless:

(1) The manufacturer notifies the Administrator of the Department of Consumer Affairs within thirty calendar days, in writing, of the vehicle identification number of that motor vehicle, the reason that the vehicle was repurchased, and provides a statement that all necessary repairs and adjustments have been made and that the vehicle meets acceptable operating standards.

(2) The manufacturer provides a written warranty to the subsequent retail purchaser of the vehicle covering the vehicle for twelve months or twelve thousand miles. The warranty must expressly include any component related to the manufacturer's decision to repurchase the vehicle.

(3) The manufacturer shall disclose to any dealer or other wholesale purchaser of the fact that the vehicle was required to be repurchased under this chapter or another provision of law relating to motor vehicle warranties.

HISTORY: 1989 Act No. 142, Section 1.

SECTION 56-28-110.

Notification to subsequent purchasers; penalties for failure to notify.

Each subsequent purchaser must be notified by the seller of the fact that the vehicle was required to be repurchased pursuant to the terms of this chapter or another provision of law relating to motor vehicle warranties. If a seller fails properly to notify a purchaser of the requirements of this section, the department may impose an administrative penalty up to a maximum of five hundred dollars for each vehicle. A seller aggrieved by the action of the department may seek review by filing a request for a contested case hearing with the Administrative Law Court.

HISTORY: 1989 Act No. 142, Section 1; 2005 Act No. 128, Section 17, eff July 1, 2005.

Editor's Note

2005 Act No. 128, Section 27, provides as follows:

"This act takes effect on July 1, 2005, and applies to all licensing and administrative hearings involving the South Carolina Department of Consumer Affairs."

Title 56 - Motor Vehicles

CHAPTER 29

Motor Vehicle Chop Shop, Stolen, and Altered Property Act

SECTION 56-29-10.

Title.

This chapter may be cited as the Motor Vehicle Chop Shop, Stolen, and Altered Property Act.

HISTORY: 1987 Act No. 16, Section 2.

SECTION 56-29-20.

Definitions.

As used in this chapter:

(1) "Chop shop" means any building, lot, or other premises where one or more persons are or have been knowingly engaged in altering, destroying, disassembling, dismantling, reassembling, or knowingly storing any motor vehicle, or motor vehicle part known to be illegally obtained by theft, fraud, or conspiracy to defraud, in order either to:

(a) alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number of the motor vehicle or motor vehicle part, in order to misrepresent the identity of the motor vehicle or motor vehicle part, or to prevent the identification of the motor vehicle or motor vehicle part, or

(b) sell or dispose of the motor vehicle or motor vehicle part.

(2) "Vehicle" includes every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, which is self-propelled or which may be connected to and towed by a self-propelled device, and also includes any and all other land-based devices which are self-propelled but which are not designed for use upon a highway including, but not limited to, farm machinery and construction equipment.

(3) "Person" includes a natural person, company, corporation, unincorporated association, partnership, professional corporation, and any other legal entity.

(4) "Unidentifiable" means that the uniqueness of a motor vehicle or motor vehicle part cannot be established by either expert law enforcement investigative personnel specially trained and experienced in motor vehicle theft investigative procedures and motor vehicle identification examination techniques, or by expert employees of not-for-profit motor vehicle theft prevention agencies specially trained and experienced in motor vehicle theft investigation procedures and motor vehicle identification examination techniques.

(5) "Vehicle identification number" means a number, a letter, a character, a datum, a derivative, or a combination thereof, used by the manufacturer or the Department of Motor Vehicles for the purpose of uniquely identifying a motor vehicle or motor vehicle part.

HISTORY: 1987 Act No. 16, Section 3; 1993 Act No. 181, Section 1500; 1996 Act No. 459, Section 243.

SECTION 56-29-30.

Operation of chop shop unlawful; penalty, restitution.

(A) It is unlawful for a person to:

(1) own, operate, or conduct a chop shop;

(2) transport a motor vehicle or motor vehicle part to or from a location knowing it to be a chop shop; or

(3) sell, transfer, purchase, or receive a motor vehicle or motor vehicle part either to or from a location knowing it to be a chop shop. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than one hundred thousand dollars, or both.

(B) A person who knowingly alters, counterfeits, defaces, destroys, disguises, falsifies, forges, obliterates, or knowingly removes a vehicle identification number, or causes any of the above to be done, with the intent to misrepresent the identity or prevent the identification of a motor vehicle or motor vehicle part, is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not less than five thousand nor more than ten thousand dollars, or both.

(C)(1) A person who buys, disposes, sells, transfers, or possesses a motor vehicle or motor vehicle part, with knowledge that the vehicle identification number of the motor vehicle or motor vehicle part has been altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed, or causes any of the above to be done, is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not less than five thousand nor more than ten thousand dollars, or both.

(2) The provisions of item (1) of subsection (C) do not apply to a motor vehicle scrap processor who, in the normal legal course of business and in good faith, processes a motor vehicle or motor vehicle part by crushing, compacting, or other similar methods, provided that any vehicle identification number is not removed from the motor vehicle or motor vehicle part before or during the processing.

(D) A person commits an attempt when, with intent to commit a violation proscribed by subsection (A), (B), or (C) of this section, the person does any act which constitutes a substantial step toward the commission of the violation proscribed by those subsections and is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not less than five thousand nor more than ten thousand dollars, or both.

(E) A person commits the offense of conspiring to violate the provisions of this act if he knowingly and wilfully agrees with another person to the commission of the offenses proscribed by subsection (A), (B), or (C) of this section and is guilty of a felony. Upon conviction, the person must be imprisoned not more than five years, or fined not more than five thousand dollars.

(F)(1) In addition to any other punishment, a person who violates this section must be ordered to make restitution to the lawful

owner of the stolen motor vehicle or the stolen motor vehicle part, or to the owner's insurer to the extent that the owner has been compensated by the insurer, and to any other person for any financial loss sustained as a result of a violation of this section. Financial loss includes, but is not limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs, and claims payments. Lawful owner includes an innocent bona fide purchaser for value of a stolen motor vehicle or stolen motor vehicle part who does not know that the motor vehicle or part is stolen; or an insurer to the extent that the insurer has compensated a bona fide purchaser for value.

(2) The court shall determine the extent and method of restitution. In an extraordinary case, the court may determine that the best interests of the victim and justice would not be served by ordering restitution. In that case, the court shall make and enter specific written findings on the record concerning the extraordinary circumstances presented which militated against restitution.

HISTORY: 1987 Act No. 16, Section 4; 1993 Act No. 184, Section 253.

SECTION 56-29-40.

Seizure of motor vehicle, tools, implements, or other instrumentality.

(A) Any tool, implement, or instrumentality, including but not limited to a motor vehicle or motor vehicle part, used or possessed in connection with any violation of Section 56-29-30 may be seized by a member of a state or local law enforcement agency upon process issued by any court of competent jurisdiction.

(B) Seizure of property described in subsection (A) of this section may be made by a member of a state or local law enforcement agency without process if:

- (1) it is in accordance with any applicable law or regulation;
- (2) the seizure is incident to inspection under an administrative inspection warrant;
- (3) the seizure is incident to search made under a search warrant;
- (4) the seizure is incident to a lawful arrest;
- (5) the seizure is made pursuant to a valid consent to search;
- (6) the property seized has been the subject of a prior judgment in favor of the State in a criminal proceeding, or in an injunction or forfeiture proceeding under Section 56-29-60; or
- (7) there are reasonable grounds to believe that the property is directly or indirectly dangerous to health or safety.

(C) When property is seized under this section, the seizing agency may:

- (1) place the property under seal; or
- (2) remove the property to a place selected and designated by the seizing agency.

HISTORY: 1987 Act No. 16, Section 5.

SECTION 56-29-50.

Forfeiture of motor vehicle, tools, implements, or other instrumentality.

(A) The following are subject to forfeiture unless obtained by theft, fraud, or conspiracy to defraud and the rightful owner is known or can be identified and located:

- (1) any tool;
- (2) any instrumentality, including but not limited to any motor vehicle or motor vehicle part, whether owned or unowned by the person from whose possession or control it was seized, which is used or possessed either in violation of Section 56-29-30 or to promote or facilitate a violation of Section 56-29-30.

(B) Any motor vehicle, other conveyance, or motor vehicle part used by any person as a common carrier is subject to forfeiture under this section where the owner or other person in charge of the motor vehicle, other conveyance, or motor vehicle part is a consenting party to a violation of Section 56-29-30.

(C) Any motor vehicle, motor vehicle part, other conveyance, tool, implement, or instrumentality is not subject to forfeiture under this section by reason of any act or omission which the owner proves to have been committed or omitted without the owner's knowledge or consent.

(D) A forfeiture of a motor vehicle, motor vehicle part, or other conveyance encumbered by a bona fide security interest is subject to the interest of the secured party where the secured party neither had knowledge of nor consented to the act or omission forming the ground for the forfeiture.

(E)(1) The circuit solicitor shall give notice of the forfeiture proceeding by mailing a copy of the complaint in the forfeiture proceeding to each person whose right, title, or interest is of record at the Department of Motor Vehicles or any other department of the State, or any other state or territory of the United States, or of the federal government if the property is required to be registered in the Department of Motor Vehicles.

(2) Notice of the proceeding must be given to any other person as may appear, from the facts and circumstances, to have any right, title, or interest in or to the property.

(3) The owner of the property, or any person having, or claiming right, title, or interest in the property, may within thirty days after the mailing of the notice file a verified answer to the complaint and may appear at the hearing on the action for forfeiture.

(4) The circuit solicitor shall show at a forfeiture hearing, by a preponderance of the evidence, that the property was used in the commission of a violation of Section 56-29-30, or was used or possessed to facilitate the violation.

(5) Unless the circuit solicitor makes the showing required, the court shall order the property released to the owner. Where the prosecutor has made a showing, the court shall order:

- (a) the property be destroyed by the agency which seized it or some other agency designated by the court;
- (b) the property be delivered and retained for use by the agency which seized it or some other agency designated by the court; or

(c) any other disposition which the court considers appropriate under the circumstances.

(F) A copy of a forfeiture order must be filed with the clerk of court of the county in which the forfeiture occurs and with each federal or state department with which the property is required to be registered. The order, when filed, constitutes authority for the issuance to the agency to whom the property is delivered and retained for use or to any purchaser of the property of a title certificate, registration certificate, or other special certificate as may be required by law considering the condition of the property.

(G) Proceeds from sale at public auction, after payment of all reasonable charges and expenses incurred by the agency designated by the court to conduct the sale in storing and selling the property, must be paid to the general fund of the county in which the seizure occurred.

(H) No motor vehicle, either seized under Section 56-29-40 or forfeited under this section, may be released by the seizing agency or used or sold by an agency designated by the court unless any altered, counterfeited, defaced, destroyed, disguised, falsified, forged, obliterated, or removed vehicle identification number is corrected by the issuance and affixing of either an assigned or replacement vehicle identification number plate as may be appropriate under laws or regulations of this State.

(I) No motor vehicle or motor vehicle part may be forfeited under this section solely on the basis that it is unidentifiable. Instead of forfeiture, any seized motor vehicle or motor vehicle part which is unidentifiable must be the subject of a written report sent by the seizing agency to the Department of Motor Vehicles which report must include a description of the motor vehicle or motor vehicle part, its color, if any, the date, time, and place of its seizure, the name of the person from whose possession or control it was seized, the grounds for its seizure, and the location where it is held or stored.

(J) The proceeds of the public sale of an unidentifiable motor vehicle or motor vehicle part must be deposited in the general fund of the governmental unit employing the seizing agency after deduction of any reasonable and necessary towing and storage charges.

(K) A seized motor vehicle or motor vehicle part that is neither forfeited nor unidentifiable must be held subject to the order of the court in which the criminal action is pending or, if a request for its release from custody is made, until the prosecutor has notified the defendant or the defendant's attorney of the request and both the prosecution and defense have been afforded a reasonable opportunity for an examination of the property to determine its true value and to produce or reproduce, by photographs or other identifying techniques, legally sufficient evidence for introduction at trial or other criminal proceedings. Upon expiration of a reasonable time for the completion of the examination which in no event shall exceed fourteen days from the date of service upon the defense of the notice of request for return of property as provided herein, the property must be released to the person making the request after satisfactory proof of such person's entitlement to the possession thereof. Notwithstanding the foregoing, upon application by either party with notice to the other, the court may order retention of the property if it determines that retention is necessary in the furtherance of justice.

(L) When a seized vehicle is forfeited, restored to its owner, or disposed of as unidentifiable, the seizing agency shall retain a report of the transaction for a period of at least seven years from the date of the transaction.

(M) When an applicant for a certificate of title or salvage certificate presents to the Department of Motor Vehicles proof that the applicant purchased or acquired a motor vehicle at the public sale conducted pursuant to this section and that fact is attested to by the seizing agency, the department shall issue a certificate of title, or salvage certificate for the motor vehicle upon receipt of the statutory fee, properly executed application for a certificate of title, or other certificate of ownership, and the certification of the seizing agency that a state-assigned number was applied for and affixed to the motor vehicle prior to the time that the motor vehicle was released by the seizing agency to the purchaser.

HISTORY: 1987 Act No. 16, Section 6; 1993 Act No. 181, Section 1501; 1996 Act No. 459, Section 244.

SECTION 56-29-60.

Civil proceedings.

(A) The Attorney General, any circuit solicitor, or any aggrieved person may institute civil proceedings against any person in any court of competent jurisdiction seeking relief from conduct constituting a violation of any provision of this chapter. If the plaintiff in the proceeding proves the alleged violation, or its threat, by a preponderance of the evidence, any court of competent jurisdiction after due provision for the rights of innocent persons, shall grant relief by entering any appropriate order or judgment, including, but not limited to:

(1) ordering any defendant to be divested of any interest in any property;

(2) imposing reasonable restrictions upon the future activities or investments of any defendant, including prohibiting any defendant from engaging in the same type of endeavor as the defendant was engaged in previously;

(3) ordering the surrender of the charter of a corporation organized under the laws of the State or the revocation of a certificate authorizing a foreign corporation to conduct business within the State upon finding that the board of directors or a managerial agent acting on behalf of the corporation, in conducting the affairs of the corporation, has authorized or engaged in conduct made unlawful by this chapter and that, for the prevention of future criminal conduct, the public interest requires the charter of the corporation be surrendered and the corporation dissolved or the certificate revoked.

(B) In a proceeding under this section, injunctive relief must be granted in conformity with the principles that govern the granting of relief from injury or threatened injury in other cases, but no showing of special or irreparable injury must be made. Pending final determination of a proceeding under this section, a temporary restraining order or a preliminary injunction may be issued upon a showing of immediate danger of significant injury, including the possibility that any judgment for money damages might be difficult to execute, and, in a proceeding initiated by an aggrieved person, upon the execution of proper bond against injury for an injunction improvidently granted.

(C) Any person injured, directly or indirectly, by conduct constituting a violation by any person of Section 56-29-30, in addition to

any other relief, shall have a cause of action for threefold the actual damages sustained by the person.

(D) A final judgment or decree rendered against the defendant in any civil or criminal proceeding shall estop the defendant in any subsequent civil action or proceeding brought by any person as to all matters as to which the judgment or decree would be an estoppel as between the parties to the civil or criminal proceeding.

(E) Personal service of any process in an action under this section may be made upon any person outside the State if the person has engaged in any conduct constituting a violation of Section 56-29-30 in this State. The person is considered to have thereby submitted to the jurisdiction of the courts of this State for the purposes of this provision.

(F) Obtaining any civil remedy under this section does not preclude obtaining any other civil or criminal remedy under either this act or any other provision of law. Civil remedies under this section are supplemental and not mutually exclusive.

HISTORY: 1987 Act No. 16, Section 7.

Title 56 - Motor Vehicles

CHAPTER 31

Rental of Private Passenger Automobiles

SECTION 56-31-10.

Application of chapter.

This chapter applies to the rental of a private passenger automobile or rental vehicle from a location in this State.

HISTORY: 1989 Act No. 177, Section 2; 2001 Act No. 37, Section 1.

SECTION 56-31-20.

Definitions.

As used in this chapter:

- (1) "Rental company" means a person in the business of providing private passenger automobiles or rental vehicles to the public under the terms of a rental agreement.
- (2) "Renter" means a person obtaining the use of a private passenger automobile or rental vehicle from a rental company under the terms of a rental agreement.
- (3) "Rental agreement" means a written agreement setting forth the terms and conditions governing the use of a private passenger automobile or rental vehicle provided by a rental company.
- (4) "Damage" means a loss or damage to a rented vehicle or rental vehicle including the loss of use and costs and expenses incident to the damage, loss, and loss of use.
- (5) "Private passenger automobile" or "vehicle" means a private passenger motor vehicle including passenger vans and minivans that are intended primarily for the transport of persons.
- (6) "Rental vehicle" means a truck under 26,001 pounds gross vehicle weight and used in the transportation of personal property that is rented without a driver, and is not used by the customer for business purposes, or a trailer with a gross weight of not more than 6,000 pounds.

HISTORY: 1989 Act No. 177, Section 2; 2001 Act No. 37, Section 1.

SECTION 56-31-30.

Rental rates; permitted and prohibited charges; waiver prohibited.

- (A) A rental company may advertise, quote, or charge only a rental rate that includes the entire amount, except taxes, airport fees, and a mileage charge, if any, that a renter pays to rent the vehicle or rental vehicle for the period of time to which the rate applies. Airport fees must be disclosed clearly and conspicuously in all advertisements of a rental rate for an applicable location either as a specific fee or as a range of fees. Only airport fees that are remitted to the airport management entity are permitted to be separately stated and collected. The company may charge an additional fee for an item or service provided for in the rental agreement if the charge is optional for the renter. The items and services include, but are not limited to, insurance and accessories requested by the renter unless otherwise prohibited as provided in this chapter, charges incident to the renter's optional return of the vehicle or rental vehicle to a location other than to where it was rented, and charges for refueling the vehicle or rental vehicle at the conclusion of the rental period if the renter did not return the vehicle or rental vehicle with the same amount of fuel that was in the vehicle at the beginning of the rental period. A company also may impose an additional charge based on reasonable age criteria it establishes.
- (B) If a rental company delivers a vehicle or rental vehicle to a renter at a location other than where the company normally conducts its business, the company may not charge for the rental for the time before the vehicle or rental vehicle is delivered. If the company picks up a rented vehicle or rental vehicle from a renter at a location other than the location where the company normally conducts its business, the company may not charge for the rental for the time after the rental company has been notified that the vehicle or rental vehicle is available.
- (C) If a rental company quotes a rental rate in a personal or computer communication or a print advertisement, it shall disclose the terms of mileage conditions relating to the rate including, but not limited to, the amount of mileage and fuel charges, the number of miles for which no charge is imposed, and a description of geographic driving limitations, if any.
- (D) A waiver of the requirements of the provisions of this section is unenforceable as contrary to public policy.

HISTORY: 1989 Act No. 177, Section 2; 2000 Act No. 284, Section 1; 2001 Act No. 37, Section 1.

SECTION 56-31-40.

Violations; application for restraining order; penalties.

If the Attorney General has reasonable cause to believe that a rental company has violated a provision of this chapter and that action is needed to serve the public interest, he may apply for a restraining order in the court of common pleas of Richland County. The court may grant appropriate final injunctive relief and impose a civil penalty of not more than one thousand dollars for each violation.

HISTORY: 1989 Act No. 177, Section 2; 2001 Act No. 37, Section 1.

SECTION 56-31-50.

Motor vehicle rental fees; definitions; good faith estimates; disclosures; excess fees; taxes.

(A) As used in this section:

- (1) "Motor vehicle rental company" means an individual or business entity whose business activity is renting motor vehicles to consumers under rental agreements for periods of ninety days or less.
- (2) "Vehicle license fee" means a charge that may be separately stated and charged on the rental contract in a vehicle rental transaction originating in this State to recover the motor vehicle rental company's costs incurred for:

- (a) licensing, titling, registering, plating, and inspecting of its rental vehicles; and
 - (b) taxes paid in connection with registering its rental vehicles.
- (B) Rental companies engaged in the business of renting vehicles for periods of ninety days or less may charge, at the time the vehicle or rental vehicle is rented in South Carolina, separately stated fees which may include, but must not be limited to, vehicle license fees, airport access fees, airport concession fees, and all applicable taxes. For purposes of this section, a vehicle or rental vehicle is rented in South Carolina if it is picked up by the renter in South Carolina.
- (C) If a motor vehicle rental company includes a vehicle license fee for a rental transaction disclosed on the rental agreement, the amount of the charge must represent the good faith estimate by the motor vehicle rental company of its daily charge calculated to recover its actual total annual recoverable costs, pursuant to subsection (A)(2), on its rental motor vehicle fleet for the corresponding calendar year.
- (D)(1) If the total amount of the vehicle license fees collected by a motor vehicle rental company pursuant to this section in any calendar year exceeds the actual costs of the car rental company, as allowed under subsection (A)(2), for that calendar year, the car rental company shall:
- (a) retain the excess amount; and
 - (b) adjust the estimated average per vehicle charge for the following calendar year by a corresponding amount.
- (2) Nothing in this section may prevent a motor vehicle rental company from making adjustments to a vehicle license fee per vehicle charge during the calendar year to reflect interim developments affecting the motor vehicle rental company's prior estimated per vehicle fee for that calendar year.
- (E)(1) If a motor vehicle rental company charges a vehicle license fee, the amount of the fee must be:
- (a) disclosed at the time of reservation and as part of any estimated pricing provided to the renter; and
 - (b) shown as a separately itemized charge on the rental agreement.
- (2) The vehicle license fee must be described in the terms and conditions of the rental agreement as the estimated average per day portion of the motor vehicle company's costs incurred for:
- (a) licensing, titling, registering, plating, and inspecting its rental vehicles; and
 - (b) taxes paid in connection with registering its rental vehicles.
- (F) The vehicle license fee authorized by this section is subject to state and local sales and use tax in the manner and to the same extent as the fee charged for the lease or rental of the rental vehicle.
- HISTORY: 1992 Act No. 501, Part II Section 69A; 1993 Act No. 181, Section 1502; 1996 Act No. 333, Section 1; 1996 Act No. 459, Section 245; 1997 Act No. 114, Section 10; 2001 Act No. 37, Section 1; 2016 Act No. 224 (H.3891), Section 1, eff January 1, 2017.

SECTION 56-31-60.

Heavy equipment rental fees; definitions; applicability and exemptions; tax exemption.

(A) As used in this section:

- (1) "Qualified heavy equipment property" means any construction, earthmoving, or industrial equipment that is mobile and rented by a qualified renter, including attachments for the equipment or other ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently affixed to real property and is moved amongst worksites.
 - (2) "Qualified renter" means a renter:
 - (i) whose primary business is renting out qualified heavy equipment property. Primary business means over fifty-one percent of the annual revenue of the business in any given year; and
 - (ii) that is engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System published by the U.S. Census Bureau, 2012 edition.
 - (3) "Qualified rental" means qualified heavy equipment property rented for three hundred sixty-five days or less, qualified heavy equipment property rented pursuant to an open-ended contract, or qualified heavy equipment property rented via a contract without a specified time period.
 - (4) "Rental price" means the amount of the charge for renting the qualified heavy equipment, excluding any separately stated charges that are not rental charges, including, but not limited to, separately stated charges for delivery and pickup fees, damage waivers, environmental fees, sales tax, or any other ancillary charge.
- (B)(1) Except as provided in subsection (2), a person or company in the business of renting qualified heavy equipment property located in this State shall include on the rental invoice a two and one-half percent heavy equipment rental fee on the rental price for any item of qualified heavy equipment property rented to a customer by a qualified renter. The total amount of the heavy equipment rental fee collected shall be remitted to the state Department of Revenue on a quarterly basis. The Department of Revenue shall distribute the remitted fee to the local jurisdiction where the qualified heavy equipment was rented. The local jurisdiction shall distribute the received funds in the same manner as the personal property tax is distributed.
- (2) Notwithstanding subsection (1), the heavy equipment rental fee shall not apply to the rental of heavy equipment property directly rented to the federal government, the State, or any political subdivision of the State. There are no other exemptions from this fee.
 - (3) The heavy equipment rental fee shall be levied on all qualified rentals.
 - (4) Qualified heavy equipment property subject to the heavy equipment rental fee is exempt from personal property tax.
 - (5) The Department of Revenue may promulgate regulations relating to the administration and enforcement of this section.
- (C) The heavy equipment rental fee applies to all qualified rentals made from a rental location in South Carolina where the customer picks up the equipment, or all qualified rentals from a rental location in the State where the qualified heavy equipment property is

delivered in the State. The heavy equipment rental fee does not apply to rentals made from a rental location in the State and delivered outside the State.

(D) The heavy equipment rental fee is not subject to state or local sales tax.

HISTORY: 2016 Act No. 224 (H.3891), Section 2, eff January 1, 2017.

Title 56 - Motor Vehicles

CHAPTER 32

Motor Vehicle Damage Disclosure Act

SECTION 56-32-10.

Application to new motor vehicles.

This chapter applies to new motor vehicles as defined in Section 56-28-10(5).

HISTORY: 1995 Act No. 51, Section 1.

SECTION 56-32-20.

Motor vehicle damage disclosure.

(A) A motor vehicle manufacturer shall disclose, in writing to a motor vehicle dealer at the time of delivery of a new motor vehicle, damage and repair to the new motor vehicle that occurred while the vehicle was in the possession or under the control of the manufacturer if the damage exceeds three percent of the manufacturer's suggested retail price as calculated at the rate of the dealer's authorized warranty rate for labor and parts. A manufacturer is not required to disclose to a dealer that the glass, tires, bumper, or in-dash equipment of or in a motor vehicle was damaged if the damaged item has been replaced with original or comparable new equipment.

(B) A motor vehicle dealer shall disclose, in writing to a purchaser of a new motor vehicle before entering into a sales contract, any damage and repair to the new motor vehicle if the cost of the damage exceeds three percent of the manufacturer's suggested retail price calculated at the rate of the dealer's authorized warranty rate for labor and parts. A dealer is not required to disclose to a purchaser that the glass, tires, bumper, or in-dash equipment of or in a new motor vehicle was damaged if the equipment or item has been replaced with original or comparable new equipment.

(C) If disclosure is not required under this section, a purchaser may not revoke or rescind a sales contract nor bring a civil action based solely upon the fact that the new motor vehicle was damaged and repaired before completion of the sale.

(D) For purposes of this section, "manufacturer's suggested retail price" means the retail price of the new motor vehicle suggested by the manufacturer including the retail delivered price suggested by the manufacturer for each accessory or item of optional equipment physically attached to the new motor vehicle at the time of delivery to the motor vehicle dealer.

HISTORY: 1995 Act No. 51, Section 1, eff May 17, 1995.

Title 56 - Motor Vehicles

CHAPTER 35

Idling Restrictions for Commercial Diesel Vehicles

SECTION 56-35-10.

Definitions.

As used in this chapter:

(1) "Auxiliary power unit" means a mechanical or electrical device affixed to a vehicle that is designed to be used to generate an alternative source of power for any of the vehicle's systems other than the primary propulsion engine.

(2) "Commercial diesel vehicle" means a self-propelled diesel motor vehicle licensed for use on a public roadway to transport passengers or property when the vehicle has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of ten thousand and one pounds or more, whichever is greater.

(3) "Passenger bus" means a vehicle designed to carry sixteen or more passengers.

(4) "Vehicle" means a commercial diesel vehicle.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-35-20.

Idling restrictions; exceptions.

(A)(1) An operator of a commercial diesel vehicle may not allow the vehicle to idle for more than ten minutes in any sixty-minute period.

(2) A passenger bus may idle up to fifteen minutes in a sixty-minute period to provide heating or air conditioning when nondriver passengers are on board the vehicle.

(B) A vehicle operator does not violate the idling restrictions contained in subsection (A) if he is idling:

(1) a vehicle while forced to remain motionless because of traffic conditions beyond his control, an official traffic-control device or signal, or at the direction of a law enforcement official;

(2) a vehicle while operating defrosters, heaters, air conditioners, cargo refrigeration equipment, or to install equipment to prevent a safety or health emergency, or as otherwise required by federal or state motor carrier safety regulations or local requirements. This exception does not apply when idling during a rest period;

(3) a police, fire, ambulance, public safety, military, or other emergency or law enforcement vehicle, or any vehicle being used in an emergency capacity while in an emergency or training mode. This exception does not apply when idling for the convenience of the vehicle operator;

(4) the primary propulsion engine of a vehicle for maintenance, servicing, repairing, or diagnostic purposes if idling is required;

(5) a vehicle as part of a federal or state inspection to verify that all equipment is in good working order, if idling is required as part of the inspection;

(6) a primary propulsion engine necessary to power work-related mechanical or electrical operations. This exception shall not apply when idling is done for cabin comfort or to operate nonessential onboard equipment;

(7) an armored vehicle when a person remains inside the vehicle to guard contents or while the vehicle is being loaded or unloaded;

(8) an occupied vehicle with a sleeper berth compartment for purpose of air conditioning or heating:

(a) during a rest or sleep period;

(b) when the outside temperature at the location of the vehicle is less than forty degrees Fahrenheit or greater than eighty degrees Fahrenheit; or

(c) while the vehicle is at a rest area, fleet trucking terminal, commercial truck stop, state designated location designed for the intended purpose of a driver's rest area, or any location that the vehicle is legally permitted to park that is at least five hundred feet from residential housing, schools, daycare facilities, hospitals, or other similar locations; or

(9) an occupied vehicle while waiting in line or queuing to load or unload.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-35-30.

Auxiliary power units.

(A) For the purposes of this chapter, operating an auxiliary power unit, generator set, or another mobile idling reduction technology as a means to heat, air condition, or provide electrical power, as an alternative to idling the main engine, does not constitute idling an engine.

(B) For a vehicle equipped with an auxiliary power unit designed for idling reduction, the gross vehicle weight or axle weight used to determine the fine for a violation of commercial vehicle weight restrictions is the actual gross vehicle weight or axle weight reduced by five hundred fifty pounds.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008); 2016 Act No. 188 (H.4932), Section 6, eff May 25, 2016.

SECTION 56-35-40.

Penalty.

A violation of the provisions contained in this chapter is a nonmoving traffic offense that is punishable by:

(1) a warning ticket for an offense that occurs between July 1, 2008, to July 1, 2009; or

(2) a fine of seventy-five dollars for each offense that occurs after July 1, 2009.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-35-50.

Enforcement.

(A) The State Transport Police Division of the Department of Public Safety is primarily responsible for enforcing the provisions of this chapter. An officer or agent of the State Transport Police that observes a vehicle operator violating the provisions of this chapter is authorized to issue a citation to the offender. The provisions of this chapter do not apply to a commercial diesel vehicle idling on the premises of a restricted access facility or in areas on the private property of a business that are generally designed and intended for commercial vehicle access, loading or unloading when the facility or business is located at least five hundred feet away from any church, school, playground, daycare facility, or hospital.

(B) The officer must inform the individual receiving the citation that he has the option, at that time, to elect to pay his fine directly to the Department of Public Safety or to receive a hearing in magistrates court. If the individual at the time the citation is issued elects to pay his fine directly to the Department of Public Safety within twenty-eight days, as specified on the citation, no assessments may be added to the original fine pursuant to this section. The fine may be deposited with the arresting officer or a person the Department of Public Safety may designate. Within forty-five days of collection, fifty dollars of the monies collected by the Department of Public Safety must be forwarded to the Department of Health and Environmental Control for deposit in the Diesel Idling Reduction Fund, twenty-five dollars of the monies collected must be deposited into an account to be used by the Department of Public Safety's State Transport Police Division in support of the Idling Restrictions for Commercial Diesel Vehicles program which at the end of a fiscal year does not lapse to the general fund, but is instead carried forward to the succeeding fiscal year.

(C)(1) Magistrates have jurisdiction of all contested violations of this chapter. Where a contested hearing is requested, any fine imposed is subject to all assessments and surcharges applicable by law. The fine, surcharges, and assessments shall be distributed as set forth in the applicable law.

(2) If the fine is not paid in full to the Department of Public Safety within forty-five days after conviction, the driver's license of the vehicle operator found in violation of this chapter must be suspended. The suspension continues until the fine is paid in full.

(D) The State Transport Police shall use the citation form referenced in Section 56-1-4160(G) for idling violations. The Department of Public Safety must electronically transmit to the Department of Motor Vehicles all tickets issued pursuant to this section. The Department of Public Safety and the Department of Motor Vehicles must work together to develop an electronic exchange of information over the next two years.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-35-60.

Diesel idling reduction fund; idling awareness program.

(A) There is established by the State Treasurer a fund separate and distinct from the general fund and all other funds entitled the Diesel Idling Reduction Fund. Fifty dollars of the fines pursuant to this section must be credited to it and a balance in the fund at the end of a fiscal year does not lapse to the general fund but is instead carried forward to the succeeding fiscal year. The monies in the fund must be used only to cover costs associated with the idling awareness program operated by the Department of Health and Environmental Control.

(B) The Department of Health and Environmental Control, as funds become available, may develop and operate an idling awareness program that promotes the benefits of idling reductions. The program must encourage businesses and vehicle operators to develop practices to reduce idling.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-35-70.

Preemption.

The provisions of this chapter are the sole source of idling restrictions on commercial diesel vehicles in this State and this chapter is the sole source of penalties for violations of the idling restrictions. The provisions in this chapter supercede and preempt any ordinance enacted by a local political subdivision purporting to regulate idling on commercial diesel vehicles.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

SECTION 56-35-80.

Promulgation of regulations.

The Department of Health and Environmental Control may promulgate regulations to administer and enforce the provisions of this chapter.

HISTORY: 2008 Act No. 234, Section 6, eff upon approval (became law without the Governor's signature on May 22, 2008).

Title 56 - Motor Vehicles

CHAPTER 37

Motor Vehicle Dealer Performance Evaluation System

SECTION 56-37-10.

Application of chapter.

This chapter applies to any dealer licensed under Title 56 regardless of the dealer license type.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, "chapter" was substituted for "article" to correct a scrivener's error.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

SECTION 56-37-20.

Definitions.

As used in this title:

- (1) "Immediate family" means spouse, parent, stepparent, child, stepchild, sister, brother, grandparent, and grandchild.
- (2) "Suspend" means temporarily prevent from continuing.
- (3) "Revoke" means prevent from continuing for at least ten years.
- (4) "Violation" means a single found incident leading to the issuance of points. For purposes of this chapter, a violation could be a single sale, a single vehicle, a single document, or other similar items.
- (5) "Out-of-trust" means a dealer selling a vehicle without paying the complete financial obligation needed to obtain the title for the sold vehicle.
- (6) "Open title" means, upon the purchase of a vehicle by a dealer and the seller has completed his portion of the certificate of title, the dealer or purchaser intentionally leaves the buyer or purchaser assignment blank on the title.
- (7) "Dealer" means any entity licensed as a dealer under this title without regard to the type of dealer license issued by the department.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, "chapter" was substituted for "article" to correct a scrivener's error.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

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SECTION 56-37-30.

Establishment of points system for evaluating performance record of dealers; violations; sanctions.

(A) There is established a points system for evaluating the performance record of any dealer licensed under this title and its continuing ability to operate as a dealer in this State. The department may only impose the sanctions described below if they are found to have occurred in the course of dealer-related business, to include a private citizen acting on behalf of a licensed dealer in their role as a dealer. If any dealer or employee of a dealership makes these errors in their role as a private citizen, those violations are not counted against the dealer license but may be penalized in accordance with state law.

(B) For multiple record errors over a six-month period of time, the department may impose a two-point violation against a dealer license for the following:

- (1) errors or omissions on transactions regarding incoming or outgoing documents;
- (2) incorrect acquisition or sale dates;
- (3) incorrect vehicle identification numbers;
- (4) incorrect make, model, or type of body;
- (5) incorrect incoming or outgoing odometer reading;
- (6) incorrect name and address of the person a vehicle was acquired from or transferred to;
- (7) inability to provide an account for a dealer, transporter, or wholesale auto auction plate; or
- (8) issuance of a second temporary plate to a purchaser.

(C) The following are four-point violations:

- (1) dealer selling at address different than indicated on dealer application and license;
- (2) failure to deliver a title to a buyer or the department within forty-five days of the date of sale;
- (3) reasonable records request unavailable upon the demand of the department;
- (4) issuance of any temporary license plate to a person not authorized to have the plate;
- (5) misuse of dealer, transporter, or wholesale auto auction plate; and
- (6) operating or allowing the operation of a vehicle with a suspended dealer plate.

(D) The following are six-point violations:

- (1) selling out-of-trust or breach-of-trust;

- (2) possession of an open title;
- (3) altering or changing documents to avoid or delay registration;
- (4) maintaining or producing fraudulent records;
- (5) licensure as a wholesaler dealer only, but selling vehicles retail;
- (6) having a volume of sales that do not warrant the number of license plates issued;
- (7) dealer or auction facilitating a wholesaler selling retail;
- (8) failure to remit any state-owed fees within the time period prescribed by law to the department;
- (9) conviction by the licensee involving acquisition or transfer of a title to a vehicle;
- (10) conviction by the licensee of a criminal offense or judgment in a civil case in which there is fraud connected to the sale or transfer of a vehicle; and
- (11) use of fraudulent methods or practices.

(E) The department's Inspector General or the Inspector General's designee has the authority to issue sanctions based on findings during inspections and audits. The department may turn any records of sanctions over to the law enforcement entity with jurisdiction over the licensed location of the dealership for criminal prosecution.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

SECTION 56-37-40.

Dealer Sanction Review Board created; membership; contesting sanctions.

(A) There is created a Dealer Sanction Review Board that consists of the executive director of the department or his designee, a department employee with expertise in dealer licensing regardless of dealer license type, two nonfranchise automobile dealers, and three franchise automobile dealers. All dealers serving on the board must have been in business no less than ten years and be in good standing with the department. The department is responsible for ensuring the board is seated at the beginning of each fiscal year.

Unless the board decides otherwise or a board member no longer qualifies to remain on the board, individuals on the board serve for three fiscal years and may serve a maximum of nine consecutive years. The department in conjunction with the board should take efforts to ensure that dealers represent all regions of the State and the sizes of dealerships owned. The two statewide dealer associations shall choose their members. The chairperson shall be elected and rotated between dealer members serving on the board.

(B) Dealers licensed pursuant to this title may contest sanctions provided for in this chapter by written request to the department no later than thirty days after receiving formal notice of the sanctions being levied.

(1) All notices of sanctions are deemed received no later than thirty days after mailing by the department.

(2) No later than sixty days after receiving the written request from the dealer, the board must determine if the sanctions and corresponding points must be posted to the dealer's record as maintained by the department.

(3) No contested sanctions and corresponding points may be posted until the board has made a determination.

(4) The board's decision is considered final unless a dealer files a protest in administrative law court within twenty days of being provided written notice.

(5) The board may decide to decrease the number of points levied for a sanction, but the board may not increase the number of points levied for a sanction beyond those specified in this chapter.

(C) If a dealer licensed under this title does not contest sanctions within the time period prescribed in subsection (B), the assessed points are effective and will be posted to the dealer's record maintained by the department.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, "chapter" was substituted for "article" to correct a scrivener's error.

Editor's Note

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SECTION 56-37-50.

Computation of total number of points.

In computing the total number of points levied against any dealer after a particular violation, those accrued as a result of violations during the twelve-month period including and immediately preceding the last violation must be counted at their full value. Those accrued from twelve to twenty-four months preceding the last violation must be counted at one-half their established value, and those resulting from violations which occurred more than twenty-four months prior to the last violation must not be counted.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

SECTION 56-37-60.

Reduction of points.

(A) Any dealer who has accumulated points under the provisions of this chapter must have the number of points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that the dealer has completed a voluntary course related to the proper licensing of dealers in this State. Before an entity may administer the course, and every three years thereafter, the department must approve the course. Entities offering this course must provide documentation, to the satisfaction of the department, regarding the training provided during the course. The department is not obligated to offer this course on its own.

(B) No dealer's points may be reduced more than one time in a three-year period by completing a course related to the proper licensing of a dealer in this State.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Code Commissioner's Note

At the direction of the Code Commissioner, "chapter" was substituted for "article" to correct a scrivener's error.

Editor's Note

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SECTION 56-37-70.

Suspensions of license; notification; contested case hearing.

(A) The department must suspend the license of any dealer for seven days upon the accumulation of twelve points or if the dealer has misused any department computer system or third-party computer system that contains department data, including allowing another dealer location other than the one licensed by the department access to the system.

(B) The department must suspend the license of any dealer for thirty days upon the second accumulation of twelve points within a three-year period from the end date of the prior suspension.

(C) The department must suspend the license of any dealer for three years upon the third accumulation of twelve points within a three-year period. Dealers may not reapply for any kind of dealer license for three years after the last issued points. Should the provisions of this subsection apply, then the department may deny applications for any type of dealer license when the applicant is a member of the immediate family of the suspended dealer. The department shall notify the licensee or applicant by certified mail at the mailing address provided in his application of its intention to suspend his license at least thirty days in advance and shall provide the licensee an opportunity for a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure and the Administrative Procedures Act of this State. A licensee desiring a contested case hearing must request the hearing in writing within thirty days of receiving notice of the proposed suspension of his dealer's or wholesaler's license. Should the dealer not request a contested case hearing from the Office of Motor Vehicle Hearings within thirty days of receiving notice of the proposed suspension, then the suspension of the dealer license must go into effect. If the dealer requests a contested case hearing from the Office of Motor Vehicle Hearings within thirty days of receiving notice of the proposed suspension, then the dealer may continue to operate until the Office of Motor Vehicle Hearings makes a final ruling in the contested case. Upon the suspension of a license, the licensee shall immediately return to the department the license and all dealer license plates.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

SECTION 56-37-80.

Revocation of license; denial of application for dealer license.

(A) The Department of Motor Vehicles must immediately revoke the license of any dealer issued pursuant to this title upon:

(1) a conviction involving theft or possessions of a stolen vehicle, involvement with a chop shop, or a violation of law involving tampering with, altering, or removing vehicle identification numbers or markings; or

(2) a conviction in administrative, civil, or criminal court of a dealer violation of state or federal law regarding the disconnecting, resetting, altering, or otherwise unlawful tampering with a motor vehicle's odometer.

(B) Upon the revocation of a license, the licensee, or his designee, shall immediately return to the department the license and all dealer license plates. The department must revoke the dealer license plates if the plates are not returned to the department.

(C) The department may deny any application for dealer licenses for ten years after notification of the conviction if the applicant is a member of the immediate family as a dealer whose license has been revoked. At the conclusion of the ten-year period, a dealer whose license has been revoked may apply to the Dealer Sanctions Review Board to be relicensed. However, upon review of the board, a dealer whose license has been revoked may continue to be denied a dealer license of any type.

HISTORY: 2023 Act No. 51 (S.549), Section 23, eff January 1, 2024.

Editor's Note

2023 Act No. 51, Section 40(D), provides as follows:

"[SECTION 40.](D) SECTIONS 15 through 28 take effect on January 1, 2024. Any dealership applying for or renewing licenses, or operating on a currently issued license on or after January 1, 2024, is subject to the provisions of SECTIONS 15 through 28."

Title 16 - Crimes and Offenses

CHAPTER 1

Felonies and Misdemeanors; Accessories

SECTION 16-1-10.

Categorization of felonies and misdemeanors; exemptions.

(A) Felonies are classified, for the purpose of sentencing, into the following six categories:

- (1) Class A felonies
- (2) Class B felonies
- (3) Class C felonies
- (4) Class D felonies
- (5) Class E felonies
- (6) Class F felonies

(B) Misdemeanors are classified, for the purpose of sentencing, into the following three categories:

- (1) Class A misdemeanors
- (2) Class B misdemeanors
- (3) Class C misdemeanors

(C) All offenses with a term of imprisonment of less than one year are misdemeanors and exempt from the classification system.

(D) The following offenses are classified as exempt under subsections (A) and (B):

10-11-325(B)(1) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in death of a person where there was malice aforethought 12-21-6000(B) Possessing marijuana or controlled substances without appropriate stamps 16-1-40 Accessory before the fact 16-3-10 Murder 16-3-85(C)(1) Causing the death of a child by abuse or neglect 16-3-210(B) Assault and battery by mob in the first degree 16-3-655(C)(1) Engaging in Criminal Sexual Conduct with a minor in the First Degree 16-3-910 Kidnapping (if sentenced for murder) 16-3-1083(A)(2)(a) Violent crime that carries the death of, or bodily injury to in utero child 16-3-1280 False claim 16-3-2020(B)(3) Trafficking in persons - 3rd or subsequent offense 16-7-10 Acts considered unlawful in area designated by Governor in emergency-looting 16-7-10(A)(2) Looting during state of emergency 16-7-425 Student communicating physical threats against another person 16-9-290 Accepting bribes for purposes of procuring public office 16-11-311(B) Burglary-First degree 16-11-370 Robbery of operators of vehicles for hire 16-11-580(C)(1) Forest products violation (value more than \$1,000 but less than \$5,000) 1st offense 16-11-580(D)(1) Forest products violation (value at least \$5,000) - 1st offense 16-11-740(B)(2)(a) Wilful and malicious injury to telegraph, telephone, or electric utility system - damage amount less than \$10,000 16-11-740(B)(2)(b) Wilful and malicious injury to telegraph, telephone, or electric utility system - damage amount is at least \$10,000 but less than \$25,000 16-11-740(B)(2)(c) Wilful and malicious injury to telegraph, telephone, or electric utility system - damage amount is \$25,000 or more 16-13-80 Larceny of a bicycle valued more than \$2,000 16-13-165(B)(5) Persons who unknowingly and unintentionally import, manufactures, sells, offers for sale, installs, leases, trades, or transfers a counterfeit or nonfunctioning airbag 16-15-20 Incest 16-15-110(3) Prostitution-third or subsequent offense 16-17-425 Student communicating physical threats against another person 16-17-735 False assertion of authority of law, in attempt to intimidate or hinder state or local official in discharge of duties, by threats or use of sham legal process. 16-23-715(1) Use of weapons of mass destruction resulting in death 16-23-715(2) Use of weapons of mass destruction not resulting in death 16-23-720(A)(1) Detonating a destructive device or causing an explosion, or aiding, counseling, or procuring an explosion by means of detonation of a destructive device which results in death of a person where there was malice aforethought 23-3-470(B) (1) Failure of sex offender to register-First offense 23-3-470(B) (2) Failure of sex offender to register-Second offense 23-36-170(c), (d) Penalty (violation of South Carolina Explosives Control Act) 23-3-650(C) Willful disclosure of certain information contained in State DNA Database to a person not entitled to receive it 23-3-650(D) Willfully obtaining DNA information contained in State DNA Database without authorization Third, fourth, or subsequent offenses 24-3-580(C) Disclosing the identity of an execution team member 24-13-430(A) Inciting prisoners to riot 25-1-2957 Recklessly endangering the life of another 25-7-30 Giving information respecting national or state defense to foreign contacts during war 38-25-330 Violation of a provision contained in the provisions relating to the unauthorized transaction of insurance business 38-41-20 Multiple employer self-insured health plan transacting business without a license 39-15-1190(C) Knowing and willfully using an object or tool to produce or reproduce a counterfeit mark or possessing an object with intent to produce or reproduce a counterfeit mark 39-22-90(A)(8) State warehouse system violation 40-55-170(A) Practicing psychology without being licensed as required by chapter 44-4-530(C) Failure of persons subject to quarantine to comply 44-4-530(D) Entry into isolation or quarantine are by unauthorized person 44-41-630(B) Performing or inducing an abortion where the unborn has a fetal heartbeat 44-41-640(B)(4)(b) Performing an abortion that is not necessary to save the mother's life 44-41-650(B) Performing, inducing, or attempting to perform or induce an abortion on a pregnant woman before a physician determines whether the fetus has a detectable heartbeat 44-41-650(C) Performing an abortion on a woman who is not the victim of rape or incest 44-41-660(C) Performing an abortion on a woman where an alleged fetal anomaly does not exist 44-41-680(D) Performing, inducing, or attempting to perform or induce an abortion on a pregnant woman with the intent of terminating the fetus has a detectable heartbeat 44-53-370(e)(1)(a)3 Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds) Third or subsequent offenses 44-53-370(e)(1)(b) Prohibited Acts A, penalties (trafficking in marijuana, 100 pounds or more of marijuana, but less than 2,000 pounds) 44-53-370(e)(1)(c) Prohibited Acts A, (trafficking in marijuana, 2000 pounds or more, but less than 10,000 pounds) 44-53-370(e)(1)(d) Prohibited Acts A, penalties (trafficking in marijuana, 10,000 pounds of marijuana or more) 44-53-370(e)(2)(a)3 Prohibited Acts A, penalties (trafficking in cocaine, 10 grams

or more, but less than 28 grams) Third or subsequent offense 44-53-370(e)(2)(b)3 Prohibited Acts A, penalties (trafficking in cocaine, 28 grams or more, but less than 100 grams) 44-53-370(e)(2)(c) Prohibited Acts A, penalties (trafficking in cocaine, 100 grams or more, but less than 200 grams) 44-53-370(e)(2)(d) Prohibited Acts A, penalties (trafficking in cocaine, 200 grams or more, but less than 400 grams) 44-53-370(e)(2)(e) Prohibited Acts A, penalties (trafficking in cocaine, 400 grams or more) 44-53-370(e)(3)(a)2 Prohibited Acts A, penalties (trafficking in illegal drugs, 4 grams or more, but less than 14 grams) Second or subsequent offense 44-53-370(e)(3)(b) Prohibited Acts A, penalties (trafficking in illegal drugs, 14 grams or more, but less than 28 grams) 44-53-370(e)(3)(c) Prohibited Acts A, penalties (trafficking in illegal drugs, 28 grams or more) 44-53-370(e)(4)(a)2 Prohibited Acts A, penalties (trafficking in methaqualone, 15 grams or more, but less than 150 grams) Second or subsequent offense 44-53-370(e)(4)(b) Prohibited Acts A, penalties (trafficking in methaqualone, 150 grams but less than 1,500 grams) 44-53-370(e)(4)(c) Prohibited Acts A, penalties (trafficking in methaqualone, possession of 1,500 grams, but less than 15 kilograms of methaqualone) 44-53-370(e)(4)(d) Prohibited Acts A, penalties (trafficking in methaqualone, 15 kilograms or more) 44-53-370(e)(5)(c) Prohibited Acts, penalties (trafficking in LSD, 1,000 dosage units or more) 44-53-370(e)(9)(a)1 Trafficking in fentanyl 4 grams or more, but less than 14 grams - first offense 44-53-370(e)(9)(a)2 Trafficking in fentanyl 4 grams or more, but less than 14 grams - second or subsequent offense 44-53-370(e)(9)(b) Trafficking in fentanyl 14 grams or more, but less than 28 grams 44-53-370(e)(9)(c) Trafficking in fentanyl 28 grams or more 44-53-375(C)(1)(c) Trafficking in ice, crank, or crack cocaine 10 grams or more, but less than 28 grams Third or subsequent offense 44-53-375(C)(2)(c) Trafficking in ice, crank, or crack cocaine 28 grams or more, but less than 100 grams Third or subsequent offense 44-53-375(C)(3) Trafficking in ice, crank, or crack cocaine 100 grams or more, but less than 200 grams 44-53-375(C)(4) Trafficking in ice, crank, or crack cocaine 200 grams or more, but less than 400 grams 44-53-375(C)(5) Trafficking in ice, crank, or crack cocaine 400 grams or more 44-53-420 Attempting or conspiring to commit an offense made unlawful by Title 44, Chapter 53, Article 3 46-9-90 State Pest Commission violation, second offense 46-21-655 Seed certification violations 47-3-950 Wrongfully obtaining or exerting unauthorized control over a guide dog or service animal 47-19-120(a) Interference with person performing official duties under chapter concerning Poultry Products Inspection Law (Violation of Sections 47-19-70 through 47-19-110) 50-11-105(E) Violation of statute or regulations regarding wildlife disease control and euthanasia 56-5-2780(B)(1) Unlawfully passing a stopped school bus where great bodily injury results 56-5-2947 Child endangerment 56-5-5670(H)(1) Unlawful disposal of a vehicle - 2nd or subsequent offense 56-5-5670(H)(2) Falsifying information on an application, form, or affidavit required for the disposal of a vehicle 56-5-5945(H)(1) Unlawful disposal of a vehicle - 2nd or subsequent offense 56-5-5945(H)(2) Falsifying information on an application, form, or affidavit required for the disposal of a vehicle 56-15-590 Failure of a motor vehicle auction to keep required records or make them available for inspection 56-15-870 Injuring a railroad or a electric railway 58-17-4090 Death that results from obstructing a railroad 63-11-90 Violations of provisions contained in Title 63, Chapter 11, Article 1 63-13-170 Violation of childcare facilities requirements 63-13-1080 Childcare operator refusing inspection and violating fire and health safety requirements

HISTORY: 1962 Code Section 16-11; 1960 (51) 1602, 1917; 1969 (56) 730; 1972 (57) 2597; 1980 Act No. 511, Section 2; 1981 Act No. 33, Section 3; 1983 Act No. 114, Section 5; 1983 Act No. 133, Section 2; 1984 Act No. 474, Section 2; 1984 Act No. 477, Section 2; 1985 Act No. 159, Sections 1, 2, 4; 1985 Act No. 201, Part II, Section 32B; 1986 Act No. 491, Section 7; 1987 Act No. 16 Section 8; 1987 Act No. 128 Section 5; 1987 Act No. 168 Section 6; 1988 Act No. 311, Section 2; 1988 Act No. 457, Section 2; 1988 Act No. 490, Section 16; 1989 Act No. 42, Section 2; 1989 Act No. 74, Section 2; 1989 Act No. 88, Section 2; 1989 Act No. 115, Section 2; 1989 Act No. 148, Section 26; 1989 Act No. 189, Part II, Section 43 sub 38; 1990 Act No. 389, Section 2; 1990 Act No. 456, Section 3; 1990 Act No. 604, Section 14; 1991 Act No. 73, Section 3; 1991 Act No. 138, Section 2; 1991 Act No. 248, Section 4; 1992 Act No. 327, Section 2; 1992 Act No. 374, Section 2; 1992 Act No. 412, Section 2; 1993 Act No. 184, Section 1; 1993 Act No. 164, Part II, Section 19B; 1993 Act No. 164, Part II, Section 70B.

Code Commissioner's Note

The crime classification tables are added by the Code Commissioner pursuant to Section 2-13-66, and updated annually.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

SECTION 16-1-20.

Penalties for classes of felonies.

(A) A person convicted of classified offenses, must be imprisoned as follows:

- (1) for a Class A felony, not more than thirty years;
- (2) for a Class B felony, not more than twenty-five years;
- (3) for a Class C felony, not more than twenty years;
- (4) for a Class D felony, not more than fifteen years;
- (5) for a Class E felony, not more than ten years;
- (6) for a Class F felony, not more than five years;
- (7) for a Class A misdemeanor, not more than three years;
- (8) for a Class B misdemeanor, not more than two years;
- (9) for a Class C misdemeanor, not more than one year.

(B) For all offenders sentenced on or after July 1, 1993, the minimum term of imprisonment required by law does not apply to the offenses listed in Sections 16-1-90 and 16-1-100 unless the offense refers to a mandatory minimum sentence or the offense prohibits suspension of any part of the sentence. Offenses listed in Section 16-1-10(C) and (D) are exempt and minimum terms of imprisonment are applicable. No sentence of imprisonment precludes the timely execution of a death sentence.

(C) This chapter does not apply to the minimum sentences established for fines or community service.

HISTORY: 1962 Code Section 16-12; 1960 (51) 1602; 1993 Act No. 184, Section 2; 1995 Act No. 7, Part I Section 1.

SECTION 16-1-30.

Classification of new statutory offenses.

All criminal offenses created by statute after July 1, 1993, must be classified according to the maximum term of imprisonment provided in the statute and pursuant to Sections 16-1-10 and 16-1-20, except as provided in Section 16-1-10(D).

HISTORY: 1962 Code Section 16-13; 1960 (51) 1602; 1993 Act No. 184, Section 3.

SECTION 16-1-40.

Accessory.

A person who aids in the commission of a felony or is an accessory before the fact in the commission of a felony by counseling, hiring, or otherwise procuring the felony to be committed is guilty of a felony and, upon conviction, must be punished in the manner prescribed for the punishment of the principal felon.

HISTORY: 1962 Code Section 16-1; 1952 Code Section 16-1; 1942 Code Section 1936; 1932 Code Section 1936; Cr. C. '22 Section 919; Cr. C. '12 Section 919; Cr. C. '02 Section 634; G. S. 2610; R. S. 521; 1714 (2) 48; 1993 Act No. 184, Section 4.

SECTION 16-1-50.

Indictment and conviction of accessories.

A person who counsels, hires, or otherwise procures a felony to be committed may be indicted and convicted:

(1) as an accessory before the fact either with the principal felon or after his conviction; or

(2) of a substantive felony, whether the principal felon has or has not been convicted or is or is not amenable to justice, and may be punished as if convicted of being an accessory before the fact.

HISTORY: 1962 Code Section 16-2; 1952 Code Section 16-2; 1942 Code Section 1937; 1932 Code Section 1937; Cr. C. '22 Section 920; Cr. C. '12 Section 920; Cr. C. '02 Section 635; G. S. 2611; R. S. 522; 1712 (2) 484; 1993 Act No. 184, Section 5.

SECTION 16-1-55.

Classification of accessory crimes.

A person who commits the offense of accessory after the fact must be punished based upon the classification below the punishment provided for the principal offense, except for Class A, Class B, and Class C felonies or murder. If the principal offense is a Class A, Class B, or Class C felony or murder, the penalty must be as prescribed for a Class D felony.

HISTORY: 1993 Act No. 184, Section 6.

SECTION 16-1-57.

Classification of third or subsequent conviction of certain property crimes.

A person convicted of an offense for which the term of imprisonment is contingent upon the value of the property involved must, upon conviction for a third or subsequent offense, be punished as prescribed for a Class E felony.

HISTORY: 1993 Act No. 184, Section 7; 1995 Act No. 7, Part I Section 2.

SECTION 16-1-60.

Violent crimes defined.

For purposes of definition under South Carolina law, a violent crime includes the offenses of: murder (Section 16-3-10); attempted murder (Section 16-3-29); assault and battery by mob, first degree, resulting in death (Section 16-3-210(B)), criminal sexual conduct in the first and second degree (Sections 16-3-652 and 16-3-653); criminal sexual conduct with minors, first, second, and third degree (Section 16-3-655); assault with intent to commit criminal sexual conduct, first and second degree (Section 16-3-656); assault and battery with intent to kill (Section 16-3-620); assault and battery of a high and aggravated nature (Section 16-3-600(B)); kidnapping (Section 16-3-910); trafficking in persons (Section 16-3-2020); voluntary manslaughter (Section 16-3-50); armed robbery (Section 16-11-330(A)); attempted armed robbery (Section 16-11-330(B)); carjacking (Section 16-3-1075); drug trafficking as defined in Section 44-53-370(e) or trafficking cocaine base as defined in Section 44-53-375(C); manufacturing or trafficking methamphetamine as defined in Section 44-53-375; arson in the first degree (Section 16-11-110(A)); arson in the second degree (Section 16-11-110(B)); burglary in the first degree (Section 16-11-311); burglary in the second degree (Section 16-11-312(B)); engaging a child for a sexual performance (Section 16-3-810); homicide by child abuse (Section 16-3-85(A)(1)); aiding and abetting homicide by child abuse (Section 16-3-85(A)(2)); inflicting great bodily injury upon a child (Section 16-3-95(A)); allowing great bodily injury to be inflicted upon a child (Section 16-3-95(B)); domestic violence of a high and aggravated nature (Section 16-25-65); domestic violence in the first degree (Section 16-25-20(B)); abuse or neglect of a vulnerable adult resulting in death (Section 43-35-85(F)); abuse or neglect of a vulnerable adult resulting in great bodily injury (Section 43-35-85(E)); taking of a hostage by an inmate (Section 24-13-450); detonating a destructive device upon the capitol grounds resulting in death with malice (Section 10-11-325(B)(1)); spousal sexual battery (Section 16-3-615); producing, directing, or promoting sexual performance by a child (Section 16-3-820); sexual exploitation of a minor first degree (Section 16-15-395); sexual exploitation of a minor second degree (Section 16-15-405); promoting prostitution of a minor (Section 16-15-415); participating in prostitution of a minor (Section 16-15-425); aggravated voyeurism (Section 16-17-470(C)); detonating a destructive device resulting in death with malice (Section 16-23-720(A)(1)); detonating a destructive device resulting in death without malice (Section 16-23-720(A)(2)); boating under the

influence resulting in death (Section 50-21-113(A)(2)); vessel operator's failure to render assistance resulting in death (Section 50-21-130(A)(3)); damaging an airport facility or removing equipment resulting in death (Section 55-1-30(3)); failure to stop when signaled by a law enforcement vehicle resulting in death (Section 56-5-750(C)(2)); interference with traffic-control devices, railroad signs, or signals resulting in death (Section 56-5-1030(B)(3)); hit and run resulting in death (Section 56-5-1210(A)(3)); felony driving under the influence or felony driving with an unlawful alcohol concentration resulting in death (Section 56-5-2945(A)(2)); putting destructive or injurious materials on a highway resulting in death (Section 57-7-20(D)); obstruction of a railroad resulting in death (Section 58-17-4090); accessory before the fact to commit any of the above offenses (Section 16-1-40); and attempt to commit any of the above offenses (Section 16-1-80). Only those offenses specifically enumerated in this section are considered violent offenses.

HISTORY: 1986 Act No. 462, Section 33; 1995 Act No. 7, Part I Section 3; 1995 Act No. 83, Section 9; 1997 Act No. 113, Section 3; 1997 Act No. 136, Section 2; 1998 Act No. 402, Section 2; 2000 Act No. 261, Section 3; 2002 Act No. 176, Section 3, eff March 5, 2002; 2003 Act No. 92, Section 2, eff January 1, 2004; 2005 Act No. 127, Section 1, eff June 7, 2005; 2006 Act No. 379, Section 2, eff June 9, 2006; 2010 Act No. 273, Section 26, eff June 2, 2010; 2010 Act No. 289, Section 1, eff June 11, 2010; 2012 Act No. 255, Section 2, eff June 18, 2012; 2015 Act No. 7 (S.196), Section 6.B, eff April 2, 2015; 2015 Act No. 58 (S.3), Pt II, Section 6, eff June 4, 2015.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

Section 16-3-620, referenced in the text, was repealed by 2010 Acts No. 273, Section 5.

Effect of Amendment

2015 Act No. 7, Section 6.B, substituted "16-3-2020" for 16-3-930".

2015 Act No. 58, Section 6, substituted "trafficking in persons (Section 16-3-2020)" for "trafficking in persons (Section 16-3-930)"; deleted "criminal" before "domestic violence of a high and aggravated nature (Section 16-25-65)"; and added "domestic violence in the first degree (Section 16-25-20(B))"

SECTION 16-1-70.

Nonviolent crimes.

For purposes of definition under South Carolina law a nonviolent crime is all offenses not specifically enumerated in Section 16-1-60.

HISTORY: 1986 Act No. 462, Section 34.

SECTION 16-1-80.

Offense of attempt punished as principal offense.

A person who commits the common law offense of attempt, upon conviction, must be punished as for the principal offense.

HISTORY: 1993 Act No. 184, Section 9.

SECTION 16-1-90.

Crimes classified as felonies.

(A) The following offenses are Class A felonies and the maximum terms established for a Class A felony, not more than thirty years, as set forth in Section 16-1-20(A), apply:

10-11-325(B)(2) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in death to a person where there was not malice aforethought 16-3-50 Manslaughter-voluntary 16-3-29 Attempted murder 16-3-652 Criminal sexual conduct First degree 16-3-655(C)(2) Criminal sexual conduct, 1st degree, with minor less than 16, 2nd offense 16-3-656 Assault with intent to commit criminal sexual conduct First degree 16-3-658 Criminal sexual conduct where victim is legal spouse (separated) First degree 16-3-910 Kidnapping 16-3-920 Conspiracy to commit kidnapping 16-3-1050(F) Abuse or neglect of a vulnerable adult resulting in death 16-3-1075(B)(2) Carjacking (great bodily injury) 16-3-2020(B)(2) Trafficking in persons - 2nd offense 16-3-2020(C) Trafficking in persons in which the victim is under age eighteen - 1st offense 16-11-110(A) Arson in the first degree 16-11-330(A) Robbery while armed with a deadly weapon 16-11-380(A) Entering bank with intent to steal money, securities for money, or property, by force, intimidation, or threats 16-11-390 Safecracking 16-11-523(D)(2) Injuring real property when illegally obtaining nonferrous metals and the act results in the death of a person 16-13-385(E)(2) Tampering with a utility meter that results in death of another person 16-23-500(B)(3) Possession of a firearm or ammunition by a person convicted of a violent crime, third or subsequent offense 16-23-720(A)(2) Detonating a destructive device or causing an explosion, or intentionally aiding, counseling, or procuring an explosion by means of detonation of a destructive device which results in the death of a person where there was not malice aforethought 24-13-450 Taking of a hostage by an inmate 25-7-30 Giving information respecting national or state defense to foreign contacts in time of war 25-7-40 Gathering information for an enemy 43-35-85(F),

16-3-1050(F) Abuse or neglect of a vulnerable adult resulting in death 44-53-370 Prohibited Acts A, penalties (b)(1) (narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II) second, third, or subsequent offense 44-53-370(e)(2)(a)2 Prohibited Acts A, penalties (trafficking in cocaine, 10 grams or more but less than 28 grams) Second offense 44-53-370(e)(2)(b)2 Prohibited Acts, penalties (trafficking in cocaine, 28 grams or more but less than 100 grams) Second offense 44-53-370(e)(5)(a)2 Prohibited Acts,

penalties (trafficking in LSD, 100 dosage units or more but less than 500 dosage units) Second offense 44-53-370(e)(5)(b)2 Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more but less than 1,000 dosage units) Second offense 44-53-370(e)(5)(a)3 Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more, but less than 500 dosage units) Third or subsequent offense 44-53-370(e)(5)(b)3 Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more, but less than 1,000 dosage units) Third or subsequent offense 44-53-370(e)(6)(d) Prohibited Acts, penalties (trafficking in flunitrazepam, 5 kilograms or more) 44-53-370(e)(8)(a)(ii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 500-Second offense 44-53-370(e)(8)(a)(iii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 500-Third or subsequent offense 44-53-370(e)(8)(b)(ii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000-Third or subsequent offense 44-53-370(e)(8)(b)(iii) Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000-Third or subsequent offense 44-53-370(g)(1)(b) Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime) Second offense 44-53-370(g)(1)(c) Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime) Third or subsequent offense 44-53-375(B)(2) Manufacture, distribution of methamphetamine or cocaine base, second offense 44-53-375(B)(3) Manufacture, distribution, etc., methamphetamine, or cocaine base Third or subsequent offense 44-53-375(C)(1)(b) Trafficking in ice, crank, or crack cocaine (10 grams or more but less than 28 grams) Second offense 44-53-375(C)(2)(b) Trafficking in ice, crank, or crack cocaine (28 grams or more but less than 100 grams) 44-53-375(E)(a)(ii) and (iii) Trafficking in nine grams or more, but less than twenty-eight grams of ephedrine, pseudoephedrine, or phenylpropanolamine second or subsequent offense 44-53-375(F)(1)(e) Trafficking in four hundred grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine Second offense 55-1-30(3) Unlawful removing or damaging of airport facility or equipment when death results 56-5-1030(B)(3) Interference with traffic-control devices or railroad signs or signals prohibited when death results from violation 58-7-60(D)(2) Unlawful appropriation of gas that results in the death of another person 58-7-70(E)(2) Wrongful use of gas and interference with gas meters that results in death of another person 58-15-870(D) Injuring a railroad or electric railway resulting in the death of another person 58-17-4090 Penalty for obstruction of railroad

(B) The following offenses are Class B felonies and the maximum terms established for a Class B felony, not more than twenty-five years, as set forth in Section 16-1-20(A), apply:

10-11-325(B)(3) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol ground or within the capitol building resulting in injury to a person 10-11-325(B)(4) Detonating an explosive or destructive device or igniting an incendiary device upon the capitol grounds or within the capitol building resulting in damage to real or personal property 16-3-210(C) Assault and battery by mob in the second degree 16-11-110(B) Arson in the second degree 16-11-740(B)(3) Wilful and malicious injury to telegraph, telephone, or electric utility system resulting in death or bodily injury or an imminent danger to the life, health, or safety of a person 16-23-720(A)(3) Detonating a destructive device, or causing an explosion, or aiding, counseling, or procuring an explosion by means of detonation of a destructive device resulting in injury to a person 16-23-720(B) Causing an explosion by means of a destructive device, or aiding, counseling, or procuring an explosion by means of a destructive device which results in damage to real or personal property, or attempting to injure a person or damage or destroy real or property by means of a destructive device 35-11-725(A) Intentionally making a false statement, misrepresentation, false certification, false entry into a record, or violation of a rule or order pursuant to the South Carolina Anti-Money Laundering Act 35-11-725(B) Knowingly engaging in an activity for which a license is required by the South Carolina Anti-Money Laundering Act without being licensed and receiving more than \$500 in compensation within a 30-day period from this activity 44-53-370(e)(1)(a)(3) Trafficking in marijuana, 10 pounds or more (third or subsequent offense) 44-53-370(e)(2)(b)1 Prohibited Acts, penalties (trafficking in cocaine, 28 grams or more, but less than 100 grams) First offense 44-53-370(e)(3)(a)1 Prohibited Acts A, penalties (trafficking in illegal drugs, 4 grams or more, but less than 14 grams) 44-53-370(e)(5)(b)1 Prohibited Acts, penalties (trafficking in LSD, 500 dosage units or more, but less than 1000 dosage units) First offense 44-53-370(e)(6)(a)(2) Prohibited Acts, penalties (trafficking in flunitrazepam, 1 gram) Second or subsequent offense 44-53-370(e)(6)(c) Prohibited Acts, penalties (trafficking in flunitrazepam, 1000 grams but less than 5 kilograms) 44-53-370(e)(7)(b) Trafficking in gamma hydroxybutyric acid (second or subsequent offense) 44-53-370(e)(8)(b)(i) Trafficking in MDMA or ecstasy, 100 dosage units but less than 1000-First offense 44-53-370(e)(8)(c) Trafficking in MDMA or ecstasy, 1000 or more dosage units 44-53-370(g)(2)(c) Prohibited Acts A, penalties (distribution of controlled substances with intent to commit a crime) Third or subsequent offense 44-53-375(E)(1)(b)(i) and (c) Trafficking in twenty-eight grams or more, but less than four hundred grams of ephedrine, pseudoephedrine, or phenylpropanolamine 44-53-375(C)(2)(a) Trafficking in ice, crank, crack cocaine 28 grams or more, but less than 100 grams First offense 50-21-113(A)(2) Operating or controlling a moving water device while under the influence of alcohol, drugs, or a combination of both when death results 50-21-130(A)(3) Failure of an operator of a vessel involved in a collision resulting in death to stop and render assistance 56-5-750(C)(2) Failure to stop for a law enforcement vehicle (death occurs) 56-5-1210(A)(3) Failure to stop a vehicle involved in an accident when death occurs 56-5-2945(A)(2) Causing great bodily injury or death by operating vehicle while under influence of drugs or alcohol, death resulting

(C) The following offenses are Class C felonies and the maximum terms established for a Class C felony, not more than twenty years, as set forth in Section 16-1-20(A), apply:

16-3-70 Administering or attempting to administer poison 16-3-75 Unlawful and malicious tampering with human drug product or food 16-3-85(C)(2) Aiding in the death of a child by abuse or neglect 16-3-95(A) Inflicting great bodily injury upon a child 16-3-600(B) Aggravated assault and battery 16-3-653 Criminal sexual conduct Second degree 16-3-655(C)(3) Criminal sexual conduct, 2nd degree, with minor between 11 and 14 or at least 14 and less than 16 if actor in familial or custodial position 16-3-656

Assault with intent to commit criminal sexual conduct Second degree 16-3-658 Criminal sexual conduct in second degree where victim is legal spouse (separated) 16-3-810 Engaging child under 18 for sexual performance 16-3-1075(B)(1) Carjacking 16-3-2220(B) Female mutilation 16-11-330(B) Attempted armed robbery 16-11-350 Train robbery by stopping train 16-11-360 Robbery after entry upon train 16-11-380(B) Stealing money, securities for money, or property, by force, intimidation, or threats, from a person who has just used a bank night depository, an ATM, or another automated banking device 16-13-135(E)(2) Retail theft-second or subsequent offense 16-13-165(B)(4)(b) Knowingly and intentionally installing, reselling, importing, or selling a counterfeit nonfunctioning airbag that results in causing great bodily harm or death-2nd or subsequent offense 16-15-395 Sexual exploitation of a minor 16-15-415 Promoting prostitution of a minor 16-15-430(B)(3) Sexual extortion - third or subsequent offense 16-15-430(C)(2) Aggravated sexual extortion 16-23-500(B)(2) Possession of a firearm or ammunition by a person convicted of a violent crime, second offense 16-25-65(B) Domestic violence of a high and aggravated nature 25-7-30 Giving information respecting national or state defense to foreign contacts (violation during peacetime) 35-11-740(A)(1)(b)(iii) Conducting or attempting to conduct financial transactions that involves the proceeds of an unlawful activity when the transactions exceed \$100,000 in a 12-month period 35-11-740(A)(2)(b)(iii) Transporting, transmitting, or transferring or attempting to commit these activities with regard to funds across state or international boundaries unlawfully when the transactions exceed \$100,000 in a 12-month period 35-11-740(A)(3)(b)(iii) Concealing or disguising the nature, location, source, ownership, or control of property believed to be the proceeds of unlawful activity; conducting or attempting to conduct a financial transaction involving property represented by a law enforcement officer to be proceeds of unlawful activity, or property used to conduct or facilitate unlawful activity when the transactions exceed \$100,000 in a 12-month period 44-42-320(E) Knowingly performing genital gender reassignment surgery on person under eighteen years of age (See Section 16-3-95(A)) 44-53-370(b)(2) Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, with intent to distribute) Third or subsequent offense 44-53-370(e)(1)(a)2 Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds) Second offense 44-53-370(e)(6)(b) Prohibited Acts, penalties (trafficking in flunitrazepam, 100 grams but less than 1000 grams) 44-53-370(g)(1)(a) Prohibited Acts A, penalties (distribution of narcotic drugs in Schedules I(b) and (c), LSD, and Schedule II with intent to commit a crime) First offense 44-53-370(g)(2)(b) Prohibited Acts A, penalties (distribution of controlled substances with intent to commit a crime) Second offense 44-53-440 Distribution of controlled substance under Sections 44-53-370(a) and 44-53-375(B) to persons under 18 44-53-475 Transportation or attempt to transfer monetary instruments derived from unlawful drug activity 44-53-475(A)(1) Financial transactions involving property derived from unlawful drug activity 44-53-475(A)(3) Concealment of property derived from unlawful drug activity 56-1-1105(B)(2) Unlawful driving by habitual offender resulting in death 58-15-870(C) Injuring a railroad or electric railway resulting in endangering another person's life or inflicting great bodily injury on another person

(D) The following offenses are Class D felonies and the maximum terms established for a Class D felony, not more than fifteen years, as set forth in Section 16-1-20(A), apply:

10-11-325(A) Possessing, having readily accessible, or transporting onto the capitol grounds or within the capitol building an explosive, destructive, or incendiary device 16-1-55 Accessory after the fact of a Class A, B, or C Felony 16-3-655(C) Criminal sexual conduct with a minor - 3rd degree 16-3-1090(B) Assist another person in committing suicide 16-3-1045 Use or employment of person under eighteen to commit certain crimes 16-3-1050(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury 16-3-1730(C) Stalking within ten years of a conviction of harassment or stalking 16-3-2020(B)(1) Trafficking in persons - 1st offense 16-11-110(C) Arson-third degree 16-11-312 Burglary-second degree 16-11-312(C)(2) aggravated burglary-second degree 16-11-325 Common law robbery 16-11-523(D)(1) Obtaining nonferrous metals unlawfully resulting in great bodily injury 16-11-525(D)(1) Injuring real property when illegally obtaining nonferrous metals and the act results in great bodily injury to person 16-13-385(E)(1) Tampering with a utility meter that results in great bodily injury to another person 16-15-355 Disseminating obscene material to a minor 12 years or younger 16-23-720(C) Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute any explosive device, substance, or material configured to damage, injure, or kill a person, or possessing materials which when assembled constitute a destructive device 16-23-720(D) Threaten by means of a destructive weapon 16-23-720(E) Harboring one known to have violated provisions relating to bombs, weapons of mass destruction and destructive devices 16-23-730 Communicating or transmitting to a person that a hoax device or replica is a destructive device or detonator with intent to intimidate or threaten injury, obtain property, or interfere with the ability of a person or government to conduct its affairs 16-23-750 Communicating or aiding and abetting the communication of a threat or conveying false information concerning an attempt to kill, injure, or intimidate a person or damage property or destroy by means of an explosive, incendiary, or destructive device (second or subsequent offense) 24-3-210 Furloughs for qualified inmates of state prison system-Failure to return (See section 24-13-410) 24-13-410(B) Escaping or attempting to escape from prison or possessing tools or weapons used to escape 24-13-470 Inmate throwing bodily fluids on a correctional facility employee 43-35-85(B) Abusing or neglecting a vulnerable adult that results in great bodily injury 43-35-85(D),

16-3-1050(E) Abuse or neglect of a vulnerable adult resulting in great bodily injury 44-53-370(b)(1) Prohibited Acts A, penalties (narcotic drugs in Schedule I (B) and (C), LSD, and Schedule II) 44-53-370(d)(4) Unlawful possession of more than 2 grains of fentanyl or fentanyl-related substance - third or subsequent offense First offense 44-53-370 Prohibited Acts A, penalties (g)(2)(a) (distribution of controlled substances with intent to commit a crime) First offense 44-53-375(B)(1) Manufacture, distribution, etc., methamphetamine or cocaine First offense 44-53-445(B)(2) Distribution, manufacture, sale, or possession of crack cocaine within proximity of a school 44-53-577 Unlawful to hire, solicit, direct a person under 17 years of age to transport, conceal, or conduct financial transaction relating to unlawful drug activity 50-21-113(A)(1) Operating a moving water device while under the influence

of alcohol or drugs where great bodily injury results 56-5-2945(A)(1) Causing great bodily injury by operating vehicle while under influence of drugs or alcohol 58-7-60(D)(1) Unlawful appropriation of gas that results in great bodily injury to another person 58-7-70(E)(1) Wrongful use of gas and interference with gas meters that results in great bodily injury to another person (E) The following offenses are Class E felonies and the maximum terms established for a Class E felony, not more than ten years, as set forth in Section 16-1-20(A), apply:

7-25-50 Bribery at elections Second offense 7-25-60 Procuring or offering to procure votes by bribery Second or subsequent offense 7-25-80 Threatening, intimidating, or abusing voters 8-1-20 Illegal collecting and retaining rebates, commissions, or discounts (public officers/employees) 8-13-705 Offering, giving, soliciting, or receiving anything of value to influence action of public employee, member, or official 9-16-350 Use of any information concerning State Retirement Systems Investment Panel activities by member or employee to obtain economic interest 15-49-20(H) Falsifying affidavit in order to obtain employment after having been convicted of an offense requiring registration as a sex offender 16-1-55 Accessory after the fact of a Class D Felony 16-1-57 Third or subsequent conviction of certain property crimes 16-3-600(C) First degree assault and battery 16-3-615 Spousal sexual battery 16-3-625 Resisting arrest with deadly weapon 16-3-654 Criminal sexual conduct Third degree 16-3-656 Assault with intent to commit criminal sexual conduct Third degree 16-3-820 Promoting, producing, or directing a sexual performance by a child under 18 16-3-1060 No person may accept fee, compensation, etc. (for relinquishing the custody of a child for adoption) 16-3-1730(B) Stalking while injunction or restraining order prohibiting this conduct is in effect 16-7-160(2) Illegal use of stink bombs or other devices containing foul or offensive odors-bodily harm results 16-8-20(B)(2) Teaching, demonstrating the use, application, or making of a firearm or destructive device (second or subsequent offense) 16-8-240(B) Use of or threat of physical violence by criminal gang member 16-8-250(B) Preventing or attempting to prevent a witness or victim from attending or giving testimony at a trial that concerns criminal gang activity 16-9-220 Acceptance of bribes by officers 16-9-320(B) Assaulting police officer serving process or while resisting arrest 16-9-340 Intimidation of court officials, jurors, or witnesses 16-9-410(C)(1) Aiding escapes from prison, for prisoners serving term of incarceration 16-11-110(C) Arson-third degree 16-11-312(C)(1) Burglary-second degree, dwelling 16-11-313 Burglary-third degree Second offense 16-11-510(B)(1) Malicious injury to animals and personal property (value \$10,000 or more) 16-11-520(B)(1) Malicious injury to real property (value \$10,000 or more) 16-11-523(C)(2) Injuring real property when illegally obtaining nonferrous metals where the value of the injury is \$10,000 or more 16-11-535 Malicious injury to place of worship 16-11-580(C)(2) Forest product violation (value more than \$1,000 and less than \$5,000) - 2nd or subsequent offense 16-11-580(D)(2) Forest product violation (value at least \$5,000) - 2nd or subsequent offense 16-13-10(B)(1) Forgery (value \$10,000 or more) 16-13-30(B)(2) Grand larceny (value \$10,000 or more) 16-13-40(3) Stealing of bonds and the like (value \$10,000 or more) 16-13-50(A)(1) Stealing livestock, confiscation of motor vehicle, or other chattel (value \$10,000 or more) 16-13-70(B)(1) Stealing of vessels and equipment, payment of damages (value \$10,000 or more) 16-13-110(B)(3) Shoplifting (value \$10,000 or more) 16-13-131(C)(2) Larceny against a merchant by affixing a fraudulent product code on merchandise - second or subsequent offense 16-13-165(B)(2)(b) Knowingly and intentionally importing, manufacturing, or selling a counterfeit nonfunctional airbag-2nd or subsequent offense 16-13-165(B)(3)(b) Knowingly and intentionally selling, leasing, trading, or transferring motor vehicle containing counterfeit or nonfunctional airbag-2nd or subsequent offense 16-13-165(B)(4)(a) Knowingly and intentionally installing, reselling, importing, or selling counterfeit non functioning airbags that cause great bodily harm or death - 1st offense 16-13-170 Entering house or vessel without breaking in with intent to steal, attempt to enter 16-13-180(3) Receiving stolen goods (value \$10,000 or more) 16-13-210(B)(1) Embezzlement of public funds (value \$10,000 or more) 16-13-230(B)(3) Breach of trust with fraudulent intent (value \$10,000 or more) 16-13-240(1) Obtaining signature or property by false pretenses (value \$10,000 or more) 16-13-260(1) Obtaining property under false tokens or letters (value \$10,000 or more) 16-13-290(1) Securing property by fraudulent impersonation of officer (value over \$400) 16-13-385 Tampering with a utility meter for the purpose of growing or manufacturing controlled substances 16-13-420(B)(1) Failure to return rented objects, fraudulent appropriation (value \$10,000 or more) 16-13-430(C)(1) Fraudulent acquisition or use of food stamps (value \$10,000 or more) 16-13-440(B)(3) Obtaining a refund with a fraudulent driver's license or identity card regardless of value - second or subsequent offense 16-13-510 Financial identity fraud 16-15-335 Unlawful to hire, employ, use, or permit any person under 18 to do anything violating obscenity statutes 16-15-340 Luring a child 16-15-342 Criminal solicitation of a minor 16-15-345 Unlawful to disseminate obscene material to any person under 18 years of age 16-15-385 Dissemination of obscene material to minors is unlawful 16-15-387 Employing a person under eighteen to appear in public in the state of sexually explicit nudity 16-15-405(D) Sexual exploitation of a minor Second degree 16-15-410 Sexual exploitation of a minor Third degree 16-15-430(B)(2) Sexual extortion - second offense 16-17-470(C) Aggravated voyeurism 16-17-495(D) Transport of child by physical force or threat of physical force with intent to avoid custody order 16-17-550 Bribery of athletes and athletic officials 16-17-600(A),(B) Destruction or desecration of human remains or repositories-destroys, damages, or desecrates human remains and vandalizes, desecrates, injures gravestones or memorials 16-17-640 Blackmail 16-17-680(C)(10)(b) Obtaining permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals 16-17-680(E)(2)(b) Unlawful purchase of nonferrous metals from seller without valid permit with intent to resell the nonferrous metals to a secondary metals recycler using purchaser's valid permit 16-17-680(G)(5) Knowingly transporting stolen nonferrous metals while operating vehicle used in the ordinary course of business and presenting a valid or falsified permit to transport and sell nonferrous metals 16-21-80(3) Receiving, possessing, concealing, selling, or disposing of stolen vehicle (value \$10,000 or more) 16-23-220 Unlawful transportation of machine gun or sawed-off shotgun or rifle (see 16-23-260) 16-23-230 Unlawful storing, keeping, or possessing machine gun or sawed-off shotgun or rifle (see 16-23-260) 16-23-240 Unlawful selling, renting, or giving away of machine gun or sawed-off shotgun or rifle (see 16-23-260) 16-23-440(A) Discharging firearms at or into dwellings 16-23-440(B) Discharging firearms at or into a vehicle, aircraft, watercraft, or other device 16-23-530 Possession

of a gun by an illegal alien 16-23-750 Communicating or aiding and abetting the communication of a threat or conveying false information concerning an attempt to kill, injure, or intimidate a person or damage or destroy property by means of an explosive, incendiary, or destructive device (first offense) 16-25-20(B) Domestic violence in the first degree 17-13-50 Right to be informed of grounds for arrest, consequences of refusal to answer or false answer 23-31-340 Penalties (violation of article regulating use and possession of machine guns, sawed-off shotguns, and rifles) 23-31-360 Unregistered possession of machine guns by licensed manufacturer 23-36-170(b) Violation of South Carolina Explosives Control Act Second offense 24-3-910 Penalty for penitentiary employee's connivance at escape of prisoners 24-3-950 Contraband (possession by prisoner or furnishing prisoner with or attempt to furnish) 24-3-980(B)(3) Unlawful possession of telecommunication device by inmate was proximate cause of commission of subsequent felony offense 24-7-155 Furnishing or possessing contraband in county or municipal prisons prohibited 24-13-420 Harboring or employing escaped convicts 24-13-430(2) Participating in riot by prisoners 24-13-440 Carrying or concealing weapon by inmates 25-7-50 False reports, insubordination, obstruction of recruiting during war 25-7-70 Sabotage 32-7-100(A)(2) Preneed funeral contract violations (value more than \$10,000) 34-3-10 Use of word "bank" or "banking" by other than banking institutions 34-11-60 Drawing and uttering fraudulent check, draft, or other written order (more than \$1,000, see Section 34-11-90(b)) Third and subsequent offenses 34-13-90 Penalty for improper borrowing by directors or officers 35-1-508(a)(1) Violation of Title 35, Chapter 1 when investor loses twenty thousand dollars or more 35-11-740(A)(1)(b)(ii) Conducting or attempting to conduct financial transactions that involve the proceeds of an unlawful activity when the transactions exceed \$20,000 but are less than \$100,000 in a 12-month period 35-11-740(A)(2)(b)(ii) Transporting, transmitting or transferring, or attempting to commit those activities with regard to funds across state or international boundaries unlawfully when the transactions exceed \$20,000 but are less than \$100,000 in a 12-month period 35-11-740(A)(3)(b)(ii) Concealing or disguising the nature location, source, ownership, or control of property believed to be the proceeds of unlawful activity, or conduct, or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be proceeds of unlawful activity, or property used to conduct or facilitate unlawful activity if the transactions exceed \$20,000 but are less than \$100,000 in a 12-month period 36-9-410(C)(3) Unlawful disposal of personal property that is subject to a perfected security interest whose value is \$10,000 or more 37-6-119(E)(3) Knowingly soliciting the money or property or personal identifying information of a vulnerable adult for purposes of identity fraud (value of \$10,000 or more) 38-38-720(3) Making a false statement or representation regarding a fraternal benefit society (second or subsequent offense) 38-55-170(1) Presenting false claim for payment (insurance companies) (value \$10,000 or more) 38-55-540(A)(4) Knowingly making false statement or misrepresentation resulting in economic advantage of fifty thousand dollars or more, first offense 38-55-540(A)(5) Knowingly making false statement or misrepresentation resulting in economic advantage of any amount, second offense 38-73-1120(C) Insurance, provisions to ensure expenses are allocated and treated properly 39-8-90(A) Stealing trade secrets 39-9-208(B) Uniform weights and measures law violation 39-15-1190(B)(1)(a)(iv) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, Second Offense 39-15-1190(B)(1)(b)(ii) Trafficking in counterfeit marks, Second or Subsequent Offense 39-22-90(A)(8) State warehouse system violation if the amount of the violation is \$5,000 or more 39-73-325 Violation of regulation under State Commodity Code 40-83-30(J) Participating in the use of a false document in connection with acts as an immigration assistant 44-23-1080(2) Furnishing Department of Mental Health patients or prisoners with firearms or dangerous weapons 44-23-1150(C)(1) First degree sexual misconduct 44-29-145 Exposing others to Human Immuno Deficiency Virus 44-52-165(A)(3) Possession of firearms or dangerous weapons by patient receiving inpatient services operated by Department of Mental Health 44-52-165(B)(1) Intentionally allowing patient receiving inpatient services by Department of Mental Health to possess alcoholic beverages or controlled substances 44-52-165(B)(2) Intentionally allowing patient receiving inpatient services by Department of Mental Health to possess firearms or dangerous weapons 44-53-365 Taking or exercising control over another person's controlled substance-Second offense 44-53-370(b)(2) Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, flunitrazepam, or a controlled substance analogue with intent to distribute) Second offense 44-53-370(d)(3) Possession of cocaine, third or subsequent offense 44-53-370(d)(4) Unlawful possession of more than 2 grains of fentanyl or fentanyl-related substance - second offense 44-53-370(e)(1)(a)1 Prohibited Acts A, penalties (trafficking in marijuana, 10 pounds or more, but less than 100 pounds) 44-53-370(e)(2)(a)1 Prohibited Acts A, penalties (trafficking in cocaine, 10 grams or more, but less than 28 grams) 44-53-370(e)(4)(a)1 Prohibited Acts A, penalties (trafficking in methaqualone, 15 grams or more, but less than 150 grams) 44-53-370(e)(5)(a)1 Prohibited Acts, penalties (trafficking in LSD, 100 dosage units or more, but less than 500 dosage units) First offense 44-53-370(e)(6)(a)(1) Prohibited acts, penalties (trafficking in flunitrazepam, 1 gram but less than 100 grams) First offense 44-53-370(e)(7)(a) Trafficking in gamma hydroxybutyric acid (first offense) 44-53-370(e)(8)(a)(i) Trafficking in MDMA or ecstasy, 100 dosage units but less than 500-First offense 44-53-372(A)(2) Knowingly or intentionally producing, manufacturing, distributing, or possessing with intent to produce, manufacture, or distribute xylazine for human use 44-53-375(A) Possession of less than one gram of methamphetamine or cocaine base, third or subsequent offense 44-53-375(C)(1)(a) Trafficking in ice, crank, or crack cocaine 10 grams or more, but less than 28 grams First offense 44-53-375(E)(1)(a)(i) Trafficking in nine grams or more, but less than twenty-eight grams of ephedrine, pseudoephedrine, or phenylpropanolamine, first offense 44-53-376(B) Knowingly causing to be disposed any waste from the production of methamphetamine or knowingly assisting, soliciting, or conspiring with another to dispose of the waste, Second Offense 44-53-378 Manufacturing and exposing a child to methamphetamines 44-53-398(H)(5) Possessing, manufacturing, delivering, distributing, dispensing, administering, purchasing, selling, or possessing with intent to distribute any substance that contains any amount of ephedrine or pseudoephedrine which has been altered from its original condition, Second Offense 44-53-440 Distribution of controlled substance under Section 44-53-370(a) and (b) to persons under 18 violation 44-53-445(B)(1) Distribution, manufacture, or sale of controlled substance within proximity of school (other than crack cocaine) 44-53-1530(1)(b) Distribution of anabolic steroids (second or subsequent offense)

44-53-1530(4)(b) Possession of anabolic steroids, 100 or more doses (second or subsequent offense) 44-53-1680(B) Knowingly disclosing information in violation of the Prescription Monitoring Program 44-53-1680(C) Knowingly using prescription monitoring information in a manner or for a purpose in violation of the Prescription Monitoring Program 44-55-1510 Discharge of fumes of acids or similar substances 45-2-40(B)(1) Inflicting \$10,000 or more in damages to a lodging establishment while using or possessing a controlled substance, beer, wine, or alcohol 46-1-20(1) Stealing crops from the field (value \$10,000 or more) 46-1-40(1) Stealing tobacco plants from bed (value \$10,000 or more) 46-1-60(B)(1) Making away with produce before payment (value \$10,000 or more) 46-1-70(B)(1) Factors or commission merchants failing to account for produce (value \$10,000 or more) 46-1-160(D)(2) Knowingly using false information to obtain or use South Carolina Farm Aid Fund funds for ineligible expenses when the value of the property is at least \$100,000 47-19-120(C)(2) Interference with person performing official duties under chapter on poultry inspection-use of deadly weapon in commission of violation 48-23-265(C)(2) Forest products violation second or subsequent offense (value at least \$5,000) 49-1-50(C)(1) Sale of drifted timber, lumber (\$10,000 or more value) 50-21-115 Reckless homicide by operation of a boat (reclassified from Class F felony in 2002) 50-21-130(A)(2) Failure of an operator of a vessel involved in a collision resulting in great bodily injury to stop and render assistance 55-1-30(2) Unlawful removing or damaging of airport facility or equipment when injury results 55-1-40 Unlawful entry of aircraft, damaging, or removing equipment 56-1-1105(B)(1) Unlawful driving by habitual offender resulting in great bodily injury 56-5-750(C)(1) Failure to stop for a law enforcement vehicle (great bodily harm occurs) 56-5-1030(B)(2) Interference with traffic-control devices or railroad sign or signals prohibited-injury results 56-5-1210(A)(2) Failure to stop a vehicle involved in an accident when great bodily injury results 56-5-2910 Reckless homicide 56-5-2941(K)(1)(c) Unlawful operation of a vehicle equipped with an ignition interlock device 56-5-4975(C) Operation of unlicensed ambulance without removing exterior markings, sirens, etc., with intent to commit terrorist act 56-29-30(A) Unlawful to own, operate, or conduct a chop shop or to transport or sell a motor vehicle to a chop shop 58-15-850 Breaking and entering or shooting into cars 63-5-70 Unlawful conduct toward a child 63-13-200 Committing certain crimes near a childcare facility 63-19-1670 Furnishing contraband to a juvenile in the custody of the Department of Juvenile Justice (F) The following offenses are Class F felonies and the maximum terms established for a Class F felony, not more than five years, as set forth in Section 16-1-20(A), apply:

2-2-100 Contempt of the General Assembly 2-2-120 Criminal contempt of the General Assembly 7-15-420(E) Publicly reporting results of absentee ballot tabulation before polls are closed 7-25-20 Fraudulent registration or voting 7-25-50 Bribery at elections, first offense 7-25-60 Procuring or offering to procure votes by bribery First offense 7-25-65 Providing, offering, or accepting anything of value in exchange for requesting, collecting, or delivering absentee ballots 7-25-110 Voting more than once at elections 7-25-120 Impersonating a voter 7-25-160 Wilful neglect or corrupt conduct on the part of managers 7-25-170 Wilful neglect or corrupt conduct by officers other than managers 7-25-190 Illegal conduct at elections generally 8-13-725(B) Public official disclosing confidential information 8-14-60 Intentional use of a false document in connection with public employment 8-29-10(F) Intentional use of a false document or aiding in the use of a false document to obtain a public benefit 11-48-90(A) Sale or possession of counterfeit cigarettes 12-21-2716 Unlawful manufacture or sale of slugs to be used in coin-operated devices 12-21-4150 Posing as a bingo player with the intent to defraud bingo customers 12-21-6000(B) Marijuana and Controlled Substance Tax Act 12-21-6040(A) Revealing facts contained in report under Marijuana and Controlled Substance Tax Act 12-54-44(B)(1) Wilful attempt to evade or defeat tax imposed 12-54-44(B)(2) Wilful failure to collect or truthfully account for and pay over tax money 12-54-44(B)(6)(a)(i) Wilfully subscribing to false or fraudulent tax return 12-54-44(B)(6)(a)(ii) Wilfully assisting in false or fraudulent tax return 12-54-44(B)(6)(b) Violation of prohibition against preparing returns by person convicted of preparing false return 16-1-55 Accessory after the fact of a Class E felony 16-3-60 Involuntary manslaughter 16-3-95(B) Inflicting great bodily injury on a child by a person responsible for the child's welfare 16-3-755(B) Sexual battery with a student 16-3-755(D) Sexual battery with a student 16-3-1040(A) Threatening life, person or family of public official 16-3-1050(B) Abuse of a vulnerable adult 16-3-1050(C) Neglect of a vulnerable adult 16-3-1050(D) Exploitation of a vulnerable adult 16-3-1080(A) Committing or attempting to commit a violent crime while wearing body armor 16-3-1085(D)(1) Violent offender prohibited from purchasing, owning, or using body armor 16-3-1720(C) Stalking (with prior conviction) 16-3-1730(A) Stalking 16-3-1910(O) Violation of a permanent restraining order if the underlying conviction that was the basis for the permanent restraining order was a felony 16-3-1920(N) Violation of an emergency restraining order if the underlying conviction that was the basis for the emergency restraining order was a felony 16-3-2080(F) Disclosing information about a trafficking victim or certain shelters or unlawfully entering the grounds of a shelter while possessing a weapon 16-5-10 Conspiracy against civil rights 16-5-130(1) Penalties for instigating, aiding or participating in riot-resists enforcement of statute of state or United States, obstruct public officer, Carries weapon, etc. 16-8-20(B)(1) Demonstrating the use of a bomb (first offense) 16-8-240(A) Committing or threatening acts of violence with the intent to coerce, induce, or solicit another person to participate in gang activity, second offense 16-9-10(B)(1) Perjury and subordination of perjury 16-9-30 False swearing before persons authorized to administer oaths 16-9-210 Giving or offering bribes to officers 16-9-230 Acceptance of rebates or extra compensation 16-9-260 Corrupting jurors, arbitrators, umpires, or referees 16-9-270 Acceptance of bribes by jurors, arbitrators, umpires, or referees 16-9-460 Movement and harboring intended to further illegal entry or detection 16-11-20 Making, mending or possessing tools or other implements capable of being used in crime 16-11-125 Making false claim or statement in support of claim to obtain insurance benefits for fire or explosion loss 16-11-130 Burning personal property to defraud insurer 16-11-150 Burning lands of another without consent Second and subsequent offense 16-11-170 Wilfully burning lands of another 16-11-190 Wilfully and maliciously attempts to burn 16-11-313(B) Burglary-third degree First offense 16-11-510(B)(2) Malicious injury to animals and personal property (value over \$2,000 up to \$10,000) 16-11-520(B)(2) Malicious injury to real property (value over \$2,000 up to \$10,000) 16-11-523(C)(2) Injuring real property while

illegally obtaining nonferrous metals where the value of the injury is greater than \$2,000 but less than \$10,000 16-11-617 Unlawful to cultivate or attempt to cultivate marijuana on land of another 16-11-725(B)(2) Rummaging through or stealing another person's household garbage 16-11-780 Entering certain lands to discover, uncover, move, remove, or attempt to remove an archaeological resource-Third or subsequent offense 16-11-910 and 16-11-915 Transfer of recorded sounds for unauthorized use or sale 16-11-930 Illegal distribution of recording without name and address of manufacturer and designation of featured artist (See Sections 16-11-920(B) and 16-11-940) 16-13-10(B)(1) Forgery (value more than \$10,000) 16-13-30(B)(2) Grand larceny (value over \$2,000 up to \$10,000) 16-13-40(2) Stealing of bonds and the like (value over \$2,000 up to \$10,000) 16-13-50(A)(2) Stealing livestock, confiscation of motor vehicle or other chattel (value over \$2,000 up to \$10,000) 16-13-70(B)(2) Stealing of vessels and equipment-payment of damages (value over \$2,000 up to \$10,000) 16-13-110(B)(2) Shoplifting (value over \$2,000 up to \$10,000) 16-13-160 Breaking into motor vehicles or tanks, pumps, and other containers where fuel or lubricants are stored 16-13-165(B)(1)(b) Knowingly and intentionally importing, manufacturing, or selling counterfeit nonconforming airbags-2nd or subsequent offense 16-13-165(B)(2)(a) Knowingly and intentionally importing, manufacturing, or selling counterfeit nonconforming airbags-1st offense 16-13-165(B)(3)(a) Knowingly or intentionally selling, leasing, trading, or transferring motor vehicle containing counterfeit or nonfunctional airbag-1st offense 16-13-210(B)(2) Embezzlement of less than \$10,000 in public funds 16-13-230(B)(2) Breach of trust with fraudulent intent (value over \$2,000 up to \$10,000) 16-13-240(2) Obtaining signature or property by false pretenses (value over \$2,000 up to \$10,000) 16-13-260(2) Obtaining property under false tokens or letters (value over \$2,000 up to \$10,000) 16-13-385(B)(3) Tampering with a utility meter - third or subsequent offense 16-13-385(C)(3) Tampering with a utility meter for profit - third or subsequent offense 16-13-385(D)(3) Tampering with a utility meter that results in property damage in excess of \$5,000 or results in the risk of great bodily injury or death - third or subsequent offense 16-13-420(B)(2) Failure to return rented objects, fraudulent appropriation (value over \$2,000 up to \$10,000) 16-13-430(C)(2) Fraudulent acquisition or use of food stamps (value over \$2,000 up to \$10,000) 16-13-440(B)(2) Obtaining a refund with a fraudulent driver's license or identity card when the value is two thousand dollars or more 16-13-470(B)(2) Defrauding a drug or alcohol screening test (second or subsequent offense) 16-13-480 Providing false picture identifications for use by unlawful aliens 16-13-510(E) Financial identity fraud and identity fraud 16-13-512(C)(2) Unlawfully printing information on credit and debit card receipts 16-13-525(D) Display or possession of a false identification or document for the purpose of proving lawful presence-Second and subsequent offense 16-14-20 Financial transaction card theft 16-14-40 Financial transaction card forgery 16-14-60(a) Financial transaction card fraud-value of things of value exceeds five hundred dollars in a six-month period 16-14-60(g) Financial transaction card fraud 16-14-70 Criminal possession of financial transaction card forgery devices 16-14-80(B)(2) Criminally receiving goods and services fraudulently obtained with financial transaction card (value over \$1,000) 16-14-100 Financial Transaction Card Crime Act violation 16-15-10 Bigamy 16-15-120 Buggery 16-15-305(A) Unlawfully disseminating, processing, or promoting obscenity 16-15-425(C) Participation in the prostitution of a minor 16-15-430(B)(1) Sexual extortion - first offense 16-16-20(2) Computer crime-First degree 16-17-410 Conspiracy 16-17-470(B)(2) Voyeurism (second or subsequent offense) 16-17-495(B) Transporting a child under sixteen years of age with the purpose of concealing the child or avoiding a custody order or statute 16-17-600(C) Destruction or desecration of human remains or repositories-destroys, tears down, injures fencing, trees, flowers, or shrubs around a repository of human remains 16-17-680(E)(1)(b)(iii) Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, third or subsequent offense 16-17-680(I)(2)(d) Unlawful purchase or attempt to purchase a used, detached catalytic converter or any nonferrous part of a catalytic converter, second offense 16-17-722(B) Knowingly file a false police report regarding a felony 16-17-770(A)(3) Impersonating a lawyer-Third or subsequent offense 16-21-10 Altering, forging, or counterfeiting certificate of title, registration card, or license plate, misrepresentation or concealment in application 16-21-40(A)(2), (A)(4) Removing or falsifying identification number of vehicle or engine and buying, receiving, or selling such vehicle or engine 16-21-80(2) Receiving, possessing, concealing, selling, or disposing of stolen vehicle (value over \$2,000 up to \$10,000) 16-23-20 Unlawful carrying of pistol, third or subsequent offense (See Section 16-23-50(A)(2)(c)) 16-23-30 Sale or delivery of pistol to and possession by certain persons unlawful, stolen pistols (See Section 16-23-50) 16-23-50(A)(1) Handguns 16-23-410 Pointing firearms at a person 16-23-415 Taking a firearm, stun gun, or taser device from a law enforcement officer 16-23-420 Carrying or displaying firearms in public buildings or adjacent areas 16-23-430 Carrying weapons on school property 16-23-480 Manufacture or possession of article designed to cause damage by fire or other means 16-23-490 Possession of firearm or knife during commission or attempt to commit violent crime 16-23-500(B)(1) Possession of a firearm or ammunition by a person convicted of a violent crime, first offense 16-23-520 Use, transportation, manufacture, possession, purchase, or sale of teflon-coated ammunition 16-23-740 Hindering certain individuals or devices during the detection, disarming, or destruction of a destructive device 16-25-20(B)(3) Criminal domestic violence-Third offense 16-25-20 Commission of criminal domestic violence-Third or subsequent offense 16-25-30(B) Ship, transport, receive, or possess a firearm or ammunition, if the person has been convicted of particular domestic violence offenses 16-25-125(E) Unlawful entry upon the grounds of a domestic violence shelter while possessing a dangerous weapon 16-27-30 Animal fighting or baiting 16-27-40 Presence at facility where animal fighting or baiting is taking place Third and subsequent offenses 17-13-170 False, fictitious, fraudulent, or counterfeit picture identification for purpose of offering proof of lawful presence in the U.S., second or subsequent offense 17-15-90(1) Wilful failure to appear before a court when released in connection with a charge for a felony or while awaiting sentencing 17-15-270 Committing a violent crime while under a bond or prefile release order for a previous violent crime 17-30-50(A) Interception of wire, electronic, or oral communications 17-30-55(A) Sending or manufacturing device for unlawful interception of wire, oral or electronic communications 20-4-60(B)(2) Possession firearm at time of criminal domestic violence 20-4-375(A) Making, presenting, filing, or attempting to file a false, fictitious, or fraudulent foreign protection order 23-3-470(B)(3) Failure of sex offender to register Third or

subsequent offense 23-3-475(B)(3) Providing false information when registering as a sex offender Third or subsequent offense 23-3-510(2) Committing a felony by using information obtained from the sex offender registry 23-3-535(D)(3) Sex offender's failure to vacate a residence that is within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground-Second offense 23-3-538(C)(3) Sex offender operating or employed by child-oriented business-Third offense 23-3-540(I) Sex offender failing to comply with reporting requirements 23-3-540(L) Sex offender removing or tampering with monitoring device 23-3-550 Assisting or harboring unregistered sex offender 23-3-650(C) Unlawful disclosure of DNA information from State DNA Database 23-31-160 False information or evidence on firearms license application (See Section 23-31-190) 23-31-190 Penalties, violation concerning regulation of pistols 23-31-1040 Unlawful for a person adjudicated as a mental defective or committed to a mental institution to ship, transport, possess, or receive a firearm or ammunition 23-36-170(a) Penalty (violation of South Carolina Explosives Control Act) First offense 23-50-50(B) Divulging privileged communication, protected information, or a protected identity with intent to obtain monetary gain or other benefit 24-1-270 Trespass or loitering on or refusal to leave state correctional properties 24-3-980 Unlawful possession of telecommunication device by inmate, second or subsequent offense 27-32-120(B) Violation of vacation time sharing plans Third or subsequent offense 32-7-100(A)(2) Preneed funeral contract violations (value between \$2,000 and \$10,000) 33-56-145(A) Defrauding a charity (second or subsequent offense) 33-56-145(B) Giving false information with respect to registering a charity (second or subsequent offense) 33-57-170(A) Person or organization that unlawfully conducts a nonprofit raffle-second or subsequent offense 33-57-170(B) Person or organization that violates a provision of Title 33, Chapter 57 with the intent to deceive or defraud an individual or nonprofit organization - second or subsequent offense 33-57-170(C) Person or organization that gives false or misleading information on a registration or report under Title 33, Chapter 57 34-3-110(B) Crimes against a federally chartered or insured financial institution 35-1-508(a)(2) Violation of Title 35, Chapter 1 when an investor loses less than twenty thousand dollars, but more than one thousand dollars 35-11-740(A)(1)(b)(i) Conducting or attempting to conduct financial transactions that involve the proceeds of an unlawful activity when the transactions exceed \$300 but are less than \$20,000 in a 12-month period 35-11-740(A)(2)(b)(i) Transporting, transmitting, or transferring or attempting to commit these activities with regard to funds across state or international boundaries unlawfully when the transactions exceed \$300 but are less than \$20,000 in a 12-month period 35-11-740(A)(3)(b)(i) Concealing or disguising the nature, location, source, ownership, or control of property believed to be the proceeds of unlawful activity; conducting or attempting to conduct financial transactions involving property represented by a law enforcement officer to be proceeds of unlawful activity, or property used to conduct or facilitate unlawful activity if the transactions exceed \$20,000 in a 12-month period 36-9-410(C)(2) Unlawful disposal of personal property that is subject to a perfected security interest whose value is more than \$2,000 but less than \$10,000 36-9-501(c) Filing a false or fraudulent financing statement 37-6-119(E)(2) Knowingly soliciting the money or property or personal identifying information of a vulnerable adult for purposes of identity fraud (value over \$2,000 up to \$10,000) 38-9-150 Return of deposited securities (making false affidavit) 38-13-170 Making or aiding in making false statement (Insurance) 38-43-245 Licensed insurance producer fraudulently submitting application for insurance 38-55-170(2) Presenting false claim for payment (Insurance) (value over \$2,000 up to \$10,000) 38-55-540(A)(3) Knowingly making false statement or misrepresentation resulting in economic advantage of between ten and fifty thousand dollars, first offense 39-15-1190(B)(1)(a)(iii) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of \$10000 or more but less than \$50000; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark 39-15-1190(B)(1)(b)(i) Trafficking in counterfeit marks, First Offense 39-22-90(A)(1)-(4), (9) Prohibited acts. State Warehouse System (See Section 39-22-90(B)) 39-23-80(B)(2) Adulterated, misbranded, or new drugs and devices Second offense 39-23-80(B)(3) Adulterated, misbranded, or new drugs and devices-with intent to defraud or mislead 40-5-310 Unlawful practice of law by a person 41-8-70 Intentional use of a false document in connection with private employment 43-35-85(B), (C), (D), 16-3-1050(B), (C), (D) Abuse, neglect, or exploitation of a vulnerable adult 44-23-1150(C)(2) Second degree sexual misconduct 44-41-80 Performing unlawful abortion 44-41-85(A) Performing a partial-birth abortion 44-43-375(A) Purchase or sale of body part for transplantation or therapy 44-43-380 Falsification of document of gift or refusal for financial gain 44-53-40(B) Obtaining certain drugs, devices, preparations, or compounds by fraud, deceit, or the like Second or subsequent offense 44-53-365 Taking or exercising control over another person's controlled substance-First offense 44-53-370(b)(2) Prohibited Acts A, penalties (manufacture or possession of other substances in Schedule I, II, III, flunitrazepam, or a controlled substance analogue with intent to distribute) First offense 44-53-370(b)(3) Prohibited Acts A, penalties (manufacture or possession of Schedule IV drugs except for flunitrazepam with intent to distribute) Second or subsequent offense 44-53-370(d)(1) Prohibited Acts A, penalties (possession of narcotic drugs in Schedule I (b), (c), LSD, and Schedule II) Second, third, or subsequent offenses 44-53-370(d)(3) Possession of cocaine, second offense 44-53-370(d)(4) Unlawful possession of more than 2 grains of fentanyl or fentanyl-related substance - first offense 44-53-375(A) Possession of less than one gram of methamphetamine or cocaine base, second offense 44-53-376(B) Knowingly causing to be disposed any waste from the production of methamphetamine or knowingly assisting, soliciting, or conspiring with another to dispose of the waste, First Offense 44-53-378(B) Exposing child to methamphetamine 44-53-379(B) Unlawful possession of a firearm by person convicted of a controlled substance offense 44-53-380 Prohibited Acts B, penalties 44-53-390 Prohibited Acts C, penalties 44-53-395 Prohibited acts, penalties (prescription drugs) Second or subsequent offense 44-53-398(H)(5) Possessing, manufacturing, delivering, distributing, dispensing, administering, purchasing, selling, or possessing with intent to distribute any substance that contains any amount of ephedrine or pseudoephedrine which has been altered from its original condition, First Offense 44-53-1530(1)(a) Distribution of anabolic steroids (first offense) 44-63-161(B) Making false statement on or altering official certificate or record 45-2-40(B)(2) Inflicting more than \$2,000 but less than \$10,000 in damages to a lodging establishment while using or possessing a controlled substance, beer, wine, or alcohol 46-1-20(2) Stealing crops from the

field (value over \$2,000 up to \$10,000) 46-1-40(2) Stealing tobacco plants from bed (value over \$2,000 up to \$10,000) 46-1-60(B)(2) Making away with produce before payment (value over \$2,000 up to \$10,000) 46-1-70(B)(2) Factors or commission merchants failing to account for produce (value over \$2,000 up to \$10,000) 46-1-75(B)(2) Maliciously damaging farm product, research facility or equipment valued at \$500 or more 46-1-160(D)(2) Knowingly using false information to obtain or use South Carolina Farm Aid Fund funds for ineligible expenses when the value of the property is greater than \$2,000 but less than \$10,000 46-41-30(2) Unlawful to engage in business as dealer without license (agricultural products) Second or subsequent offense 47-1-40(B) Torture, torment, mutilate, cruelly kill, or inflict excessive or repeated unnecessary pain or suffering upon an animal 47-3-630 Torturing, mutilating, injuring, disabling, poisoning, or killing a police dog 47-3-760(B)(2) Penalty for owner of dangerous animal which attacks and injures a human Second or subsequent offense 49-1-50(C)(2) Sale of drifted lumber or timber (value over \$2,000 up to \$10,000) 50-11-95(D) Engaging in Computer Assisted Remote Hunting, Second and Subsequent Offense 54-7-815 Unlawful salvage of certain sunken warships 55-1-30(1) Unlawful removing or damaging of airport facility or equipment 56-1-1100 Habitual traffic offenders, violation of free vehicle registration for disabled veterans 56-1-2070 Driving commercial motor vehicle in violation of an out-of-service order, two violations 56-5-750(B)(2) Failure to stop for a law enforcement vehicle-Second or subsequent offense (no death or injury occurs) 56-5-1030(B)(1) Interference with traffic-control devices or railroad sign or signals 56-5-2780(B)(2) Unlawful passing a school bus when death results 56-5-2930 Driving under influence of liquor, drugs, or like substances unlawful (See Section 56-5-2940(4)) 56-5-2933 Driving with an unlawful alcohol concentration, fourth or subsequent offense 56-5-4975(B) Operation of unlicensed ambulance without removing exterior markings, sirens, etc., with intent to commit felony Fourth or subsequent offense 56-29-30(B) Unlawful to alter, counterfeit, deface, destroy, disguise, etc. a vehicle identification number 56-29-30(C)(1) Unlawful to buy, dispose, sell, transfer, or possess a motor vehicle or part with tampered identification number 56-29-30(D) Attempt to violate Motor Vehicle Chop Shop, Stolen, and Altered Property Act 56-29-30(E) Conspiracy to violate Motor Vehicle Chop Shop, Stolen, and Altered Property Act 57-1-40 Department of Transportation, bribery 58-7-60(B)(3) Unlawful appropriation of gas - third or subsequent offense 58-7-60(C)(1) Unlawful appropriation of gas that result in property damage in excess of \$5,000 or the risk of great bodily injury or death - third or subsequent offense 58-7-60(E)(3) Aiding, abetting, or assisting another person in withdrawing and appropriating gas - third or subsequent offense 58-7-70(B) Cheating and defrauding, or altering a meter to withdraw or take gas - third or subsequent offense 58-7-70(C)(3) Wrongful use of gas and interference with gas meters for profit - third or subsequent offense 58-7-70(D)(3) Wrongful use of gas and interference with gas meters for profit when violation results in property damage greater than \$5,000 or in risk of great bodily injury or death - third or subsequent offense 58-13-740 Violation of provisions concerning transportation of explosive compounds 58-15-820 Wilful obstruction of railroad or electric railway 58-15-875(D)(3) Unlawful conduct relating to railroad track material for recycling, third or subsequent offense 58-17-4100 Shooting or throwing missile at trains 59-150-260(A) Intentional making, altering, forging, uttering, passing, or counterfeiting a state lottery game ticket 59-150-260(B) Influencing or attempting to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials 59-150-270(A) Knowing or intentionally making a material false statement in an application for a license or proposal to conduct lottery activities or a material false entry in a book or record which is compiled or submitted to the lottery board 59-150-400(D) Conspiracy 63-13-1110(C) Sex offender unlawfully employed or volunteering at a location involving instruction, supervision, or care of minors

HISTORY: 1993 Act No. 184, Section 9; 1993 Act No. 163, Section 2; 1993 Act No. 164, Part II, Section 19B; 1993 Act No. 164, Part II, Section 70B; 1997 Act No. 136, Section 3; 1998 Act No. 372, Section 3; 1999 Act No. 56, Sections 2 to 4; 2010 Act No. 289, Sections 2, 3, eff June 11, 2010.

Code Commissioner's Note

The crime classification tables are added by the Code Commissioner pursuant to Section 2-13-66, and updated annually.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

SECTION 16-1-100.

Crimes classified as misdemeanors.

(A) The following offenses are Class A misdemeanors and the maximum terms established for a Class A misdemeanor, not more than three years, as set forth in Section 16-1-20(A), apply:

4-11-130 Disbursing officers may not exceed or transfer appropriations 4-17-70 Wilful injury to courthouse or jail 5-21-30 Municipal officers prohibited from contracting with municipality 5-21-40 Officers required to account to municipality for interest collected on deposits 7-5-325 Fraudulent change of address by elector for registration for voting purposes 7-13-1920 Tampering with voting machine 7-25-10 False swearing in applying for registration (election laws) 7-25-70 Procuring or offering to procure votes by threats 8-11-30 Payment or receipt of salary not due to state officers or employees 9-1-1160(A) Collection of members contribution, failure to make payroll reports and remittances (State Retirement System) 10-11-315 Defacing, destroying or attempting to deface or destroy a monument or flag on the capitol grounds 10-11-320 Carrying or discharging a firearm on the capitol grounds or in the capitol building 10-11-360 Violation of article concerning offenses on capitol grounds and in capitol building 11-1-20 Failure to account for interest on deposit of public funds 11-1-40 Contracts in excess of tax or appropriation,

diverting public funds 11-9-20 Disbursing officers exceeding or transferring appropriations 12-2-70 Neglect or misconduct of county auditor or treasurer 12-28-1500(F) An operator of a refinery, terminal, or bulk plant failure to provide an automated shipping document to a driver of a fuel transportation vehicle receiving taxable motor fuel 12-28-1545(B) Licensed importer failure to meet requirements regarding fuel which has not been dyed, nor tax paid or accrued by the supplier 12-28-1550(C) Failure to meet requirements for exporting fuel 12-28-1555(D) Operation of a motor vehicle with dyed fuel 12-28-1560(D) Knowingly engaging or knowingly aiding and abetting another person to engage in a motor fuel business without a license 12-28-1565(C) Fuel must meet ASTM standards 12-28-1570(C) False statement on shipping paper regarding liability for user fees 12-28-1585(C) Tampering with metering device 12-28-1585 12-28-1720(C) Truck drivers who violate certain shipping requirements for the second and subsequent times 12-28-1940(B) Refusing to allow certain inspections for the purpose of evading the payment of taxes 12-54-44(B)(6)(c)(i) Concealing goods on which tax imposed with intent to evade assessment or collection 12-54-44(B)(6)(c)(ii) Wilful failure to pay over money received from third party to discharge payor's tax liability 16-3-600(A) Assault and battery in the second degree 16-3-730 Publishing name of victim of criminal sexual conduct unlawful 16-3-1050(G) Threatening, intimidating, or attempting to intimidate a vulnerable adult subject to an investigation 16-3-1050(H) Obstructing or impeding an investigation pursuant to Chapter 35 of Title 43 16-3-1720(A) Harassment in the first degree 16-3-1720(B) Harassment in the first degree when a restraining order is in effect 16-3-1910(O) Violation of a permanent restraining order, if the underlying conviction that was the basis for the permanent restraining order was a misdemeanor 16-3-1920(N) Violation of an emergency restraining order, if the underlying conviction that was the basis for the emergency restraining order was a misdemeanor 16-3-2080(F) Disclosing information about a trafficking victim or certain shelters or unlawfully entering the grounds of certain shelters 16-5-40 Duty of officers to execute warrants 16-5-50 Penalty for hindering officers or rescuing prisoners 16-7-160(1) Illegal use of stink bombs or other devices containing foul or offensive odors 16-7-170 Entering public buildings for purpose of destroying records or other property 16-11-30 Possession of master keys and nonowner key sets while engaged in crime 16-11-140 Burning of crops and other kinds of personal property 16-11-523 Obtaining nonferrous metals unlawfully resulting in disruption of communication or electrical service to critical infrastructure 16-11-560 Burning, cutting untenanted or unfinished buildings 16-11-570 Injury or destruction of building or crops by tenant 16-11-770(B)(3) Committing illegal graffiti vandalism, third or subsequent offense 16-11-780 Entering certain lands to discover, uncover, move, remove, or attempt to remove an archaeological resource- second offense 16-11-920(A)(3) Operation of an audiovisual recording device in a motion picture theatre with intent to record, third offense 16-13-10 Forgery that does not involve a dollar amount 16-13-131(C)(1) Larceny against a merchant by offering a fraudulent product code on merchandise - first offense 16-13-135(E)(1) Retail theft - first offense 16-13-150 Purse snatching (not grand larceny or robbery) 16-13-180(B)(2) Receiving stolen goods (value over \$2,000 up to \$10,000) 16-13-380 Theft of electric current (second or subsequent offense) 16-13-385(B)(2) Tampering with a utility meter - second offense 16-13-385(C)(2) Tampering with a utility meter for profit - second offense 16-13-385(D)(2) Tampering with a utility meter that results in property damage in excess of \$5,000 or results in the risk of great bodily injury or death - second offense 16-13-470(B)(1) Defrauding a drug or alcohol screening test (first offense) 16-15-130 Indecent exposure 16-15-250 Communicating obscene messages (nontelephonic) 16-17-470(A) Eavesdropping or peeping 16-17-470(B)(1) Voyeurism (first offense) 16-17-490 Contributing to the delinquency of a minor 16-17-495(C) Returning a child under sixteen years of age within three days of a violation of a custody order or statute 16-17-505(3) Knowingly selling cigarettes in packages that violate federal law 16-17-506 Unlawful sale or distribution of e-liquid containers 16-17-650(A)(2) Engaging in cock fighting, game fowl or illegal game fowl testing, Second Offense 16-17-680 Presenting a falsified bill of sale for a coil to a secondary metals recycler 16-17-680(D)(6)(c) Unlawful purchase of nonferrous metals for the purpose of recycling nonferrous metals, third offense 16-17-680(E)(1)(b)(ii) Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, second offense 16-17-680(F)(4)(c) Secondary metals recycler possessing stolen nonferrous metal, third or subsequent offense 16-17-680(G)(4)(c) Possession or transportation of nonferrous metals in a vehicle, third or subsequent offense 16-17-680(I)(2)(d) Unlawful purchase or attempt to purchase a used, detached catalytic converter or any nonferrous part of a catalytic converter, first offense 16-17-680(I)(3)(e)(iii) Unlawful purchase of a used, detached catalytic converter or any nonferrous part of a catalytic converter by a secondary metals recycler, third or subsequent offense 16-17-735(D) Persons falsely asserting authority of law 16-17-770(A)(2) Impersonating a lawyer-Second offense 16-21-60(A) Use of vehicle without permission (intent to deprive) 16-23-20 Unlawful carrying of pistol, second offense (See Section 16-23-50(A)(2)(b)) 16-23-470 Illegal possession of teargas gun or ammunition for teargas gun 16-23-530 Knowingly selling or providing a gun to an illegal alien 16-25-30(B) Ship, transport, receive, or possess a firearm or ammunition, if the person has been convicted of a violation of Section 16-25-20(C) or (D), related to domestic violence 16-25-125(E) Unlawful entry upon the grounds of a domestic violence shelter 17-7-510 Burying body without notice or inquiry 22-9-140 Penalty for failing to execute process of magistrate's court 23-1-20 Peace officers may not be employed on contingent basis 23-3-535(D)(2) Sex offender's failure to vacate a residence that is within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground-Second offense 23-3-538(C)(2) Sex offender operating or employed by child-oriented business-Second offense 24-13-425(B) Unlawful removal, destruction, or circumventing of the operation of an electronic monitoring device 25-7-20 Obtaining or giving information respecting national or state defense 29-1-30 Wilful sale of property on which lien exists 35-1-508(a)(3) Violation of Title 35, Chapter 1 when an investor loses less than one thousand dollars, or if no losses are proven 35-11-725(C) Knowingly engaging in an activity for which a license is required by the South Carolina Anti-Money Laundering Act and receiving not more than \$500 compensation within a 30- day period from this activity 37-13-50 Regulation of subleasing and loan assumption of a motor vehicle 38-7-140 Failure to pay money due or to supply information required 38-13-140 Refusal to exhibit records, false statements (Insurance) 38-25-330 Violations of Chapter 25, Unauthorized Transaction of Insurance Business 38-38-720(2) Making a false statement or representation regarding a fraternal

benefit society if the amount of the economic benefit received is \$1,000 or more (first offense) 38-43-190 Fraud regarding payment of insurance premium 38-55-80 Loans to directors or officers (Insurance) 38-55-150 Accepting premiums or assessments in insolvent company (Insurance) 38-55-160 Insuring uninsurable persons with intent to defraud 38-55-173(B)(1) Vehicle glass repairer offering or making certain payments of \$1,000 or more 38-55-540(A)(2) Knowingly making false statement or misrepresentation resulting in economic advantage of between one and ten thousand dollars, first offense 38-59-50 Payment or settlement of benefits in merchandise or service prohibited (Insurance) 39-15-750 Destruction of brand or removal or transfer of timber 39-15-1190(B)(1)(a)(ii) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of more than \$2000 but less than \$10,000; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark 40-5-320 Practice of law by corporations and voluntary associations unlawful 40-5-350 Soliciting legal business unlawful 40-5-360 Splitting fees with laymen unlawful 40-54-80 Violations of chapter concerning dealers in precious metals-Third or subsequent offenses 43-5-40 Unlawful publication or other use of records 43-7-60 False claim, statement, or representation by a medical provider 43-7-70 False statement of representation on an application for public assistance 43-7-80(B) Provider required to keep separate accounts and records 43-33-40 Unlawful interference with rights of blind or other physically disabled person 43-35-85(G) Threatening, intimidating, or attempting to intimidate a vulnerable adult subject to an investigation 43-35-85(H) Obstructing an investigation pursuant to the Omnibus Adult Protection Act 44-31-360 Violation of article concerning tuberculosis prisoners and inmates of institutions 44-37-30 Offenses related to neonatal testing 44-41-36(A) Performing an abortion on an unemancipated minor 44-41-350 Performing an abortion without satisfying "A Woman's Right to Know" provision, third or subsequent offense 44-41-470 Physician intentionally or knowingly performing an illegal abortion 44-53-370(b)(3) Prohibited Acts A, penalties (Schedule IV drugs except for flunitrazepam) First offense 44-53-370(d)(3) Possession of cocaine, first offense 44-53-375(A) Possession of less than one gram of methamphetamine or cocaine base 44-53-398(H)(3) Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, Second Offense 44-79-120 Violation of chapter concerning Physical Fitness Services Act 45-9-90 Equal enjoyment and privileges to public accommodations 46-17-460 Violation of chapter concerning agricultural commodities marketing 46-19-270 Displaying sign showing Department of Agriculture approval prior to approval 46-25-80 Violations of chapter concerning fertilizer law 46-41-30(1) Unlawful to engage in business as dealer without license, penalties for violation (agricultural products)-First offense 46-55-60 Manufacturing, distributing, dispensing, delivering, purchasing, etc., of marijuana on property used for industrial hemp production 47-3-630 Torturing, mutilating, injuring, disabling, poisoning, or killing a police dog or horse. 47-3-760(B)(1) Penalty for owner of dangerous animal which attacks and injures a human-First offense 47-3-960 Injuring, disabling or killing guide dog 47-17-100(A) Violation of a Meat and Meat Food Regulations Inspection Law, with intent to defraud 47-19-120(C)(1) Interference with person performing official duties under chapter on poultry inspection 47-21-80(A) Penalty for violation of Farm Animal and Research Facilities Protection Act 47-21-250(A) Penalty for crop operation violations 48-27-250 Violation of chapter concerning registration of foresters 48-49-60(a) Violations of chapter concerning SC Mountain Ridge Protection Act 50-1-85(4) Negligent use of firearms or archery tackle when death results. 50-11-100(B) Construction of a fence which impedes the free range of deer 50-13-1460 Use of explosives to take fish 50-13-1470 Failure to report use of explosives to take fish 50-21-112(B)(3) Operating a water device while under the influence of alcohol (third offense) 50-21-117(B)(3) Operation of a water device while this privilege is suspended for operation under the influence of alcohol, third or subsequent offense 54-1-40 Criminal liability for unskillful or negligent management of steamboat 55-3-130 Discharging a laser at an aircraft, second offense 56-1-460 Driving while license canceled, suspended, or revoked-Third and subsequent offense 56-5-750(B)(1) Failure to stop for a law enforcement vehicle-First offense (no death or injury occurs) 56-5-2930 Unlawful for persons to drive under influence of liquor, drugs, or like substances (See Section 56-5-2940(3))-Third offense 56-5-2933 Driving with an unlawful alcohol concentration, third offense 56-5-2941(K)(1)(b) Unlawful operation of a vehicle equipped with an ignition interlock device, second offense 57-7-20(C) Putting a foreign substance on a highway with malice and personal injury results 58-7-60(B)(2) Unlawful appropriation of gas - second offense 58-7-60(C)(2) Unlawful appropriation of gas that results in property damage in excess of \$5,000 or the risk of great bodily injury or death - second offense 58-7-60(E)(2) Aiding, abetting, or assisting another person in withdrawing and appropriating gas - second offense 58-7-70(B) Cheating and defrauding, or altering a meter to withdraw or take gas - second offense 58-7-70(C)(2) Wrongful use of gas and interference with gas meters for profit - second offense 58-7-70(D)(2) Wrongful use of gas and interference with gas meters for profit when violation results in property damage greater than \$5,000 or in risk of great bodily injury or death - second offense 58-15-875(D)(2) Unlawful conduct relating to railroad track material for recycling, second offense 58-17-4040 Gross carelessness or negligence in the operation of a train 58-23-920 Insurance required of owners of motor vehicles transporting goods for hire Second and subsequent offenses 59-25-250(A) Revocation or suspension of certificate, powers and duties of Court of Common Pleas, warrant for production of witnesses 59-41-80 Violation of chapter concerning grants to private school pupils 59-63-450 No child may be counted in enrollment more than once 59-102-150 Prohibited acts by athlete agents 61-4-170 Sale of a beverage containing alcohol which resembles a vegetable, or fruit or soft drink 61-6-4180 Possession of a firearm while unlawfully manufacturing, transporting, or selling alcoholic liquors

(B) The following offenses are Class B misdemeanors and the maximum terms established for a Class B misdemeanor, not more than two years, as set forth in Section 16-1-20(A), apply:

12-21-2540 Use of altered or counterfeit tickets or reuse of tickets 12-21-2714 Use of slug or any false coin to operate automatic vending machine or other machine requiring coin for operation 12-21-3070 Improper use, alteration or reuse of stamps and for failure to pay tax, make any report on, or submit required information 14-7-380 Jury commissioners guilty of fraud 16-3-410 Sending or accepting challenge to fight (with a deadly weapon) 16-3-420 Carrying or delivering challenge, serving as second

16-5-130(2), (3) Instigating, aiding, or participating in riot 16-8-240(A) Committing or threatening acts of violence with the intent to coerce, induce, or solicit another person to participate in gang activity, first offense 16-9-410(C)(2) Aiding escapes from prison, for prisoners charged with noncapital offenses 16-9-420 Aiding escape from custody of officers 16-11-580(C)(1) Forest products violation (value more than \$1,000 but less than \$5,000) 16-11-910 and 16-11-915 Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(C)) 16-11-920(A)(2) Operation of an audiovisual recording device in a motion picture theatre with intent to record, second offense 16-11-930 Illegal distribution of recordings without name and address of manufacturer and designation of featured artist (See Section 16-11-940(B)) 16-13-65 Selling aquaculture products or damaging facilities valued at greater than \$100 (third or subsequent offense) 16-13-437 False statement or representation about income to a public housing agency 16-16-20(3)(c) Computer crime-second degree-Second or subsequent offense 16-16-20(4) Computer Crime Act-third degree-Second or subsequent offense 16-17-10 Barratry 16-17-510 Enticing enrolled child from attendance in public or private school 16-17-560 Assault or intimidation on account of political opinions or exercise of civil rights 16-17-610 Soliciting emigrants without licenses 16-23-465 Additional penalty for unlawfully carrying pistol or firearm onto premises of business selling alcoholic liquors, beers or wines for on-premises consumption 23-17-110 Purchases by sheriff or deputy at sheriff's sale 23-31-370 False statement to obtain special license 23-31-400(C) Use of a firearm while under the influence of alcohol or a controlled substance 23-35-130 Manufacture, storage, transportation, or possession of certain fireworks illegal 23-41-60 Violation of arson reporting immunity act 25-1-150 Unauthorized wearing of military insignia 25-1-2180 Assault upon military personnel 25-7-60 Conspiracy (treason or sabotage during war) 25-7-80 Concealing or harboring violator of chapter on treason; sabotage 27-29-150 Violating provisions of Uniform Land Sales Practice Act 30-15-50 Forgery of discharge (veterans) 32-1-290 Making or assisting in making contracts when actual delivery not contemplated, or operating bucket shop 34-11-90(b) Drawing and uttering fraudulent check \$5,000 or less, first offense 34-39-240 Wilful violation of section, requiring license for engaging in business of deferred presentment service 34-41-120 Wilful violation of section, requiring license for engaging in business of either Level I or Level II check-cashing service 38-2-20 Penalty for a person convicted of a misdemeanor contained in Title 38 38-2-30 Acting without license required by Title 38 on insurance 38-21-340 Criminal prosecutions (Insurance Holding Company Regulatory Act) 38-43-160 Unlawfully representing an unlicensed insurer 38-43-240 Other offenses by insurance agent 38-45-150 Insurance Broker Chapter Violation 38-47-60 Adjuster acting for unauthorized company (See Section 38-2-20) 38-48-130 Unlawful practices for public insurance adjusters 38-51-20 Acting as an administrator of an insurance benefit plan without a license 38-55-60 Discrimination in the conduct of an insurance business 38-55-340 Connection of Undertakers with certain insurers article violation 38-63-10 Circulation of false or misleading information by an agent or officer of a life insurer 38-73-80 Withholding or giving false information to the Insurance Commissioner regarding surety rates 38-77-1160 Motor Vehicle Theft and Motor Vehicle Insurance Fraud Reporting-Immunity Act violation 39-23-80(B)(1) Prohibited acts (concerning adulterated, misbranded, or new drugs and devices)-First offense 39-25-50(a) Penalties, effect of guaranty from supplier or article, liability of advertising media-Second or subsequent offense 39-33-1320 Violation concerning butterfat content and weight of milk-Second and subsequent offenses 40-15-212 Unlawful practice or aiding or abetting in the unlawful practice of dentistry, dental hygiene, or dental technological work 40-29-180 Violation of chapter concerning manufactured housing 40-37-200(A) Practicing optometry unlawfully 40-43-86(E) Possessing, dispensing, or distributing drugs, or devices without a prescription from a licensed practitioner 40-59-200 Violation of residential builders licensing provisions 40-81-200 Violations of Chapter 40, State Athletic Commission 40-81-480 Events involving combative sports or weapons violation 44-53-40(B) Obtaining certain drugs, devices, preparations, or compounds by fraud, deceit, or the like-First offense 44-53-370(b)(4) Prohibited Acts A, penalties (possession of Schedule V drugs)-Second and subsequent offenses 44-53-370(d)(1) Prohibited Acts A, penalties (possession of controlled substances in Schedules I (b), (c), II, and LSD)-First offense 44-53-395 Prohibited acts, penalties (prescription drugs)-First offense 44-53-1680(A) Knowingly failing to submit prescription monitoring information to the bureau of drug control 44-56-130 Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140)-Second or subsequent offense 44-55-1360 Worker, sewage and waste water disposal violation 44-93-150(C) Infectious Waste Management Act violation (second offense or subsequent offense) 44-96-100(B) Wilful violation of solid waste regulations, second or subsequent offenses 44-96-450(B) Wilful violation of Solid Waste Act Second or subsequent offenses 46-33-60 Penalty on out-of-state shippers 47-1-40(A) Cruelty to animals-Third or subsequent offense 47-1-50 Cruelty to animals in one's possession 48-1-90 Causing or permitting pollution of environment prohibited (See Section 48-1-320) 48-1-320 Violation (Pollution Control Act) 48-1-340 False statement, representations or certifications, falsifying, tampering with or rendering inaccurate monitoring devices or methods 48-23-265(C)(1) Forest products violation first offense (value at least \$5,000) 48-27-230 Endorsement of documents by registrants, illegal endorsements 48-43-550(f) Regulations as to removal of discharges of pollutants 49-1-20 Permitting logs and the like to obstruct or interfere with navigation of rivers or harbors 50-1-85(3) Use of a firearm or archery tackle while hunting or returning from hunting, in a criminally negligent manner when bodily injury results 50-11-96 Introducing a fertility control agent or chemical substance into any wildlife without a permit 50-11-430 Illegal taking of bears and bear parts 50-11-2640(B) Bringing into State or importing live coyote or fox without permit-Second offense 50-13-1440 Using explosives to take fish unlawful-Third offense 51-3-150 Trespass upon state park property 56-1-2070 Driving commercial motor vehicle in violation of an out-of-service order, first violation 56-5-5030 Devices to emit smoke screen, noisome gases, or odors prohibited 56-14-30(D)(3) Unlicensed recreational vehicle dealer-Third or subsequent offense 56-15-310(B)(3) Dealer wholesaler license violation (third or subsequent offense) 56-16-140(B)(3) Failure to secure a license as a motorcycle dealer or wholesaler 58-13-10 Opening or injuring package, parcel, or baggage by employee of carrier unlawful 58-15-840 Taking or removing brasses, bearings, waste, or packing from railroad cars 58-15-860 Injuring or destroying electric signals or other structures or mechanisms 58-23-1640(K) Using a Transportation Network

Company trade dress or ridesharing application in furtherance of a crime 61-6-4010(B)(3) Unlawful manufacture, possession or sale of alcoholic liquors-Third or subsequent offense 61-6-4025(c) Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft-Third or subsequent offense 61-6-4030(c) Transportation of alcoholic liquors in a taxi or other vehicle for hire-Third or subsequent offense 61-6-4040(c) Rendering aid in unlawful transportation of alcoholic liquors-Third or subsequent offense 61-6-4060(B)(3) Unlawful storage of alcoholic liquor in a place of business-Third or subsequent offense 61-6-4100(c) Manufacture, sale, or possession of unlawful distillery-Third or subsequent offense 61-6-4110(c) Knowingly permitting or allowing a person to locate an unlawful distillery on a premise-Third or subsequent offense 61-6-4120(c) Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors-Third or subsequent offense 61-6-4130(c) Present at a place where alcoholic liquors are unlawfully manufactured-Third or subsequent offense 61-6-4150(c) Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft-Third or subsequent offense 61-6-4155(B)(3) Use, offer for use, purchase, offer for purchase, sell, offer to sell, or possession of an alcohol without liquid device-Third and subsequent offense 61-6-4157(B)(1)(c) Unlawful use, offer for use, purchase, sale, or possession of powdered alcohol, and the unlawful use of powered alcohol as an alcoholic beverage by a holder of a license for consumption of alcohol 61-6-4160(c) Unlawful sale of alcoholic liquors on Sundays, election days, and other day-Third or subsequent offense 61-6-4170(B)(3) Advertisement of alcoholic liquors from billboards-Third or subsequent offense 63-9-2050 Submitting false claim for benefits

(C) The following offenses are Class C misdemeanors and the maximum terms established for a Class C misdemeanor, not more than one year, as set forth in Section 16-1-20(A), apply:

1-6-100 Unlawful disclosure of confidential information 1-7-400 Circuit solicitors disabled by intoxicants 2-15-120 Confidentiality of records (Legislative Audit Council) penalty for violations 2-17-50 Failure to file requirement statement with State Ethics Commission, third or subsequent offense 2-17-130 Penalties for violations of lobbyist chapter 2-17-140 Penalties for filing groundless complaint 5-21-500 Diverting municipal funds allocated to bond payments for other purposes 6-1-120(C) Disclosure of taxpayer information 7-25-100 Allowing ballot to be seen, removing ballot from voting place, improper assistance 7-25-200 Unlawful to pay a candidate to file or withdraw from candidacy 8-1-30 Knowingly allowing false claims by witnesses or jurors of mileage traveled 8-1-80 Misconduct in office, habitual negligence, and the like 8-9-10 Delivery by officer of books and papers to successor (public officers/employees) 8-9-30 Delivery by officer of monies on hand to successor 8-13-320(9)(c) Penalty for wilful filing of groundless complaint with Ethics Commission 8-13-320(10)(g) Penalty for wilful release of confidential information relating to ethics investigation 8-13-540(B)(2)(d) Wilfully filing a groundless ethics complaint 8-13-1510 Failure to file reports, Ethics, Government Accountability, and Campaign Reform, third or subsequent offense 8-13-1520 Penalty for violation of ethics chapter 9-1-40 Penalties for making false statement or record (South Carolina Retirement System) 9-8-220 Penalty for false statements or falsification of records (Judges' and Solicitors' Retirement System) 9-9-210 False statements and falsification of records (General Assembly Retirement System) 9-11-320 False statements and falsification of records (Police Officers' Retirement System) 10-9-260 Interfering with state, board or licensees, mining without license 11-15-90 Failure to make payment or remit funds for payment of obligations 11-15-290 Public officer failure to make investments in accordance with article 11-48-30(C)(3) Sale or possession of cigarettes of a manufacturer not included in the state directory 11-48-100 Knowingly violating tobacco regulations 12-21-2710 Unlawful possession or operation of gaming devices 12-21-2830 Record required of gross receipts, record subject to inspection, violations 12-24-70(B) Submitting false information on an affidavit accompanied by a deed 12-28-2345 Unlawful alteration of petroleum products shipping information 12-51-96 Conditions of redemption, taxation 12-54-44(B)(3) Wilful failure to pay estimated tax or keep required records 12-54-44(B)(4) Wilful furnishing of false statement required for tax purposes 12-54-44(B)(5) Wilfully providing employer with false information which decreases tax withheld 12-54-44(B)(6)(c)(iii) Wilful delivery to tax department of fraudulent document 12-54-240 Disclosure of records of and reports and returns filed with the Department of Revenue by employees and agents of the department and the State Auditor's Office prohibited 13-7-80 Violation of provisions concerning nuclear energy 14-7-1720 Penalty for disclosing State Grand Jury information 14-17-580 Clerk is responsible for books, papers, and other property 14-23-680 Judge responsible for books, papers, and property of office 16-1-55 Accessory after the fact to a Class B Misdemeanor 16-3-210 Assault and battery by mob in the third degree 16-3-530 Penalties, hazing 16-3-610 Assault with concealed weapon 16-3-1050(A) Failure to report abuse, neglect, or exploitation of a vulnerable adult 16-3-1340 Victim compensation fund, soliciting employment to pursue claim or award 16-3-1710(B) Harassment in the second degree 16-3-1720(D) Harassment first degree with use of licensing or registration information 16-3-2090(D) Use of property or conveyance subject to forfeiture 16-7-110 Wearing masks and the like (See Section 16-7-140) 16-7-120 Placing burning or flaming cross in public place (See Section 16-7-140) 16-7-150 Slander and libel 16-9-260 Corruption of jurors, arbitrators, umpires, or referees 16-9-270 Acceptance of bribes by jurors, arbitrators, umpires, or referees 16-9-320(A) Opposing or resisting law enforcement officer serving process 16-9-370(a) Taking money or reward to compound or conceal offense 16-11-150(a) Burning lands of another without consent-First offense 16-11-180 Negligently allowing fire to spread to lands or property of another-Second or subsequent offense 16-11-700(F) Littering (exceeding 500 lbs. or 100 cu. ft. in volume) 16-11-730 Malicious injury to or interference with microwave, radio, or television facilities; unauthorized use of such facilities 16-11-750 Unlawful injury or interference with electric lines 16-11-770(B)(2) Committing illegal graffiti vandalism, second offense 16-11-820 Theft of cable television service unlawful use without payment (See Section 16-11-855)-Second and subsequent offense 16-11-825 Theft of cable television, unauthorized connection or use of device to cable television system (See Section 16-11-855)-Second and subsequent offenses 16-11-830 Theft of cable television service, aid, abet, or attempt (See Section 16-11-855)-Second and subsequent offenses 16-11-835 Advertisement or sale of instrument designed to avoid payment for cable services (See Section 16-11-855)-Second and subsequent offenses 16-11-840 Unauthorized device to decode or descramble cable television signal (See Section 16-11-855)-Second and subsequent offenses

16-11-845 Use, sale, or installation of a converter or similar device for unauthorized reception of cable signals (See Section 16-11-855)-Second and subsequent offenses 16-11-855 Violation of Article 8, Theft of Cable Television Service 16-11-910 Transfer of recorded sounds for unauthorized use or sale (See Section 16-11-920(E)) 16-11-915 Unauthorized sale of article containing live performances (See Section 16-11-920(E)) 16-11-920(A)(1) Operation of an audiovisual recording device in a motion picture theatre with intent to record, first offense 16-11-930 Illegal distribution of recordings without name and address of manufacturer and designation of feature artist (See Section 16-11-940(D)) 16-13-15 Falsifying or altering transcript or diploma, fraudulent use of falsified or altered transcript or diploma penalty 16-13-65 Stealing aquaculture products or damaging aquaculture facilities - First and second offense 16-13-165(B)(1)(a) Knowingly and intentionally installing or reinstalling a counterfeit or nonfunctional airbag-1st offense 16-13-300 Fraudulent removal or secreting of personal property attached or levied on 16-13-385(C)(1) Tampering with a utility meter for profit - first offense 16-13-385(D)(1) Tampering with a utility meter that results in property damage in excess of \$5,000 or results in the risk of great bodily injury or death - first offense 16-13-400 Avoiding or attempting to avoid payment of telecommunications 16-13-410(1) Making or possessing device, plans or instruction which can be used to violate Section 16-3-400 16-14-60 Financial transaction card fraud 16-14-60(a) Financial transaction card fraud-value of things of value does not exceed five hundred dollars in any six-month period 16-14-60(a)(2)(d) Financial transaction card fraud-using financial transaction card to exceed certain balances or authorized lines of credit 16-14-60(b) Financial transaction card fraud by a person authorized to furnish anything of value upon presentation of a financial transaction card if the value does not exceed five hundred dollars in a six-month period 16-14-60(c) Financial transaction card fraud-filing of false application to an issuer of a financial transaction card 16-14-60(d) Financial transaction card fraud-filing of false notice or report of theft 16-14-80 Criminally receiving goods and services fraudulently obtained 16-15-50 Seduction under promise of marriage 16-15-60 Adultery or fornication 16-15-90 Prostitution (See Section 16-15-110(3))-Third or subsequent offenses 16-15-100 Prostitution; further acts (See Section 16-15-110(3))-Third or subsequent offenses 16-15-315 Condition on certain sales for resale or on franchising rights that obscene material be received for resale prohibited 16-15-325 Participation in preparation of obscene material prohibited 16-16-20(3)(c) Computer crime-second degree-First offense 16-17-310 Imitation of organizations' names, emblems, and the like 16-17-420(C) Unlawful school disturbances by nonstudents 16-17-500(3) Providing tobacco products to a minor 16-17-520 Disturbance of religious worship 16-17-540 Bribery with respect to agents, servants, or employees 16-17-650(A)(1) Engaging in cockfighting, game fowl or illegal game fowl fighting testing, First Offense 16-17-680(D)(6)(b) Unlawful purchase of nonferrous metals for the purpose of recycling nonferrous metals, second offense 16-17-680(E)(1)(b)(i) Unlawful sale of nonferrous metals in any amount to a secondary metals recycler, first offense 16-17-680(F)(4)(b) Secondary metals recycler possessing stolen nonferrous metal, second offense 16-17-680(G)(4)(b) Possession or transportation of nonferrous metals in a vehicle, second offense 16-17-680(I)(3)(e)(ii) Unlawful purchase of a used, detached catalytic converter or any nonferrous part of a catalytic converter by a secondary metals recycler, second offense 16-17-700 Tattooing 16-17-720 Impersonating law enforcement officer 16-17-735 Impersonation of state or local official or employee or law enforcement officer or asserting authority of state law in connection with a sham legal process 16-17-760 Falsely representing oneself as being the recipient of certain military awards 16-17-770(A)(1) Impersonating a lawyer-First offense 16-19-10 Setting up lotteries 16-19-40 Unlawful games and betting 16-21-60(B) Use of vehicle without permission (Temporary purpose only) 16-21-70 Use of bicycle or other vehicle without permission, but without intent to steal 16-23-20 Unlawful carrying of pistol, first offense (See Section 16-23-50(A)(2)(a)) 16-23-450 Placing loaded trap gun, spring gun, or like device 16-23-730 Manufacturing, possessing, transporting, distributing, using, aiding, counseling, or conspiring in the use of a hoax device or replica of a destructive device or detonator that causes a person to believe that the hoax device or replica is a destructive device or detonator 16-25-20(C) Domestic violence in the second degree 16-27-40 Penalty (Animal Fighting or Baiting Act)-Second offense 17-15-90(2) Wilful failure to appear before a court when released in connection with a charge for a misdemeanor 17-22-170 Unlawful retention or release of information regarding participation in intervention program 17-28-350 Willful and malicious destruction of physical evidence or biological material. Second and subsequent offense 17-29-20 Installation of pen register or tap and trace device 17-30-50(B)(1) Interception of wire, electronic or oral communications-First offense 20-3-210 Unlawful advertising for purpose of procuring divorce (See Section 20-3-220) 22-9-170 Oppression in office or other misconduct, punishment 23-3-475(B)(2) Providing false information when registering as a sex offender-Second offense 23-17-40 Liability of sheriff for official misconduct for remaining in contempt after attachment 23-19-130 Penalties for failure to pay over monies (by sheriff) 23-31-215(M) Carrying a concealed weapon into a prohibited environment 23-35-150(3) Violation concerning fireworks and explosives-Third and subsequent offenses 23-37-50 Violations concerning safety glazing materials 23-39-40 Prohibited acts (Hazardous Waste Management Act)-Second and subsequent offenses (See Section 23-39-50(a)) 23-50-50(B) Divulging privileged communication, protected information, or a protected identity 24-3-410 Sale of prison-made products on open market generally prohibited 24-3-420 Violations of article governing prison industries other than Section 24-3-410 24-3-980(B)(1) Unlawful possession of telecommunication device by inmate, first offense 24-5-90 Discrimination in treatment of prisoners unlawful 24-27-300 Frivolous complaints or appeals filed by a prisoner 25-1-440(c)(1) Fraudulent or wilful misstatement of fact in application for financial federal disaster assistance 25-1-1420 Unlawful purchase or receipt of military property 25-1-3067 Conduct that prejudices the good order and discipline in military forces or brings discredit upon military forces 25-15-20 Improper use of Confederate Crosses of Honor 26-2-150(B) Knowingly impersonating an electronic notary public; soliciting, coercing, or influencing an electronic notary public to commit official misconduct 27-18-350(D) Refusal to deliver property under Uniform Unclaimed Property Act 30-2-50 Use of personal information from a public body for commercial solicitation 33-56-140 Illegal charitable organization of professional solicitations 33-56-145(A) Defrauding a charity (first offense) 33-56-145(B) Giving false information with respect to registering a charity (first offense) 33-57-170(A) Person or organization that unlawfully conducts a

nonprofit raffle - first offense 33-57-170(B) Person or organization that violates a provision of Title 33, Chapter 57 with the intent to deceive or defraud an individual or nonprofit organization - first offense 33-57-170(C) Person or organization that gives false or misleading information in a registration or report under Title 33, Chapter 57 34-1-120 Penalties for obstructing commissioner of banking 34-3-70 False statements concerning solvency of bank 34-3-90 Penalties (violation of Sections 34-1-60, 34-3-310, 34-3-320, 34-5-10 to 34-5-80 and 34-5-100 to 34-5-150 regarding banks and banking generally) 34-11-30 Receipt of deposits or trusts after knowledge of insolvency (banks and banking generally) 34-11-60 Drawing and uttering fraudulent check, draft, or other written order or stopping payment on check, draft, or order with intent to defraud (more than \$200)-First offense 34-19-110 Use of words "safe deposit" or "safety deposit" 34-25-90(b) Wilfully entering false statements in bank records by an officer, director, agent, or employee of a bank holding company or a subsidiary of it 34-28-390 Penalties and remedies (violations concerning savings and loan acquisition and holding companies) 34-28-740 False statement affecting credit or standing of savings association 34-36-70 Violation of a provision that regulates loan brokers 37-5-301(a),(b) Wilful violations (Consumer Protection Code) 37-5-302 Disclosure violations (Consumer Protection Code) 37-5-303 Fraudulent use of cards (Consumer Protection Code) 37-11-120 Violation of a provision concerning the licensing and regulation of Continuing Care Retirement Communities 38-13-200 Penalty for refusing to be examined under oath (Insurance) 38-27-80(d) Cooperation of officers, owners, and employees (violation) (Insurance) 38-49-40 Violation of a provision that regulates Motor Vehicle Physical Damage Appraisers 39-9-200 Misuse of commercial weights and measures (See Section 39-9-208(A)) 39-11-170 Violation of a provision that regulates weighmasters (second or subsequent offense) 39-15-460 Unauthorized alteration, change, removal, or obliteration of registered mark or brand (labels and trademarks) 39-15-470 Purchase or receipt of containers marked or branded from other than registered owner 39-15-480 Unauthorized possession of marked or branded containers (trade and commerce) 39-15-490 Effect of refusal to deliver containers to lawful owner (trade and commerce) 39-15-500 Taking or sending containers out of State without consent of owner 39-15-1190 Intentional use of counterfeit mark or trafficking in goods carrying the mark 39-15-1190(B)(1)(a)(i) Transferring, distributing, selling, or otherwise disposing of an item having a counterfeit mark on it, with goods or services having a value of \$2000 or less; using any object, tool, machine, or other device to produce or reproduce a counterfeit mark 39-17-340 Penalties (violation of article concerning grading of watermelons) 39-19-60 Penalty for disposal of stored cotton without consent of owner 39-22-90(A)(5)-(7) Prohibited acts. State Warehouse System (See Section 39-22-90(B)) 39-41-570 Penalties (violation of article concerning deception in sale of liquid fuels, lubricating oils and greases) 39-75-50 Selling, offering for sale, or delivering for introduction into this State nonconforming regrooved tires 40-1-200 Penalty for unlawful practice of a profession or submitting false information to obtain a license to practice a profession 40-2-200 Certified Public Accountants and Public Accountants regulations violations 40-3-200 Engaging in practice of architecture in violation of chapter or knowingly submitting false information for purpose of obtaining license 40-6-200 Penalties (violation of chapter concerning auctioneers)-Second offense 40-7-200 Practicing barbering unlawfully or submitting false information to obtain barbering license 40-8-110(K) Failure to make required contribution to care and maintenance trust fund or a merchandise account fund 40-8-190 Submitting false information to procure cemetery operator's license 40-10-200 Violation of First Protection Sprinkler Act 40-11-200 Illegal practice as licensed contractor 40-18-150 Penalties (violation of chapter concerning detective and private security agencies) 40-23-200 Practice as environmental systems operator in violation of Title 40, Chapter 23 40-31-20 Penalties (violation of chapter concerning naturopathy) 40-33-200 Unauthorized practice of nursing 40-35-200(C) Administering a nursing home, residential care facility or habilitation center without a license 40-36-200 Knowingly submitting false information to obtain license to practice as occupational therapist or as occupational therapy assistant 40-38-200 Violation of chapter regulating Opticians 40-41-60 License required for erection of lightning rods 40-41-220 Encamping and trading in animals or commodities by nomadic individuals without license unlawful 40-43-140 Unlawful use of titles, declarations, and signs-unlawful dispensing, compounding, and sale of drugs (pharmacists) 40-47-112 Attending to a patient while under the influence of drugs or alcohol 40-47-200 Submitting false information for purpose of obtaining a license to practice medicine 40-51-220 Penalties (violation of chapter on podiatry) 40-54-80 Violations of chapter concerning dealers in precious metals Second offense 40-55-170 Unauthorized practice of psychology 40-56-200 State Board of Pyrotechnic Safety violations 40-63-200 Practice as social worker in violation of Title 40, Chapter 63 40-68-150(B) Staff Leasing Services violation 40-79-200(A) Penalty (violation of South Carolina Regulation of Burglar Alarm System Businesses Act) 40-82-200 Failure to obtain a license to engage in liquified petroleum gas activities 41-1-60 Certain transactions between carriers or shippers and labor organizations prohibited, penalties 41-15-320(e) Penalties (wilfully violating safety or health rule or regulation)-Subsequent offense 41-25-30 Private personnel placement services applications and licensing (violations) (See Section 41-25-90) 41-25-40 Private personnel placement services; duties of licensees (See Section 41-25-90) 41-25-50 Prohibited activities or conduct of personnel agencies (See Section 41-25-90) 41-25-60 Advertisements in South Carolina of firms located outside its jurisdiction (See Section 41-25-90) 41-25-70 Prohibited activities or conduct of employers or person seeking employment (private personnel agencies) (See Section 41-25-90) 41-25-80 Confidentiality of record and files (private personnel agencies) (See Section 41-25-90) 42-9-360 Receiving fees, consideration, or gratuity for services not approved by the commission or the court 42-15-90 Receipt of fees, other consideration, or a gratuity not approved by the Worker's Compensation Commission 43-5-25 Wilful use of payment for purpose not in best interest of child, protective payee 43-5-950 Violations of article concerning women, infants, and children supplemental food program 43-35-85(A) Failure to report abuse, neglect, or exploitation of a vulnerable adult 44-2-140 Underground Petroleum Response Bank Act violation 44-6-180(B) Medically Indigent Assistance Act confidentiality violation 44-6-200 Falsification of information regarding eligibility for Medically Indigent Assistance Program 44-17-860 Unlawful taking of person from mental health facility without permission 44-22-100(C) Unlawful to disclose records of mental health patient or former patient 44-22-220(C) Unlawful to wilfully deny a patient his rights afforded him under chapter 44-23-240 Unwarranted confinement of an

individual 44-23-1150(D) Submitting inaccurate or untruthful information concerning sexual misconduct 44-24-210 Unlawful without prior authorization to take child from grounds of inpatient facility 44-26-210 Denial of rights to a client with intellectual disability 44-32-120(F) Unlawful body piercing 44-34-100(F) Tattooing violation 44-41-31(C) False representation on an affidavit for abortion 44-41-460(D) Falsifying a form required to report an abortion 44-43-580 Traffic in dead bodies 44-53-50(E) Sale of cleaning agents containing phosphates prohibited 44-53-370(b)(4) Prohibited Acts A, penalties (manufacture or possession of Schedule V drugs with intent to distribute)-First offense 44-53-370(d)(2) Prohibited Acts A, penalties (possession of other controlled substances in Schedules I through V)-Second and subsequent offense 44-53-398(H)(3) Purchasing a product containing ephedrine or pseudoephedrine from any person other than a manufacturer or registered wholesale distributor, First Offense 44-53-445(D)(2) Purchase of controlled substance within proximity of school 44-53-590 Penalty for use of property in manner which makes it subject to forfeiture (as provided in Sections 44-53-520 and 44-53-530) 44-53-1530(2)(b) Possession of anabolic steroids, ten or fewer doses (second or subsequent offense) 44-53-1530(3)(a) Possession of anabolic steroids, 11 to 99 doses (first offense) 44-55-80 Unlawful acts (violation of State Safe Water Drinking Act) (See Section 44-55-90(a)) 44-56-130 Unlawful acts (Hazardous Waste Management Act) (See Section 44-56-140C.)-First offense 44-56-490(C) Wilfully violating a provision of the Drycleaning Facility Restoration Trust Fund provisions 44-63-161(C) Willful violation of regulation or order relative to recording, reporting, or filing information with Bureau of Vital Statistics 44-93-150(C) Infectious Waste Management Act violation (first offense) 44-96-100(B) Wilful violation of solid waste regulations, first offense 44-96-450(B) Wilful violation of Solid Waste Act-First offense 45-9-85 Violation of confidentiality of Section 45-9-60 (Equal enjoyment and privileges to public accommodations, complaints, hearings, etc.) 46-1-50 Firing turpentine farms 46-1-75 Maliciously damaging farm product, research facility or equipment valued at less than \$500 46-10-100 Penalties (violation of article concerning boll weevil eradication) 46-23-80 Penalty (violation of South Carolina Noxious Weed Act) 46-41-170(A) Penalty (violation of chapter concerning dealers and handlers of agriculture products) Second or subsequent offense 46-50-30, section 15 Disclosure of confidential information relating to Southern Interstate Dairy Compact 46-50-60 Violation of Southern Interstate Dairy Compact 47-1-40(A) Cruelty to animals, second or subsequent offense 47-9-10 Marking, branding, or disfiguring large animals of another-Second or subsequent offense 47-9-30 Use of horse, mare, or mule without permission 47-9-410 Violations (article concerning livestock generally) 47-17-60 Prohibited acts (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a)) 47-17-70 Slaughtering or processing except in compliance with article prohibited (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a)) 47-17-80 Records (meat and meat food, Regulations and Inspection Law) (See Section 47-17-100(a)) 47-17-530 Misrepresenting a product as meat that is cell-cultured meat or protein 47-21-80(B) Penalty for violation of Farm Animal and Research Facilities Protection Act (violation of Section 47-21-60) 47-21-250(B) Unlawful entry into or remaining unlawfully in a crop operation 48-39-170(A) Penalties (violation of chapter concerning coastal tidelands and wetlands)-Second or subsequent offense 48-60-142(I) Violation of regulations related to recovering certain electronic devices 50-1-125(2), (3), and (4) Trafficking in wildlife 50-1-136 Penalties for conspiracy (violation of provisions of Title 50 relating to fish, game, and watercraft) 50-5-1535 Unlawful taking, possessing, buying, selling, or shipping of short nose sturgeon 50-5-2305(D) Unlawful catching of wild rock (second or subsequent offense) 50-5-2535 Engaging in prohibited activities while under suspension, Marine Resources Act 50-9-1200 Hunting or fishing while under suspension 50-11-95 Engaging in Computer Assisted Remote Hunting, First Offense 50-11-705 Night hunting for deer, bear, or turkey-First offense 50-11-852 Molesting or killing a bald eagle 50-11-1920 Violation of food service permit to sell exotic farm-raised venison 50-11-2640(B) Bringing into State or importing live coyote or fox without permit-First offense 50-13-1410 Unlawful to pollute waters so as to injure fish and shellfish 50-13-1440 Using explosives to take fish unlawful-Second offense 50-15-80(B) Penalties, violation of Sections 50-15-30(C), 50-15-55, or 50-15-40(D) or (E) 50-18-270(C) Placing or releasing species imported from another state into waters of State-Second offense 50-18-285(C) Damaging or poisoning aquaculture products or facilities-Second offense 50-21-112(B)(2) Operating a water device while under the influence of alcohol or drugs (second offense) 50-21-130(A)(1) Failure of an operator of a vessel involved in a collision resulting in property damage to stop and render assistance 52-5-10 Race horses must not be entered under assumed names or out of proper class 52-5-40 Misrepresenting or concealing former performance of race horse 54-7-810(B)(1) Violation of Underwater Antiquities Act 55-1-100(F) Unlawful to operate or act as a flight crew member of aircraft while under the influence of alcohol or drugs 55-3-130 Discharging a laser at an aircraft 55-3-130 Shining light at aircraft with intent to interfere with the operation of the aircraft 56-1-25 Disclosure of Department of Motor Vehicles confidential information 56-3-150 Illegal operation of foreign vehicle 56-5-1210(A)(1) Failure to stop a vehicle involved in an accident when injury results but great bodily injury or death does not occur 56-5-1220 Failure to comply with the duties of a driver involved in an accident 56-5-2780 Unlawfully passing a stopped school bus, great bodily injury results 56-5-2930 Unlawful for narcotic users or persons under influence of liquor, drugs or like substances to drive (See Section 56-5-2940(2))-Second offense 56-5-2933 Driving with an unlawful alcohol concentration, second offense 56-5-2941(K)(1)(a) Unlawful operation of a vehicle equipped with an ignition interlock device, first offense 56-5-4975(A) Operation of unlicensed ambulance without removing exterior markings, sirens, etc. 56-11-250 Failure of a motor carrier to apply for a registration card and identification marker 56-17-10 Failure to purchase a license, keep records, supply information when required by law 56-19-240 Application for certificate, form, and contents (vehicle title) 56-19-480 Transfer and surrender of certificates, license plates, registration cards, and manufacturers serial plates of vehicles sold as salvage, abandoned, scrapped, or destroyed-Second and subsequent offenses 56-31-50(C) Rental company making a false report regarding certain personal property taxes 56-31-50(D) Misrepresentation of the amount of personal property taxes on a private passenger motor vehicle or rental vehicle paid or the amount of surcharges collected 57-25-145(C) Placing an outdoor sign advertising an adult or sexually-oriented business within one mile of a public highway 58-3-280 Restriction on employment of former commissioners by public utility 58-4-130

Restriction on outside employment of executive director 58-7-60(C)(1) Unlawful appropriation of gas that results in property damage in excess of \$5,000 or the risk of great bodily injury or death - first offense 58-7-60(E)(1) Aiding, abetting, or assisting another person in withdrawing and appropriating gas - first offense 58-7-70 Wrongful use of gas and interference with gas meters - first offense 58-7-70(C)(1) Wrongful use of gas and interference with gas meters for profit - first offense 58-7-70(D)(1) Wrongful use of gas and interference with gas meters for profit when violation results in property damage greater than \$5,000 or in risk of great bodily injury or death - first offense 58-15-875(D)(1) Unlawful conduct relating to railroad track material for recycling, first offense 58-15-1110 Violation by Railroads of Interstate Commerce Act 58-17-2760 Criminal penalty on individuals for violation of transportation of freight 58-17-4030 Injury due to negligence or carelessness of general railroad law 58-17-4050 Injury due to wilful violation of general railroad law 58-23-920 Insurance required of owners of motor vehicles transporting goods for hire-First offense 59-5-130 Members shall not contract with State Board of Education 59-69-260 Officials shall not acquire interest in claims or contracts (school funds) 61-2-240 Interference with an officer or use of abusive language by an officer or another person 61-4-1530 Operation of brewery or winery without permit 61-6-4010(B)(2) Unlawful manufacture, possession or sale of alcoholic liquors-Second offense 61-6-4025(b) Possession of unlawfully acquired or manufactured alcoholic liquors in a vehicle, vessel, or aircraft-Second offense 61-6-4030(b) Transportation of alcoholic liquors in a taxi or other vehicle for hire-Second offense 61-6-4040(b) Rendering aid in unlawful transportation of alcoholic liquor-Second offense 61-6-4060(B)(2) Unlawful storage of alcoholic liquor in a place of business-Second offense 61-6-4100(b) Manufacture, sale, or possession of unlawful distillery-Second offense 61-6-4110(b) Knowingly permitting or allowing a person to locate an unlawful distillery on a premise-Second offense 61-6-4120(b) Unlawful manufacture, transport, or possession of materials used in the manufacture of alcoholic liquors-Second offense 61-6-4130(b) Present at a place where alcoholic liquors are unlawfully manufactured-Second offense 61-6-4150(b) Unlawful sale of alcoholic liquor from a vehicle, vessel, or aircraft-Second offense 61-6-4160(b) Unlawful sale of alcoholic liquors on Sundays, election days, and other days-Second offense 61-6-4170(B)(2) Advertisement of alcoholic liquors from billboard-Second offense 61-6-4200 Unlawful disposal, rescue, or attempted disposal or rescue of alcoholic liquors 61-8-50 Violation of a restraining order against unlawful sale, barter, exchange, storage, or possession of alcoholic liquors 62-2-901 Destruction of or failure to deliver a will to a Judge of Probate 63-3-620 Contempt of court 63-5-20 Failure to provide reasonable support to a spouse or minor child 63-7-940 Dissemination of classified information 63-7-1990(A) Dissemination of confidential reports 63-11-90 Violations of Article 1, Child Welfare Agencies 63-11-1350 Disclosure of confidential records 63-13-40(B) Unlawful application for employment by an ex-convict 63-13-185(F) Unlawful administration of medicine to a child by childcare facility personnel 63-13-190(C) Unlawful application for employment by ex-convict 63-13-420(F) Application for operator license for childcare facilities when persons convicted of certain crimes 63-13-430(E) Renewal application for operator license for childcare facilities when persons convicted of certain crimes 63-13-620(E), (F) Application for statement of standard conformity or approval for childcare facilities when persons convicted of certain crimes 63-13-630(E), (G) Renewal application for statement of standard conformity or approval for childcare facilities when persons convicted of certain crimes 63-13-820(E), (F) Application for registration for childcare facilities when persons convicted of certain crimes 63-13-830(C), (D) Renewal application for registration for childcare facilities when persons convicted of certain crimes 63-13-1010(D) Application for license or registration of church and religious centers for childcare facilities when persons convicted of certain crimes 63-17-1070 Unlawful release of information HISTORY: 1993 Act No. 184, Section 9; 1993 Act No. 164, Part II, Section 19B; 1997 Act No. 80, Section 8.

Code Commissioner's Note

The crime classification tables are added by the Code Commissioner pursuant to Section 2-13-66, and updated annually.

SECTION 16-1-110.

Classification of felonies or misdemeanors not listed in Sections 16-1-90 or 16-1-100.

A felony or misdemeanor provided by statute or in common law which is not assigned a classification pursuant to Section 16-1-90 or 16-1-100 must be punished as provided before enactment of the classification system.

HISTORY: 1993 Act No. 184, Section 9.

SECTION 16-1-120.

Increased sentences for repeat offenders.

(1) When an individual, who was convicted of a Class A, B, or C felony offense or an exempt offense which provides for a maximum term of imprisonment of twenty years or more and sentenced to a period of time, has been released from prison, whether on parole or by completion of the sentence, is convicted of another felony offense, the individual shall have added to the sentence imposed for the subsequent conviction such additional time as provided below:

(A) if the subsequent offense was committed within forty-five days of his release, five years shall be added to the sentence mandated by the subsequent conviction.

(B) if the subsequent offense was committed within ninety days of his release, four years shall be added to the sentence mandated by the subsequent conviction.

(C) if the subsequent offense was committed within one hundred eighty days of his release, three years shall be added to the sentence mandated by the subsequent conviction.

(D) if the subsequent offense was committed within two hundred seventy days of his release, two years shall be added to the sentence mandated by the subsequent conviction.

(E) if the subsequent offense was committed within three hundred sixty days of his release, one year shall be added to the sentence mandated by the subsequent conviction.

(2) When subsection (1) requires an individual to have additional time added to the sentence mandated by a subsequent conviction,

if the maximum sentence mandated for the subsequent conviction is less than the additional time mandated by subsection (1), the additional time which must be added to the sentence mandated by the subsequent conviction shall be equal to the maximum sentence provided for the conviction.

(3) No portion of the additional term provided for herein may be suspended and no such additional term may be reduced by any early release program, work credit, or similar program but must be served in full.

HISTORY: 1995 Act No. 7, Part I Section 35.

SECTION 16-1-130.

Persons not eligible for diversion program.

(A) A person may not be considered for a diversion program, including, but not limited to, a drug court program or a mental health court, if the:

(1) person's current charge is for a violent offense as defined in Section 16-1-60 or a stalking offense pursuant to Article 17, Chapter 3, Title 16;

(2) person has a prior conviction for a violent crime, as defined in Section 16-1-60, or a harassment or stalking offense pursuant to Article 17, Chapter 3, Title 16;

(3) person is subject to a restraining order pursuant to the provisions of Article 17, Chapter 3, Title 16 or a valid order of protection pursuant to the provisions of Chapter 4, Title 20;

(4) person is currently on parole or probation for a violent crime as defined in Section 16-1-60; or

(5) consent of the victim has not been obtained unless reasonable attempts have been made to contact the victim and the victim is either nonresponsive or cannot be located after a reasonable search.

(B) The provisions of this section do not apply to a diversion program administered by the South Carolina Prosecution Coordination Commission or by a circuit solicitor.

HISTORY: 2005 Act No. 106, Section 2, eff January 1, 2006; 2010 Act No. 273, Section 59, eff January 1, 2011.

Editor's Note

2005 Act No. 106, Section 1, provides as follows:

"This act may be cited as 'Mary Lynn's Law'."

2010 Act No. 273, Section 66, provides in part:

"The provisions of Part II take effect on January 1, 2011, for offenses occurring on or after that date."

Title 16 - Crimes and Offenses

CHAPTER 3

Offenses Against the Person

ARTICLE 1

Homicide

SECTION 16-3-5.

Person causing injury which results in death at least three years later not to be prosecuted for homicide.

A person who causes bodily injury which results in the death of the victim is not criminally responsible for the victim's death and must not be prosecuted for a homicide offense if at least three years intervene between the injury and the death of the victim.

HISTORY: 2001 Act No. 97, Section 1.

SECTION 16-3-10.

"Murder" defined.

"Murder" is the killing of any person with malice aforethought, either express or implied.

HISTORY: 1962 Code Section 16-51; 1952 Code Section 16-51; 1942 Code Section 1101; 1932 Code Section 1101; Cr. C. '22 Section 1; Cr. C. '12 Section 135; Cr. C. '02 Section 108; G. S. 2453; R. S. 108; 1712 (2) 418.

SECTION 16-3-20.

Punishment for murder; separate sentencing proceeding when death penalty sought.

(A) A person who is convicted of or pleads guilty to murder must be punished by death, or by a mandatory minimum term of imprisonment for thirty years to life. If the State seeks the death penalty and a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to subsections (B) and (C), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, "life" or "life imprisonment" means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. In cases where the defendant is eligible for parole, the judge must charge the applicable parole eligibility statute. No person sentenced to life imprisonment pursuant to this section is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. No person sentenced to a mandatory minimum term of imprisonment for thirty years to life pursuant to this section is eligible for parole or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory minimum term of imprisonment for thirty years to life required by this section. Under no circumstances may a female who is pregnant be executed so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death to life imprisonment under the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commuttee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(B) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant of murder, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. If no statutory aggravating circumstance is found, the defendant must be sentenced to either life imprisonment or a mandatory minimum term of imprisonment for thirty years to life. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pleaded guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only such evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or the State of South Carolina or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(C) The judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(1) The murder was committed while in the commission of the following crimes or acts:

(a) criminal sexual conduct in any degree;

(b) kidnapping;

(c) trafficking in persons;

(d) burglary in any degree;

(e) robbery while armed with a deadly weapon;

(f) larceny with use of a deadly weapon;

(g) killing by poison;

(h) drug trafficking as defined in Section 44-53-370(e), 44-53-375(B), 44-53-440, or 44-53-445;

(i) physical torture;

- (j) dismemberment of a person; or
- (k) arson in the first degree as defined in Section 16-11-110(A).
- (2) The murder was committed by a person with a prior conviction for murder.
- (3) The offender by his act of murder knowingly created a great risk of death to more than one person in a public place by means of a weapon or device which normally would be hazardous to the lives of more than one person.
- (4) The offender committed the murder for himself or another for the purpose of receiving money or a thing of monetary value.
- (5) The murder of a judicial officer, former judicial officer, solicitor, former solicitor, or other officer of the court during or because of the exercise of his official duty.
- (6) The offender caused or directed another to commit murder or committed murder as an agent or employee of another person.
- (7) The murder of a federal, state, or local law enforcement officer or former federal, state, or local law enforcement officer, peace officer or former peace officer, corrections officer or former corrections officer, including a county or municipal corrections officer or a former county or municipal corrections officer, a county or municipal detention facility employee or former county or municipal detention facility employee, or fireman or former fireman during or because of the performance of his official duties.
- (8) The murder of a family member of an official listed in subitems (5) and (7) above with the intent to impede or retaliate against the official. "Family member" means a spouse, parent, brother, sister, child, or person to whom the official stands in the place of a parent or a person living in the official's household and related to him by blood or marriage.
- (9) Two or more persons were murdered by the defendant by one act or pursuant to one scheme or course of conduct.
- (10) The murder of a child eleven years of age or under.
- (11) The murder of a witness or potential witness committed at any time during the criminal process for the purpose of impeding or deterring prosecution of any crime.
- (12) The murder was committed by a person deemed a sexually violent predator pursuant to the provisions of Chapter 48, Title 44, or a person deemed a sexually violent predator who is released pursuant to Section 44-48-120.

(b) Mitigating circumstances:

- (1) The defendant has no significant history of prior criminal conviction involving the use of violence against another person.
 - (2) The murder was committed while the defendant was under the influence of mental or emotional disturbance.
 - (3) The victim was a participant in the defendant's conduct or consented to the act.
 - (4) The defendant was an accomplice in the murder committed by another person and his participation was relatively minor.
 - (5) The defendant acted under duress or under the domination of another person.
 - (6) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.
 - (7) The age or mentality of the defendant at the time of the crime.
 - (8) The defendant was provoked by the victim into committing the murder.
 - (9) The defendant was below the age of eighteen at the time of the crime.
 - (10) The defendant had mental retardation at the time of the crime. "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.
- The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

Where a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. Where a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in subsection (A). Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. Where a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to either life imprisonment or a mandatory minimum term of imprisonment for thirty years. No person sentenced to life imprisonment or a mandatory minimum term of imprisonment for thirty years under this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for such penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant found guilty of murder, the trial judge shall dismiss such jury and shall sentence the defendant to life imprisonment as provided in subsection (A).

(D) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be

examined by the attorney for the defense.

(E) In a criminal action in which a defendant is charged with a crime which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless such beliefs or attitudes would render him unable to return a verdict according to law.

HISTORY: 1962 Code Section 16-52; 1952 Code Section 16-52; 1942 Code Section 1102; 1932 Code Section 1102; Cr. C. '22 Section 2; Cr. C. '12 Section 136; Cr. C. '02 Section 109; G. S. 2454; R. S. 109; 1868 (14) 175; 1894 (21) 785; 1974 (58) 2361; 1977 Act No. 177 Section 1; 1978 Act No. 555 Section 1; 1985 Act No. 104, Section 1; 1986 Act No. 462, Section 27; 1990 Act No. 604, Section 15; 1992 Act No. 488, Section 1; 1995 Act No. 83, Section 10; 1996 Act No. 317, Section 1; 2002 Act No. 224, Section 1, eff May 1, 2002 (applicable to offenses committed on or after that date); 2002 Act No. 278, Section 1, eff May 28, 2002; 2006 Act No. 342, Section 2, eff July 1, 2006; 2007 Act No. 101, Section 1, eff June 18, 2007; 2010 Act No. 273, Section 21, eff June 2, 2010; 2010 Act No. 289, Section 4, eff June 11, 2010.

Editor's Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

2006 Act No. 342, Section 12, provides as follows:

"It is the intent of the General Assembly that one of the purposes of this act is to provide for the death penalty for a subsequent offense of first degree criminal sexual conduct with a minor who is less than eleven years of age and that this act does not alter or amend and is separate and distinct from the provisions of Section 16-3-20, providing for the imposition of the death penalty for murder."

SECTION 16-3-21.

Jury instruction as to discussion of verdict.

(A) In all cases in which an individual is sentenced to death, the trial judge shall, before the dismissal of the jury, verbally instruct the jury concerning the discussion of its verdict. A standard written instruction shall be promulgated by the Supreme Court for use in all capital cases.

(B) The verbal instruction shall include:

- (1) the right of the juror to refuse to discuss the verdict;
- (2) the right of the juror to discuss the verdict to the extent that the juror so chooses;
- (3) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;
- (4) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and
- (5) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror's decision to terminate discussion of the verdict.

(C) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction set forth in subsection (A).

HISTORY: 1996 Act No. 448, Section 2.

Editor's Note

1996 Act No. 448, Section 1, eff June 18, 1996, provides as follows:

"SECTION 1. This act [consisting of Sections 16-3-21, 17-25-380, 17-27-130, 17-27-150, and 17-27-160] is known and may be cited as the 'South Carolina Effective Death Penalty Act of 1996'."

SECTION 16-3-25.

Punishment for murder; review by Supreme Court of imposition of death penalty.

(A) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(B) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(C) With regard to the sentence, the court shall determine:

- (1) Whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor, and
- (2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in Section 16-3-20, and
- (3) Whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant.

(D) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

(E) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, shall be authorized to:

- (1) Affirm the sentence of death; or
- (2) Set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The

records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as hereinafter provided for, shall be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined under Item (B) of Section 16-3-20, the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for such purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(F) The sentence review shall be in addition to direct appeal, if taken, and the review and appeal shall be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

HISTORY: 1962 Code Section 16-52.1; 1977 Act No. 177 Section 2.

SECTION 16-3-26.

Punishment for murder; notice to defense attorney of solicitor's intention to seek death penalty; appointment of attorneys for indigent; investigative, expert or other services.

(A) Whenever the solicitor seeks the death penalty he shall notify the defense attorney of his intention to seek such penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney shall be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(B)(1) Whenever any person is charged with murder and the death penalty is sought, the court, upon determining that such person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend such person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed shall be the Public Defender or a member of his staff. In all cases where no conflict exists, the public defender or member of his staff shall be appointed if qualified. If a conflict exists, the court shall then turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(2) Notwithstanding any other provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of indigent. Any attorney appointed shall be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation shall not exceed twenty-five thousand dollars and shall be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-appointed, private counsel.

(C)(1) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court shall deem appropriate. Payment of such fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel or the public defender.

(2) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(D) Payment in excess of the hourly rates and limit in subsection (B) or (C) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of such services cannot await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

(E) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(F) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases.

(G) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for herein. In the event the court appointed counsel notifies the chief administrative judge in writing that he or she does not wish to provide representation in a death penalty case the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a fair and equitable basis taking into account geography and previous assignments from the list. Efforts shall be made to present an attorney from the area or region where the action is initiated.

(H) The payment schedule set forth herein, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(I) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may

be appointed by the Court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This proviso shall not pertain to any case in which council has been appointed on the effective date of this Act.
(J) The Judicial Department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

HISTORY: 1962 Code Section 16-52.2; 1977 Act No. 177 Section 3; 1978 Act No. 555 Section 2; 1986 Act No. 462, Section 26; 1993 Act No. 164, Part II, Section 45D; 1994 Act No. 497, Part I, E23-Section 14; 1995 Act No. 145, Part I, Section 14; 1996 Act No. 458, Part II, Section 26A.

SECTION 16-3-28.

Punishment for murder; right of defendant to make last argument.

Notwithstanding any other provision of law, in any criminal trial where the maximum penalty is death or in a separate sentencing proceeding following such trial, the defendant and his counsel shall have the right to make the last argument.

HISTORY: 1977 Act No. 177 Section 5; 1986 Act No. 462, Section 43.

SECTION 16-3-29.

Attempted murder.

A person who, with intent to kill, attempts to kill another person with malice aforethought, either expressed or implied, commits the offense of attempted murder. A person who violates this section is guilty of a felony, and, upon conviction, must be imprisoned for not more than thirty years. A sentence imposed pursuant to this section may not be suspended nor may probation be granted.

HISTORY: 2010 Act No. 273, Section 6.A, eff June 2, 2010.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

SECTION 16-3-50.

Manslaughter.

A person convicted of manslaughter, or the unlawful killing of another without malice, express or implied, must be imprisoned not more than thirty years or less than two years.

HISTORY: 1962 Code Section 16-55; 1952 Code Section 16-55; 1942 Code Section 1107; 1932 Code Section 1107; Cr. C. '22 Section 10; Cr. C. '12 Section 148; Cr. C. '02 Section 120; G. S. 2465; R. S. 120; 1869 (14) 175; 1931 (38) 332; 1934 (38) 1463; 1993 Act No. 184, Section 159.

SECTION 16-3-60.

Involuntary manslaughter; "criminal negligence" defined.

With regard to the crime of involuntary manslaughter, criminal negligence is defined as the reckless disregard of the safety of others. A person charged with the crime of involuntary manslaughter may be convicted only upon a showing of criminal negligence as defined in this section. A person convicted of involuntary manslaughter must be imprisoned not more than five years.

HISTORY: 1962 Code Section 16-55.1; 1968 (55) 2626; 1993 Act No. 184, Section 160.

SECTION 16-3-70.

Administering or attempting to administer poison.

(A) It is unlawful for a person to:

(1) maliciously administer to, attempt to administer to, aid or assist in administering to, or cause to be taken by, another person a poison or other destructive thing, with intent to kill that person; or

(2) counsel, aid, or abet a person under item (1) of this subsection.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

HISTORY: 1962 Code Section 16-56; 1952 Code Section 16-56; 1942 Code Section 1108; 1932 Code Section 1108; Cr. C. '22 Section 11; Cr. C. '12 Section 149; Cr. C. '02 Section 121; G. S. 2466; R. S. 121; 1859 (12) 832; 1898 (22) 812; 1993 Act No. 184, Section 161.

SECTION 16-3-75.

Tampering with human drug product or food item; penalty.

It is unlawful for a person to maliciously tamper with a human drug product or food item with the intent to do bodily harm to a person.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

HISTORY: 1984 Act No. 477, Section 1; 1993 Act No. 184, Section 162.

SECTION 16-3-85.

Homicide by child abuse; definitions; penalty; sentencing.

(A) A person is guilty of homicide by child abuse if the person:

(1) causes the death of a child under the age of eleven while committing child abuse or neglect, and the death occurs under circumstances manifesting an extreme indifference to human life; or

(2) knowingly aids and abets another person to commit child abuse or neglect, and the child abuse or neglect results in the death of a child under the age of eleven.

(B) For purposes of this section, the following definitions apply:

(1) "child abuse or neglect" means an act or omission by any person which causes harm to the child's physical health or welfare;

(2) "harm" to a child's health or welfare occurs when a person:

(a) inflicts or allows to be inflicted upon the child physical injury, including injuries sustained as a result of excessive corporal punishment;

(b) fails to supply the child with adequate food, clothing, shelter, or health care, and the failure to do so causes a physical injury or condition resulting in death; or

(c) abandons the child resulting in the child's death.

(C) Homicide by child abuse is a felony and a person who is convicted of or pleads guilty to homicide by child abuse:

(1) under subsection (A)(1) may be imprisoned for life but not less than a term of twenty years; or

(2) under subsection (A)(2) must be imprisoned for a term not exceeding twenty years nor less than ten years.

(D) In sentencing a person under this section, the judge must consider any aggravating circumstances including, but not limited to, a defendant's past pattern of child abuse or neglect of a child under the age of eleven, and any mitigating circumstances; however, a child's crying does not constitute provocation so as to be considered a mitigating circumstance.

HISTORY: 1992 Act No. 412, Section 1; 2000 Act No. 261, Section 1.

SECTION 16-3-95.

Infliction or allowing infliction of great bodily injury upon a child; penalty; definition; corporal punishment and traffic accident exceptions.

(A) It is unlawful to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

(B) It is unlawful for a child's parent or guardian, person with whom the child's parent or guardian is cohabitating, or any other person responsible for a child's welfare as defined in Section 63-7-20 knowingly to allow another person to inflict great bodily injury upon a child. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) For purposes of this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious or permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(D) This section may not be construed to prohibit corporal punishment or physical discipline which is administered by a parent or person in loco parentis in a manner which does not cause great bodily injury upon a child.

(E) This section does not apply to traffic accidents unless the accident was caused by the driver's reckless disregard for the safety of others.

HISTORY: 2000 Act No. 261, Section 2.

ARTICLE 3

Lynching

SECTION 16-3-210.

Assault and battery by mob; investigation and apprehension; civil liability.

(A) For purposes of this section, a "mob" is defined as the assemblage of two or more persons, without color or authority of law, for the premeditated purpose and with the premeditated intent of committing an act of violence upon the person of another.

(B) Any act of violence inflicted by a mob upon the body of another person, which results in the death of the person, shall constitute the felony crime of assault and battery by mob in the first degree and, upon conviction, an offender shall be punished by imprisonment for not less than thirty years.

(C) Any act of violence inflicted by a mob upon the body of another person, which results in serious bodily injury to the person, shall constitute the felony crime of assault and battery by mob in the second degree and, upon conviction, an offender shall be punished by imprisonment for not less than three years nor more than twenty-five years.

(D) Any act of violence inflicted by a mob upon the body of another person, which results in bodily injury to the person, shall constitute the misdemeanor crime of assault and battery by mob in the third degree and, upon conviction, an offender shall be punished by imprisonment for not more than one year.

(E) When any mob commits an act of violence, the sheriff of the county where the crime occurs and the solicitor of the circuit where the county is located shall act as speedily as possible to apprehend and identify the members of the mob and bring them to trial.

(F) The solicitor of any circuit has summary power to conduct any investigation deemed necessary by him in order to apprehend the members of a mob and may subpoena witnesses and take testimony under oath.

(G) This article shall not be construed to relieve a member of any such mob from civil liability.

HISTORY: 1962 Code Section 16-57; 1952 Code Section 16-57; 1951 (47) 233; 2010 Act No. 273, Section 4, eff June 2, 2010.

ARTICLE 5

Dueling

SECTION 16-3-410.

Sending or accepting challenge to fight.

It is unlawful for a person to challenge another to fight with a sword, pistol, rapier, or any other deadly weapon or to accept a challenge.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than two years. A person convicted under this section is deprived of the right of suffrage, and is disabled from holding any office of honor or trust in this State.

HISTORY: 1962 Code Section 16-61; 1952 Code Section 16-61; 1942 Code Section 1117; 1932 Code Section 1117; Cr. C. '22 Section 15; Cr. C. '12 Section 153; Cr. C. '02 Section 125; G. S. 2468; R. S. 125; 1880 (17) 501; 1993 Act No. 184, Section 88. SECTION 16-3-420.

Carrying or delivering challenge; serving as second.

Whoever shall (a) willingly or knowingly carry or deliver any such challenge in writing or verbally deliver any message intended as, or purporting to be, such a challenge, (b) be present at the fighting of any duel as a second or (c) aid or give countenance thereto shall, for every such offense, on conviction thereof, be forever disabled from holding any office of honor or trust in this State and shall be imprisoned in the Penitentiary for a term not exceeding two years, at the discretion of the court, and shall be fined in a sum not less than five hundred dollars nor more than one thousand dollars.

HISTORY: 1962 Code Section 16-62; 1952 Code Section 16-62; 1942 Code Section 1118; 1932 Code Section 1118; Cr. C. '22 Section 16; Cr. C. '12 Section 154; Cr. C. '02 Section 126; G. S. 2469; R. S. 126; 1880 (17) 502. SECTION 16-3-440.

Principal or second compelled to give testimony.

Upon the trial of all indictments for dueling any person concerned therein, either as principal or second or as counseling, aiding and abetting in such duel, shall be compelled to give evidence against the person actually indicted, without incriminating himself or subjecting or making himself liable to any prosecution, penalty, forfeiture or punishment on account of his agency in such duel.

HISTORY: 1962 Code Section 16-64; 1952 Code Section 16-64; 1942 Code Section 1014; 1932 Code Section 1014; Cr. P. '22 Section 100; Cr. C. '12 Section 155; Cr. C. '02 Section 127; G. S. 2470; R. S. 127; 1823 (6) 208. SECTION 16-3-450.

Persons concerned in duel as witnesses.

When two or more persons shall be charged in any indictment for fighting a duel or being concerned therein either of such persons may be used as a witness in behalf of the State by having his name stricken out of the indictment, or otherwise, at the discretion of the Attorney General or solicitor or other attorney acting for the State conducting such prosecution, of which an entry shall immediately be made on the minutes of the court.

HISTORY: 1962 Code Section 16-65; 1952 Code Section 16-65; 1942 Code Section 1015; 1932 Code Section 1015; Cr. P. '22 Section 101; Cr. C. '12 Section 156; Cr. C. '02 Section 128; G. S. 2471; R. S. 128; 1823 (6) 208. SECTION 16-3-460.

Pleading in bar by State's witness to subsequent indictment.

In case any such person so used as a witness in behalf of the State in any prosecution for fighting a duel or for being concerned therein shall afterwards be indicted for the same offense, the fact of his having been used as a witness in the former prosecution for the same offense may be pleaded in bar to such subsequent indictment and, on proof thereof by competent evidence, such person shall be thereof acquitted and discharged.

HISTORY: 1962 Code Section 16-66; 1952 Code Section 16-66; 1942 Code Section 1015; 1932 Code Section 1015; Cr. P. '22 Section 101; Cr. C. '12 Section 156; Cr. C. '02 Section 128; G. S. 2471; R. S. 128; 1823 (6) 208.

ARTICLE 6

Hazing

SECTION 16-3-510.

Hazing unlawful; definitions.

It is unlawful for a person to intentionally or recklessly engage in acts which have a foreseeable potential for causing physical harm to a person for the purpose of initiation or admission into or affiliation with a chartered or nonchartered student, fraternal, or sororal organization. Fraternity, sorority, or other organization for purposes of this section means those chartered and nonchartered fraternities, sororities, or other organizations operating in connection with a school, college, or university. This section does not include customary athletic events or similar contests or competitions, or military training whether state, federal, or educational.

HISTORY: 1987 Act No. 73 Section 1; 2002 Act No. 310, Section 4, eff June 5, 2002.

SECTION 16-3-520.

Unlawful to assist in or fail to report hazing.

It is unlawful for any person to knowingly permit or assist any person in committing acts made unlawful by Section 16-3-510 or to fail to report promptly any information within his knowledge of acts made unlawful by Section 16-3-510 to the chief executive officer of the appropriate school, college, or university.

HISTORY: 1987 Act No. 73 Section 2.

SECTION 16-3-530.

Penalties.

Any person who violates the provisions of Sections 16-3-510 or 16-3-520 is guilty of a misdemeanor and, upon conviction, must be punished by a fine not to exceed five hundred dollars or by imprisonment for a term not to exceed twelve months, or both.

HISTORY: 1987 Act No. 73 Section 3.

SECTION 16-3-540.

Consent not a defense.

The implied or express consent of a person to acts which violate Section 16-3-510 does not constitute a defense to violations of Sections 16-3-510 or 16-3-520.

HISTORY: 1987 Act No. 73 Section 4.

ARTICLE 7

Assault and Criminal Sexual Conduct

SECTION 16-3-600.

Assault and battery; definitions; degrees of offenses.

(A) For purposes of this section:

(1) "Great bodily injury" means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(2) "Moderate bodily injury" means physical injury that involves prolonged loss of consciousness, or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ, or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one-time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.

(3) "Private parts" means the genital area or buttocks of a male or female or the breasts of a female.

(B)(1) A person commits the offense of assault and battery of a high and aggravated nature if the person unlawfully injures another person, and:

(a) great bodily injury to another person results; or

(b) the act is accomplished by means likely to produce death or great bodily injury.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than twenty years.

(3) Assault and battery of a high and aggravated nature is a lesser-included offense of attempted murder, as defined in Section 16-3-29.

(C)(1) A person commits the offense of assault and battery in the first degree if the person unlawfully:

(a) injures another person, and the act:

(i) involves nonconsensual touching of the private parts of a person, either under or above clothing, with lewd and lascivious intent; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or

(b) offers or attempts to injure another person with the present ability to do so, and the act:

(i) is accomplished by means likely to produce death or great bodily injury; or

(ii) occurred during the commission of a robbery, burglary, kidnapping, or theft.

(2) A person who violates this subsection is guilty of a felony, and, upon conviction, must be imprisoned for not more than ten years.

(3) Assault and battery in the first degree is a lesser-included offense of assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16-3-29.

(D)(1) A person commits the offense of assault and battery in the second degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so, and:

(a) moderate bodily injury to another person results or moderate bodily injury to another person could have resulted; or

(b) the act involves the nonconsensual touching of the private parts of a person, either under or above clothing.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than two thousand five hundred dollars, or imprisoned for not more than three years, or both.

(3) Assault and battery in the second degree is a lesser-included offense of assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16-3-29.

(E)(1) A person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so.

(2) A person who violates this subsection is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars, or imprisoned for not more than thirty days, or both.

(3) Assault and battery in the third degree is a lesser-included offense of assault and battery in the second degree, as defined in subsection (D)(1), assault and battery in the first degree, as defined in subsection (C)(1), assault and battery of a high and aggravated nature, as defined in subsection (B)(1), and attempted murder, as defined in Section 16-3-29.

HISTORY: 2010 Act No. 273, Section 6.B, eff June 2, 2010; 2011 Act No. 39, Sections 1, 2, eff June 7, 2011; 2015 Act No. 58 (S.3), Pt II, Section 3, eff June 4, 2015.

Effect of Amendment

2015 Act No. 58, Section 3, rewrote (A)(2).

SECTION 16-3-610.

Certain offenses committed with a carried or concealed deadly weapon.

If a person is convicted of an offense pursuant to Section 16-3-29, 16-3-600, or manslaughter, and the offense is committed with a deadly weapon of the character as specified in Section 16-23-460 carried or concealed upon the person of the defendant, the judge

shall, in addition to the punishment provided by law for such offense, sentence the person to imprisonment for the misdemeanor offense for not less than three months nor more than twelve months, or a fine of not less than two hundred dollars, or both.

HISTORY: 1962 Code Section 16-93; 1952 Code Section 16-93; 1942 Code Section 1258; 1932 Code Section 1258; Cr. C. '22 Section 153; Cr. C. '12 Section 160; Cr. C. '02 Section 132; 1897 (22) 427; 2010 Act No. 273, Section 6.C, eff June 2, 2010.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

SECTION 16-3-615.

Spousal sexual battery.

(A) Sexual battery, as defined in Section 16-3-651(h), when accomplished through use of aggravated force, defined as the use or the threat of use of a weapon or the use or threat of use of physical force or physical violence of a high and aggravated nature, by one spouse against the other spouse if they are living together, constitutes the felony of spousal sexual battery and, upon conviction, a person must be imprisoned not more than ten years.

(B) The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for that spouse to be prosecuted for this offense.

(C) The provisions of Section 16-3-659.1 apply to any trial brought under this section.

(D) This section is not applicable to a purported marriage entered into by a male under the age of sixteen or a female under the age of fourteen.

HISTORY: 1991 Act No. 139, Section 1; 1994 Act No. 295, Sections 1, 3; 1997 Act No. 95, Section 2.

SECTION 16-3-625.

Resisting arrest with deadly weapon; sentencing; "deadly weapon" defined; application of section.

A person who resists the lawful efforts of a law enforcement officer to arrest him or another person with the use or threat of use of a deadly weapon against the officer, and the person is in possession or claims to be in possession of a deadly weapon, is guilty of a felony and, upon conviction, must be punished by imprisonment for not more than ten nor less than two years. No sentence imposed hereunder for a first offense shall be suspended to less than six months nor shall the persons so sentenced be eligible for parole until after service of six months. No person sentenced under this section for a second or subsequent offense shall have the sentence suspended to less than two years nor shall the person be eligible for parole until after service of two years.

As used in this section "deadly weapon" means any instrument which can be used to inflict deadly force.

This section does not affect or replace the common law crime of assault and battery with intent to kill nor does it apply if the sentencing judge, in his discretion, elects to sentence an eligible defendant under the provisions of the "Youthful Offenders Act".

HISTORY: 1980 Act No. 511, Section 1; 1995 Act No. 83, Section 11.

SECTION 16-3-651.

Criminal sexual conduct; definitions.

For the purposes of Sections 16-3-651 to 16-3-659.1:

(a) "Actor" means a person accused of criminal sexual conduct.

(b) "Aggravated coercion" means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.

(c) "Aggravated force" means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon.

(d) "Intimate parts" includes the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being and the breasts of a female human being.

(e) "Mentally defective" means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.

(f) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.

(g) "Physically helpless" means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to an act.

(h) "Sexual battery" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

(i) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

HISTORY: 1977 Act No. 157 Section 1.

SECTION 16-3-652.

Criminal sexual conduct in the first degree.

(1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any

one or more of the following circumstances are proven:

(a) The actor uses aggravated force to accomplish sexual battery.

(b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.

(c) The actor causes the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment for not more than thirty years, according to the discretion of the court.

HISTORY: 1977 Act No. 157 Section 2; 1998 Act No. 372, Section 4; 2000 Act No. 355, Section 1; 2010 Act No. 289, Section 5, eff June 11, 2010.

SECTION 16-3-653.

Criminal sexual conduct in the second degree.

(1) A person is guilty of criminal sexual conduct in the second degree if the actor uses aggravated coercion to accomplish sexual battery.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than twenty years according to the discretion of the court.

HISTORY: 1977 Act No. 157 Section 3.

SECTION 16-3-654.

Criminal sexual conduct in the third degree.

(1) A person is guilty of criminal sexual conduct in the third degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses force or coercion to accomplish the sexual battery in the absence of aggravating circumstances.

(b) The actor knows or has reason to know that the victim is mentally defective, mentally incapacitated, or physically helpless and aggravated force or aggravated coercion was not used to accomplish sexual battery.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than ten years, according to the discretion of the court.

HISTORY: 1977 Act No. 157 Section 4.

SECTION 16-3-655.

Criminal sexual conduct with a minor; aggravating and mitigating circumstances; penalties; repeat offenders.

(A) A person is guilty of criminal sexual conduct with a minor in the first degree if:

(1) the actor engages in sexual battery with a victim who is less than eleven years of age; or

(2) the actor engages in sexual battery with a victim who is less than sixteen years of age and the actor has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for an offense listed in Section 23-3-430(C) or has been ordered to be included in the sex offender registry pursuant to Section 23-3-430(D).

(B) A person is guilty of criminal sexual conduct with a minor in the second degree if:

(1) the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age; or

(2) the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim.

However, a person may not be convicted of a violation of the provisions of this item if he is eighteen years of age or less when he engages in consensual sexual conduct with another person who is at least fourteen years of age.

(C) A person is guilty of criminal sexual conduct with a minor in the third degree if the actor is over fourteen years of age and the actor wilfully and lewdly commits or attempts to commit a lewd or lascivious act upon or with the body, or its parts, of a child under sixteen years of age, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of the actor or the child. However, a person may not be convicted of a violation of the provisions of this subsection if the person is eighteen years of age or less when the person engages in consensual lewd or lascivious conduct with another person who is at least fourteen years of age.

(D)(1) A person convicted of a violation of subsection (A)(1) is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum of twenty-five years, no part of which may be suspended nor probation granted, or must be imprisoned for life. In the case of a person pleading guilty or nolo contendere to a violation of subsection (A)(1), the judge must make a specific finding on the record regarding whether the type of conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. In the case of a person convicted at trial for a violation of subsection (A)(1), the judge or jury, whichever is applicable, must designate as part of the verdict whether the conduct that constituted the sexual battery involved sexual or anal intercourse by a person or intrusion by an object. If the person has previously been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor who is less than eleven years of age, he must be punished by death or by imprisonment for life, as provided in this section. For the purpose of determining a prior conviction under this subsection, the person must have been convicted of, pled guilty or nolo contendere to, or adjudicated delinquent on a separate occasion, prior to the instant adjudication, for first degree criminal sexual conduct with a minor who is less than eleven years of age or a federal or out-of-state offense that would constitute first degree criminal sexual conduct with a minor

who is less than eleven years of age. In order to be eligible for the death penalty pursuant to this section, the sexual battery constituting the current offense and any prior offense must have involved sexual or anal intercourse by a person or intrusion by an object. If any prior offense that would make a person eligible for the death penalty pursuant to this section occurred prior to the effective date of this act and no specific finding was made regarding the nature of the conduct or is an out-of-state or federal conviction, the determination of whether the sexual battery constituting the prior offense involved sexual or anal intercourse by a person or intrusion by an object must be made in the separate sentencing proceeding provided in this section and proven beyond a reasonable doubt and designated in writing by the judge or jury, whichever is applicable. If the judge or jury, whichever is applicable, does not find that the prior offense involved sexual or anal intercourse by a person or intrusion by an object, then the person must be sentenced to imprisonment for life. For purposes of this subsection, imprisonment for life means imprisonment until death.

(2) A person convicted of a violation of subsection (A)(2) is guilty of a felony and, upon conviction, must be imprisoned for not less than ten years nor more than thirty years, no part of which may be suspended nor probation granted.

(3) A person convicted of a violation of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years in the discretion of the court.

(4) A person convicted of a violation of subsection (C) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than fifteen years, or both.

(E) If the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, a statutory aggravating circumstance is found beyond a reasonable doubt pursuant to items (1) and (2), and a recommendation of death is not made, the trial judge must impose a sentence of life imprisonment. For purposes of this section, "life imprisonment" means until death of the offender without the possibility of parole, and when requested by the State or the defendant, the judge must charge the jury in his instructions that life imprisonment means until the death of the defendant without the possibility of parole. No person sentenced to life imprisonment, pursuant to this subsection, is eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, education credits, good conduct credits, or any other credits that would reduce the mandatory life imprisonment required by this section. Under no circumstances may a female who is pregnant be executed, so long as she is pregnant or for a period of at least nine months after she is no longer pregnant. When the Governor commutes a sentence of death imposed pursuant to this section to life imprisonment pursuant to the provisions of Section 14, Article IV of the Constitution of South Carolina, 1895, the commuttee is not eligible for parole, community supervision, or any early release program, nor is the person eligible to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the mandatory imprisonment required by this subsection.

(1) When the State seeks the death penalty, upon conviction or adjudication of guilt of a defendant pursuant to this section, the court shall conduct a separate sentencing proceeding. In the proceeding, if a statutory aggravating circumstance is found, the defendant must be sentenced to either death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable after the lapse of twenty-four hours unless waived by the defendant. If trial by jury has been waived by the defendant and the State, or if the defendant pled guilty, the sentencing proceeding must be conducted before the judge. In the sentencing proceeding, the jury or judge shall hear additional evidence in extenuation, mitigation, or aggravation of the punishment. Only evidence in aggravation as the State has informed the defendant in writing before the trial is admissible. This section must not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States, or the State of South Carolina, or the applicable laws of either. The State, the defendant, and his counsel are permitted to present arguments for or against the sentence to be imposed. The defendant and his counsel shall have the closing argument regarding the sentence to be imposed.

(2) In sentencing a person, upon conviction or adjudication of guilt of a defendant pursuant to this section, the judge shall consider, or he shall include in his instructions to the jury for it to consider, mitigating circumstances otherwise authorized or allowed by law and the following statutory aggravating and mitigating circumstances which may be supported by the evidence:

(a) Statutory aggravating circumstances:

(i) The victim's resistance was overcome by force.

(ii) The victim was prevented from resisting the act because the actor was armed with a dangerous weapon.

(iii) The victim was prevented from resisting the act by threats of great and immediate bodily harm, accompanied by an apparent power to inflict bodily harm.

(iv) The victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing his resistance.

(v) The crime was committed by a person with a prior conviction for murder.

(vi) The offender committed the crime for himself or another for the purpose of receiving money or a thing of monetary value.

(vii) The offender caused or directed another to commit the crime or committed the crime as an agent or employee of another person.

(viii) The crime was committed against two or more persons by the defendant by one act, or pursuant to one scheme, or course of conduct.

(ix) The crime was committed during the commission of burglary in any degree, kidnapping, or trafficking in persons.

(b) Mitigating circumstances:

(i) The defendant has no significant history of prior criminal convictions involving the use of violence against another person.

(ii) The crime was committed while the defendant was under the influence of mental or emotional disturbance.

- (iii) The defendant was an accomplice in the crime committed by another person and his participation was relatively minor.
- (iv) The defendant acted under duress or under the domination of another person.
- (v) The capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired.
- (vi) The age or mentality of the defendant at the time of the crime.
- (vii) The defendant was below the age of eighteen at the time of the crime.

The statutory instructions as to statutory aggravating and mitigating circumstances must be given in charge and in writing to the jury for its deliberation. The jury, if its verdict is a recommendation of death, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances, which it found beyond a reasonable doubt. The jury, if it does not recommend death, after finding a statutory aggravating circumstance or circumstances beyond a reasonable doubt, shall designate in writing, and signed by all members of the jury, the statutory aggravating circumstance or circumstances it found beyond a reasonable doubt. In nonjury cases, the judge shall make the designation of the statutory aggravating circumstance or circumstances. Unless at least one of the statutory aggravating circumstances enumerated in this section is found, the death penalty must not be imposed.

When a statutory aggravating circumstance is found and a recommendation of death is made, the trial judge shall sentence the defendant to death. The trial judge, before imposing the death penalty, shall find as an affirmative fact that the death penalty was warranted under the evidence of the case and was not a result of prejudice, passion, or any other arbitrary factor. When a statutory aggravating circumstance is found and a sentence of death is not recommended by the jury, the trial judge shall sentence the defendant to life imprisonment as provided in this subsection. Before dismissing the jury, the trial judge shall question the jury as to whether or not it found a statutory aggravating circumstance or circumstances beyond a reasonable doubt. If the jury does not unanimously find any statutory aggravating circumstances or circumstances beyond a reasonable doubt, it shall not make a sentencing recommendation. When a statutory aggravating circumstance is not found, the trial judge shall sentence the defendant to life imprisonment. No person sentenced to life imprisonment pursuant to this section is eligible for parole or to receive any work credits, good conduct credits, education credits, or any other credits that would reduce the sentence required by this section. If the jury has found a statutory aggravating circumstance or circumstances beyond a reasonable doubt, the jury shall designate this finding, in writing, signed by all the members of the jury. The jury shall not recommend the death penalty if the vote for the death penalty is not unanimous as provided. If members of the jury after a reasonable deliberation cannot agree on a recommendation as to whether or not the death sentence should be imposed on a defendant upon conviction or adjudication of guilt of a defendant pursuant to this section, the trial judge shall dismiss the jury and shall sentence the defendant to life imprisonment, as provided in this subsection.

(3) Notwithstanding the provisions of Section 14-7-1020, in cases involving capital punishment a person called as a juror must be examined by the attorney for the defense.

(4) In a criminal action pursuant to this section, which may be punishable by death, a person may not be disqualified, excused, or excluded from service as a juror by reason of his beliefs or attitudes against capital punishment unless those beliefs or attitudes would render him unable to return a verdict according to law.

(F)(1) In all cases in which an individual is sentenced to death pursuant to this section, the trial judge, before the dismissal of the jury, shall verbally instruct the jury concerning the discussion of its verdict. A standard written instruction must be promulgated by the Supreme Court for use in capital cases brought pursuant to this section.

(2) The verbal instruction must include:

- (a) the right of the juror to refuse to discuss the verdict;
- (b) the right of the juror to discuss the verdict to the extent that the juror so chooses;
- (c) the right of the juror to terminate any discussion pertaining to the verdict at any time the juror so chooses;
- (d) the right of the juror to report any person who continues to pursue a discussion of the verdict or who continues to harass the juror after the juror has refused to discuss the verdict or communicated a desire to terminate discussion of the verdict; and
- (e) the name, address, and phone number of the person or persons to whom the juror should report any harassment concerning the refusal to discuss the verdict or the juror's decision to terminate discussion of the verdict.

(3) In addition to the verbal instruction of the trial judge, each juror, upon dismissal from jury service, shall receive a copy of the written jury instruction as provided in item (1).

(G)(1) Whenever the death penalty is imposed pursuant to this section, and upon the judgment becoming final in the trial court, the sentence shall be reviewed on the record by the Supreme Court of South Carolina. The clerk of the trial court, within ten days after receiving the transcript, shall transmit the entire record and transcript to the Supreme Court of South Carolina together with a notice prepared by the clerk and a report prepared by the trial judge. The notice shall set forth the title and docket number of the case, the name of the defendant and the name and address of his attorney, a narrative statement of the judgment, the offense, and the punishment prescribed. The report shall be in the form of a standard questionnaire prepared and supplied by the Supreme Court of South Carolina.

(2) The Supreme Court of South Carolina shall consider the punishment as well as any errors by way of appeal.

(3) With regard to the sentence, the court shall determine whether the:

- (a) sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;
- (b) evidence supports the jury's or judge's finding of a statutory aggravating circumstance as enumerated in subsection (E)(2)(a); and
- (c) sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the

defendant.

(4) Both the defendant and the State shall have the right to submit briefs within the time provided by the court and to present oral arguments to the court.

(5) The court shall include in its decision a reference to those similar cases which it took into consideration. In addition to its authority regarding correction of errors, the court, with regard to review of death sentences, is authorized to:

(a) affirm the sentence of death; or

(b) set the sentence aside and remand the case for resentencing by the trial judge based on the record and argument of counsel. The records of those similar cases referred to by the Supreme Court of South Carolina in its decision, and the extracts prepared as provided for, must be provided to the resentencing judge for his consideration. If the court finds error prejudicial to the defendant in the sentencing proceeding conducted by the trial judge before the trial jury as outlined in subsection (E)(1), the court may set the sentence aside and remand the case for a resentencing proceeding to be conducted by the same or a different trial judge and by a new jury impaneled for this purpose. In the resentencing proceeding, the new jury, if the defendant does not waive the right of a trial jury for the resentencing proceeding, shall hear evidence in extenuation, mitigation, or aggravation of the punishment in addition to any evidence admitted in the defendant's first trial relating to guilt for the particular crime for which the defendant has been found guilty.

(6) The sentence review is in addition to direct appeal, if taken, and the review and appeal must be consolidated for consideration. The court shall render its decision on all legal errors, the factual substantiation of the verdict, and the validity of the sentence.

(H)(1) Whenever the solicitor seeks the death penalty pursuant to this section, he shall notify the defense attorney of his intention to seek the death penalty at least thirty days prior to the trial of the case. At the request of the defense attorney, the defense attorney must be excused from all other trial duties ten days prior to the term of court in which the trial is to be held.

(2)(a) Whenever any person is charged with first degree criminal sexual conduct with a minor who is less than eleven years and the death penalty is sought, the court, upon determining that the person is unable financially to retain adequate legal counsel, shall appoint two attorneys to defend the person in the trial of the action. One of the attorneys so appointed shall have at least five years' experience as a licensed attorney and at least three years' experience in the actual trial of felony cases, and only one of the attorneys so appointed may be the public defender or a member of his staff. In all cases when no conflict exists, the public defender or member of his staff must be appointed if qualified. If a conflict exists, the court then shall turn first to the contract public defender attorneys, if qualified, before turning to the Office of Indigent Defense.

(b) Notwithstanding another provision of law, the court shall order payment of all fees and costs from funds available to the Office of Indigent Defense for the defense of the indigent. Any attorney appointed must be compensated at a rate not to exceed fifty dollars per hour for time expended out of court and seventy-five dollars per hour for time expended in court. Compensation may not exceed twenty-five thousand dollars and must be paid from funds available to the Office of Indigent Defense for the defense of indigent represented by court-appointed, private counsel.

(3)(a) Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain services on behalf of the defendant and shall order the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed twenty thousand dollars as the court deems appropriate. Payment of these fees and expenses may be ordered in cases where the defendant is an indigent represented by either court-appointed, private counsel, or the public defender.

(b) Court-appointed counsel seeking payment for fees and expenses shall request these payments from the Office of Indigent Defense within thirty days after the completion of the case. For the purposes of this statute, exhaustion of the funds shall occur if the funds administered by the Office of Indigent Defense and reserved for death penalty fees and expenses have been reduced to zero. If either the Death Penalty Trial Fund or the Conflict Fund has been exhausted in a month and the other fund contains money not scheduled to be disbursed in that month, then the Indigent Defense Commission must transfer a sufficient amount from the fund with the positive fund balance to the fund with no balance and pay the obligation to the extent possible.

(4) Payment in excess of the hourly rates and limit in item (2) or (3) is authorized only if the court certifies, in a written order with specific findings of fact, that payment in excess of the rates is necessary to provide compensation adequate to ensure effective assistance of counsel and payment in excess of the limit is appropriate because the services provided were reasonably and necessarily incurred. Upon a finding that timely procurement of services cannot await prior authorization, the court may authorize the provision of and payment for services nunc pro tunc.

(5) After completion of the trial, the court shall conduct a hearing to review and validate the fees, costs, and other expenditures on behalf of the defendant.

(6) The Supreme Court shall promulgate guidelines on the expertise and qualifications necessary for attorneys to be certified as competent to handle death penalty cases brought pursuant to this section.

(7) The Office of Indigent Defense shall maintain a list of death penalty qualified attorneys who have applied for and received certification by the Supreme Court as provided for in this subsection. In the event the court-appointed counsel notifies the chief administrative judge in writing that he or she does not wish to provide representation in a death penalty case, the chief administrative judge shall advise the Office of Indigent Defense which shall forward a name or names to the chief administrative judge for consideration. The appointment power is vested in the chief administrative judge. The Office of Indigent Defense shall establish guidelines as are necessary to ensure that attorneys' names are presented to the judges on a fair and equitable basis, taking into account geography and previous assignments from the list. Efforts must be made to present an attorney from the area or region

where the action is initiated.

(8) The payment schedule provided in this subsection, as amended by Act 164 of 1993, shall apply to any case for which trial occurs on or after July 1, 1993.

(9) Notwithstanding another provision of law, only attorneys who are licensed to practice in this State and residents of this State may be appointed by the court and compensated with funds appropriated to the Death Penalty Trial Fund in the Office of Indigent Defense. This item shall not pertain to any case in which counsel has been appointed on the effective date of this act.

(10) The judicial department biennially shall develop and make available to the public a list of standard fees and expenses associated with the defense of an indigent person in a death penalty case.

(I) Notwithstanding another provision of law, in any trial pursuant to this section when the maximum penalty is death or in a separate sentencing proceeding following the trial, the defendant and his counsel shall have the right to make the last argument.

HISTORY: 1977 Act No. 157 Section 5; 1978 Act No. 639 Section 1; 1984 Act No. 509; 2005 Act No. 94, Section 1, eff June 1, 2005; 2006 Act No. 342, Section 3, eff July 1, 2006; 2006 Act No. 346, Section 1, eff July 1, 2006; 2008 Act No. 335, Section 18, eff June 16, 2008; 2010 Act No. 289, Section 6, eff June 11, 2010; 2012 Act No. 255, Section 1, eff June 18, 2012.

Editor's Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

2006 Act No. 342, Section 12, provides as follows:

"It is the intent of the General Assembly that one of the purposes of this act is to provide for the death penalty for a subsequent offense of first degree criminal sexual conduct with a minor who is less than eleven years of age and that this act does not alter or amend and is separate and distinct from the provisions of Section 16-3-20, providing for the imposition of the death penalty for murder."

2006 Act No. 346, Section 5, provides as follows:

"Expenses incurred relating to the defense of a constitutional challenge to the application of the provisions of Section 16-3-655, relating to the imposition of the death penalty, must be borne in their entirety by the Office of the Attorney General. The Office of the Attorney General is solely responsible for the defense of these actions and the Prosecution Coordination Commission and the offices of the individual circuit solicitors in the State must be held harmless."

2006 Act No. 346, Section 6, provides as follows:

"The General Assembly is aware that this act amends sections of the South Carolina Code of Laws that are also amended in S.1267 of 2006 [Act 342], and it is the intent of the General Assembly that the provisions of this act control in their entirety as to those code sections."

SECTION 16-3-656.

Criminal sexual conduct; assaults with intent to commit.

Assault with intent to commit criminal sexual conduct described in the above sections shall be punishable as if the criminal sexual conduct was committed.

HISTORY: 1977 Act No. 157 Section 6; 1978 Act No. 639 Section 2.

SECTION 16-3-657.

Criminal sexual conduct; testimony of victim need not be corroborated.

The testimony of the victim need not be corroborated in prosecutions under Sections 16-3-652 through 16-3-658.

HISTORY: 1977 Act No. 157 Section 7.

SECTION 16-3-658.

Criminal sexual conduct; when victim is spouse.

A person cannot be guilty of criminal sexual conduct under Sections 16-3-651 through 16-3-659.1 if the victim is the legal spouse unless the couple is living apart and the offending spouse's conduct constitutes criminal sexual conduct in the first degree or second degree as defined by Sections 16-3-652 and 16-3-653.

The offending spouse's conduct must be reported to appropriate law enforcement authorities within thirty days in order for a person to be prosecuted for these offenses.

This section is not applicable to a purported marriage entered into by a male under the age of sixteen or a female under the age of fourteen.

HISTORY: 1977 Act No. 157 Section 8; 1991 Act No. 139, Section 2; 1997 Act No. 95, Section 3.

SECTION 16-3-659.

Criminal sexual conduct; males under fourteen not presumed incapable of committing crime of rape.

The common law rule that a boy under fourteen years is conclusively presumed to be incapable of committing the crime of rape shall not be enforced in this State. Provided, that any person under the age of 14 shall be tried as a juvenile for any violations of Sections 16-3-651 to 16-3-659.1.

HISTORY: 1977 Act No. 157 Section 9.

SECTION 16-3-659.

1. Criminal sexual conduct; admissibility of evidence concerning victim's sexual conduct.

(1) Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct is not admissible in prosecutions under Sections 16-3-615 and 16-3-652 to 16-3-656; however, evidence of the victim's sexual conduct with the defendant or evidence of specific instances of sexual activity with persons

other than the defendant introduced to show source or origin of semen, pregnancy, or disease about which evidence has been introduced previously at trial is admissible if the judge finds that such evidence is relevant to a material fact and issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value. Evidence of specific instances of sexual activity which would constitute adultery and would be admissible under rules of evidence to impeach the credibility of the witness may not be excluded.

(2) If the defendant proposes to offer evidence described in subsection (1), the defendant, prior to presenting his defense shall file a written motion and offer of proof. The court shall order an in-camera hearing to determine whether the proposed evidence is admissible under subsection (1). If new evidence is discovered during the presentation of the defense that may make the evidence described in subsection (1) admissible, the judge may order an in-camera hearing to determine whether the proposed evidence is admissible under subsection (1).

HISTORY: 1977 Act No. 157, Section 10; 1994 Act No. 295, Section 2.

SECTION 16-3-660.

Deposition testimony of rape victim or victim of assault with intent to ravish.

Before or during the trial of a person charged with rape or assault with intent to ravish, when the female who is alleged to have been assaulted is a witness, the judge of the court in which the case is to be tried may, in his discretion, by an order direct that the deposition of such witness be taken at a time and place designated in such order within the county in which the trial is to be had upon such notice to the accused as the judge may direct.

HISTORY: 1962 Code Section 16-73; 1952 Code Section 16-73; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-670.

Procedure for taking deposition.

Such deposition shall be taken by the clerk of the court of general sessions for the county in which the case is to be tried or by such other officer as the presiding judge may name in his order, at the taking of which the accused shall be present and shall have the same rights in regard to the examination of the witness as if she were testifying in open court. No persons other than the attorneys for the State and accused shall be present unless expressly admitted by the judge, and the accused shall have the right to object to the admissibility of the testimony of such witness, either at the time of the taking of the deposition or when the same is offered in evidence on the trial in open court.

HISTORY: 1962 Code Section 16-74; 1952 Code Section 16-74; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-680.

Sheriff shall secure attendance of accused; absence of counsel.

The sheriff of the county shall secure the personal attendance of the accused at the time and place of taking such depositions, and the absence of either the attorney for the State or for the accused, after notice prescribed in the order, shall not prevent or delay the taking of such depositions.

HISTORY: 1962 Code Section 16-79; 1952 Code Section 16-79; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-690.

Custody of deposition.

Such depositions, when taken, shall be signed by the witness in the presence of the clerk or other officer taking the same, placed in a sealed envelope, the title of the case endorsed thereon, and be retained by the clerk of court until the same is opened in court; and if taken by another officer he shall deliver the same to the clerk, to be retained by him as herein provided.

HISTORY: 1962 Code Section 16-77; 1952 Code Section 16-77; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-700.

Reading deposition to jury.

Such deposition shall be read to the jury upon the trial and shall be considered by them as though such testimony had been given orally in court.

HISTORY: 1962 Code Section 16-75; 1952 Code Section 16-75; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-710.

Depositions in rebuttal.

The judge may, in like manner, direct other depositions of such witness, in rebuttal or otherwise, which shall be taken and read in the manner and under the conditions herein prescribed as to the first deposition.

HISTORY: 1962 Code Section 16-76; 1952 Code Section 16-76; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-720.

Destruction of deposition.

The clerk of the court in which such case is tried, in the event no appeal is taken, shall, as soon as the time for appealing has elapsed, withdraw the deposition from the record of the case and destroy it. And in case there is an appeal, as soon as the case is finally disposed of, the clerk shall destroy the depositions herein provided for.

HISTORY: 1962 Code Section 16-78; 1952 Code Section 16-78; 1942 Code Section 1016; 1932 Code Section 1016; Cr. P. '22 Section 107; Cr. C. '12 Section 92; 1909 (26) 206.

SECTION 16-3-730.

Publishing name of victim of criminal sexual conduct unlawful.

Whoever publishes or causes to be published the name of any person upon whom the crime of criminal sexual conduct has been committed or alleged to have been committed in this State in any newspaper, magazine or other publication shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or imprisonment of not more than three years. The provisions of this section shall not apply to publications made by order of court.

HISTORY: 1962 Code Section 16-81; 1952 Code Section 16-81; 1942 Code Section 1275; 1932 Code Section 1275; Cr. C. '22 Section 170; Cr. C. '12 Section 317; 1909 (26) 208; 1979 Act No. 23.

SECTION 16-3-740.

Testing of certain convicted offenders for Hepatitis B and HIV.

(A) For purposes of this section:

(1) "Body fluid" means blood, amniotic fluid, pericardial fluid, pleural fluid, synovial fluid, cerebrospinal fluid, semen or vaginal secretions, or any body fluid visibly contaminated with blood.

(2) "HIV" means the Human Immunodeficiency Virus.

(3) "Offender" includes adults and juveniles.

(B) Upon the request of a person who is the victim of a criminal offense which involves the sexual penetration of the victim's body or who has been exposed to body fluids during the commission of a criminal offense, or upon the request of the legal guardian of a person who is the victim of a criminal offense which involves the sexual penetration of the victim's body or who has been exposed to body fluids during the commission of a criminal offense, the solicitor, after the offender is charged, must petition the court for an order to have the offender tested for Hepatitis B and HIV. An offender must be tested pursuant to this section for Hepatitis B and HIV as soon as practicable after the court order is issued but not later than forty-eight hours after the date the person is indicted for the offense or waives indictment for the offense. If the offender is subject to the jurisdiction of the family court, he must be tested not later than forty-eight hours after the petition is filed with the family court alleging he is delinquent for committing the offense. If the offender cannot be located before the end of the forty-eight hour period as provided in this subsection, the forty-eight hour period is tolled until the offender is located by law enforcement. To obtain a court order, the solicitor must demonstrate the following, that the:

(1) victim or the victim's legal guardian requested the tests;

(2) offender has been charged with, indicted for, or waived indictment for an offense which involved the sexual penetration of the victim's body or that there is probable cause that during the commission of the criminal offense there was a risk that body fluids were transmitted from one person to another; and

(3) offender has received notice of the petition and notice of his right to have counsel represent him at a hearing.

The results of the tests must be kept confidential but disclosed to the solicitor who obtained the court order. As soon as practicable, the solicitor shall notify only those persons designated in subsection (C) of the results of the initial Hepatitis B and HIV tests and the results of any follow-up HIV tests.

(C) The tests must be administered by the Department of Health and Environmental Control through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The solicitor shall notify the following persons of the tests results:

(1) the victim or the legal guardian of a victim who is a minor or is a person with intellectual disability or mentally incapacitated;

(2) the victim's attorney;

(3) the offender and a juvenile offender's parent or guardian; and

(4) the offender's attorney.

The results of the tests shall be provided to the designated recipients with the following disclaimer: "The tests were conducted in a medically approved manner, but tests cannot determine infection by Hepatitis B or HIV with absolute accuracy. Additionally, the testing does not determine exposure to, or infection by, other sexually transmitted diseases. Persons receiving the test results should continue to monitor their own health, seek retesting in approximately six months, and should consult a physician as appropriate".

The solicitor also shall provide to the state or local correctional facility where the offender is imprisoned or detained and the Department of Health and Environmental Control the test results for HIV and Hepatitis B which indicate that the offender is infected with the disease. The state or local correctional facility where the offender is imprisoned or detained shall use this information solely for the purpose of providing medical treatment to the offender while the offender is imprisoned or detained. The State shall pay for the tests. If the offender is subsequently convicted or adjudicated delinquent, the offender or the parents of an adjudicated offender must reimburse the State for the costs of the tests unless the offender or the parents of the adjudicated offender are determined to be indigent.

If the tests given pursuant to this section indicate infection by Hepatitis B or HIV, the Department of Health and Environmental Control shall be provided with all test results and must provide counseling to the offender regarding the disease, syndrome, or virus. The Department of Health and Environmental Control must provide counseling for the victim, advise the victim of available medical treatment options, refer the victim to appropriate health care and support services, and, at the request of the victim or the legal guardian of a victim, test the victim for HIV and Hepatitis B and provide post-testing counseling to the victim.

(D) If deemed medically appropriate, the offender must undergo follow-up testing for HIV. The follow-up testing, and any

counseling which may be ordered, shall be performed on dates that occur six weeks, three months, and six months following the initial test. Any follow-up testing shall be terminated if the offender obtains an acquittal on, dismissal of, or is not adjudicated delinquent for all charges for which testing was ordered.

(E) If, for any reason, the testing requested under subsection (B) has not been undertaken, upon request of the victim or the victim's legal guardian, the court shall order the offender to undergo testing for Hepatitis B and HIV following conviction or delinquency adjudication. The testing shall be administered by the Department of Health and Environmental Control through the local county health department or the medical professional at the state or local detention facility where the offender is imprisoned or detained. The results shall be disclosed in accordance with the provisions of subsection (C).

(F) Upon a showing of probable cause that the offender committed a crime, the collection of additional samples, including blood, saliva, head or pubic hair may be contemporaneously ordered by the court so that the State may conduct scientific testing, including DNA analysis. The results of the scientific testing, including DNA analysis, may be used for evidentiary purposes in any court proceeding.

(G) Any person or entity who administers tests ordered pursuant to this section and who does so in accordance with this section and accepted medical standards for the administration of these tests shall be immune from civil and criminal liability arising from his conduct.

(H) Any person who discloses information in accordance with the provisions of this section or who participates in any judicial proceeding resulting from the disclosure and who does so in good faith and without malice shall have immunity from civil or criminal liability that might otherwise be incurred or imposed in an action resulting from the disclosure.

(I) Results of tests performed pursuant to this section shall not be used as evidence in any criminal trial of the offender except as provided for in subsection (F).

HISTORY: 1988 Act No. 490, Section 17; 1994 Act No. 430, Section 1; 2000 Act No. 218, Section 1; 2009 Act No. 59, Sections 2, 3, eff June 2, 2009; 2010 Act No. 292, Section 2, eff August 27, 2010; 2011 Act No. 36, Section 1, eff June 7, 2011.

SECTION 16-3-750.

Request that victim submit to polygraph examination.

A law enforcement officer, prosecuting officer, or other governmental official may request that the victim of an alleged criminal sexual conduct offense as defined under federal or South Carolina law submit to a polygraph examination or other truth telling device as part of the investigation, charging, or prosecution of the offense if the credibility of the victim is at issue; however, the officer or official must not require the victim to submit to a polygraph examination or other truth telling device as a condition for proceeding with the investigation, charging, or prosecution of the offense.

HISTORY: 2009 Act No. 59, Section 4, eff June 2, 2009.

SECTION 16-3-755.

Sexual battery with a student.

(A) For purposes of this section:

(1) "Aggravated coercion" means that the person affiliated with a public or private secondary school in an official capacity threatens to use force or violence of a high and aggravated nature to overcome the student, if the student reasonably believes that the person has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, under circumstances of aggravation, against the student.

(2) "Aggravated force" means that the person affiliated with a public or private secondary school in an official capacity uses physical force or physical violence of a high and aggravated nature to overcome the student or includes the threat of the use of a deadly weapon.

(3) "Person affiliated with a public or private secondary school in an official capacity" means an administrator, teacher, substitute teacher, teacher's assistant, student teacher, law enforcement officer, school bus driver, guidance counselor, or coach who is affiliated with a public or private secondary school but is not a student enrolled in the school.

(4) "Secondary school" means either a junior high school or a high school.

(5) "Sexual battery" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.

(6) "Student" means a person who is enrolled in a school.

(B) If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is sixteen or seventeen years of age, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

(C) If a person affiliated with a public or private secondary school in an official capacity engages in sexual battery with a student enrolled in the school who is eighteen years of age or older, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for thirty days, or both.

(D) If a person affiliated with a public or private secondary school in an official capacity has direct supervisory authority over a student enrolled in the school who is eighteen years of age or older, and the person affiliated with the public or private secondary school in an official capacity engages in sexual battery with the student, and aggravated coercion or aggravated force is not used to accomplish the sexual battery, the person affiliated with the public or private secondary school in an official capacity is guilty of a

felony and, upon conviction, must be imprisoned for not more than five years.

(E) This section does not apply if the person affiliated with a public or private secondary school in an official capacity is lawfully married to the student at the time of the act.

HISTORY: 2010 Act No. 265, Section 1, eff June 24, 2010.

ARTICLE 8

Sexual Performance by Children

SECTION 16-3-800.

Definitions.

As used in this article:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than eighteen years of age.

(2) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that is exhibited before an audience.

(4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

HISTORY: 1984 Act No. 267.

SECTION 16-3-810.

Engaging child for sexual performance; penalty.

(a) It is unlawful for any person to employ, authorize, or induce a child younger than eighteen years of age to engage in a sexual performance. It is unlawful for a parent or legal guardian or custodian of a child younger than eighteen years of age to consent to the participation by the child in a sexual performance.

(b) Any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the second degree and upon conviction shall be punished as provided in Section 16-3-653.

HISTORY: 1984 Act No. 267.

SECTION 16-3-820.

Producing, directing or promoting sexual performance by child; penalty.

(a) It is unlawful for any person to produce, direct, or promote a performance that includes sexual conduct by a child younger than eighteen years of age.

(b) Any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the third degree and upon conviction shall be punished as provided in Section 16-3-654.

HISTORY: 1984 Act No. 267.

SECTION 16-3-830.

Reasonable belief as to majority of child as affirmative defense.

It is an affirmative defense to a prosecution under this article that the defendant, in good faith, reasonably believed that the person who engaged in the sexual conduct was eighteen years of age or older.

HISTORY: 1984 Act No. 267.

SECTION 16-3-840.

Methods of judicial determination of age of child.

When it becomes necessary for the purposes of this article to determine whether a child who participated in sexual conduct was younger than eighteen years of age, the court or jury may make this determination by any of the following methods:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by rules of evidence.

HISTORY: 1984 Act No. 267.

SECTION 16-3-850.

Film processor or computer technician to report film or computer images containing sexually explicit pictures of minors.

Any retail or wholesale film processor or photo finisher who is requested to develop film, and any computer technician working with a computer who views an image of a child younger than eighteen years of age or appearing to be younger than eighteen years of age who is engaging in sexual conduct, sexual performance, or a sexually explicit posture must report the name and address of the individual requesting the development of the film, or of the owner or person in possession of the computer to law enforcement officials in the state and county or municipality from which the film was originally forwarded. Compliance with this section does not give rise to any civil liability on the part of anyone making the report.

HISTORY: 1987 Act No. 168 Section 4; 2001 Act No. 81, Section 3.

ARTICLE 9

Kidnapping

SECTION 16-3-910.

Kidnapping.

A person who unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away any other person by any means whatsoever without authority of law, except when a minor is seized or taken by his parent, is guilty of a felony and, upon conviction, must be imprisoned for a period not to exceed thirty years.

HISTORY: 1962 Code Section 16-91; 1952 Code Section 16-91; 1942 Code Section 1122; 1937 (40) 137; 1966 (54) 2151; 1974 (58) 2361; 1976 Act No. 684; 1991 Act No. 117, Section 1; 2024 Act No. 213 (S.142), Section 4.A, eff July 2, 2024.

Editor's Note

2024 Act No. 213, Section 4.B, provides as follows:

"[SECTION 4.]B. Nothing contained in this SECTION may be construed to repeal, replace, or preclude application of any other criminal statute."

Effect of Amendment

2024 Act No. 213, Section 4.A, substituted "A person who unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries" for "Whoever shall unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry" and deleted "unless sentenced for murder as provided in Section 16-2-30" at the end.

SECTION 16-3-920.

Conspiracy to kidnap.

If two or more persons enter into an agreement, confederation, or conspiracy to violate the provisions of Section 16-3-910 and any of such persons do any overt act towards carrying out such unlawful agreement, confederation, or conspiracy, each such person shall be guilty of a felony and, upon conviction, shall be punished in like manner as provided for the violation of Section 16-3-910.

HISTORY: 1962 Code Section 16-92; 1952 Code Section 16-92; 1942 Code Section 1122; 1937 (40) 137; 1991 Act No. 117, Section 1.

ARTICLE 11

Miscellaneous Offenses

SECTION 16-3-1010.

Failing to remove doors from abandoned airtight containers.

Any person who abandons or discards any icebox, refrigerator, ice chest or other type of airtight container of a capacity sufficient to contain any child and who neglects prior to such abandonment to remove the door, lid or other device for the closing thereof and any owner, lessee or other person in charge of property who knowingly permits any abandoned icebox, refrigerator, ice chest or other type of airtight container to remain thereon accessible to children without removing the door, lid or other closing device therefrom shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 16-94; 1954 (48) 1479.

SECTION 16-3-1020.

Maintaining open and unprotected abandoned wells.

It shall be unlawful for any owner or tenant to permit or allow any abandoned well to remain open and unprotected, curbed or fenced in on any place or premises owned or occupied in this State. Any person convicted of allowing any such abandoned well to remain open and unprotected, curbed or fenced in shall be fined in the sum of ten dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 16-95; 1952 Code Section 16-95; 1942 Code Section 1189; 1932 Code Section 1189; Cr. C. '22 Section 80; Cr. C. '12 Section 240; 1904 (24) 383.

SECTION 16-3-1040.

Threatening life, person or family of public official or public employee; punishment.

(A) It is unlawful for a person knowingly and wilfully to deliver or convey to a public official or to a teacher or principal of an elementary or secondary school any letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public official, teacher, or principal, or members of his immediate family if the threat is directly related to the public official's, teacher's, or principal's professional responsibilities.

(B) It is unlawful for a person knowingly and wilfully to deliver or convey to a public employee a letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public employee or members of his immediate family if the threat is directly related to the public employee's official responsibilities.

(C) A person who violates the provisions of subsection (A), upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) A person who violates the provisions of subsection (B), upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(E) For purposes of this section:

(1) "Public official" means an elected or appointed official of the United States or of this State or of a county, municipality, or other political subdivision of this State.

(2) "Public employee" means a person employed by the State, a county, a municipality, a school district, or a political subdivision of this State, except that for purposes of this section, a "public employee" does not include a teacher or principal of an elementary or secondary school.

(3) "Immediate family" means the spouse, child, grandchild, mother, father, sister, or brother of the public official, teacher, principal, or public employee.

HISTORY: 1982 Act No. 299; 1990 Act No. 579, Section 8; 1998 Act No. 435, Section 1.

Editor's Note

1990 Act No. 579, Section 7 eff June 12, 1990, provides as follows:

"This act may be cited as the 'Safe Schools Act of 1990'."

SECTION 16-3-1045.

Use or employment of person under eighteen to commit certain crimes.

(A) It is unlawful for any person at least eighteen years of age to knowingly and intentionally:

(1) use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under eighteen years of age to commit a violent crime as defined in Section 16-1-60, the crime of lynching as a result of mob violence prohibited by Article 3, Chapter 3 of this title, or the unlawful distribution of cocaine, crack cocaine, heroin, marijuana, or LSD;

(2) conspire to use, solicit, direct, hire, persuade, induce, entice, coerce, or employ a person under eighteen years of age to commit a violent crime as defined in Section 16-1-60, the crime of lynching as a result of mob violence prohibited by Article 3, Chapter 3 of this title, or the unlawful distribution of cocaine, crack cocaine, heroin, marijuana, or LSD.

(B) Any person who violates subsections (A)(1) or (A)(2) is guilty of a felony and, upon conviction, must be punished by a term of imprisonment of not less than five years nor more than fifteen years. Each violation of this section constitutes a separate offense.

(C) The felonies established in this section are supplemental to and do not supersede any other provisions of law which make the conduct referred to in subsection (A) unlawful.

HISTORY: 1996 Act No. 290, Section 1.

SECTION 16-3-1050.

Failure to report, perpetrating or interfering with an investigation of abuse, neglect or exploitation of a vulnerable adult; penalties.

(A) A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has actual knowledge that abuse, neglect, or exploitation has occurred and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five hundred dollars or imprisoned not more than one year. A person required to report abuse, neglect, or exploitation of a vulnerable adult under Chapter 35 of Title 43 who has reason to believe that abuse, neglect, or exploitation has occurred or is likely to occur and who knowingly and wilfully fails to report the abuse, neglect, or exploitation is subject to disciplinary action as may be determined necessary by the appropriate licensing board.

(B) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully abuses a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(C) Except as otherwise provided in subsections (E) and (F), a person who knowingly and wilfully neglects a vulnerable adult is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(D) A person who knowingly and wilfully exploits a vulnerable adult is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and may be required by the court to make restitution.

(E) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in great bodily injury is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(F) A person who knowingly and wilfully abuses or neglects a vulnerable adult resulting in death is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(G) A person who threatens, intimidates, or attempts to intimidate a vulnerable adult subject of a report, a witness, or any other person cooperating with an investigation conducted pursuant to this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

(H) A person who wilfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 35 of Title 43, upon conviction, is guilty of a misdemeanor and must be fined not more than five thousand dollars or imprisoned not more than three years.

As used in this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

HISTORY: 1999 Act No. 56, Section 5.

SECTION 16-3-1060.

Receipt of compensation for relinquishing custody of child for adoption; penalty.

No person may sell or buy a minor child, or request, or accept, receive, or pay any fee, compensation, or any other thing of value as consideration for relinquishing the custody of a child for adoption. Provided, however, release or termination of prior support obligations shall not be construed as compensation or any other thing of value within the meaning of this section. However, reasonable costs may be assessed if they are reimbursements for expenses incurred or fees for services rendered, as provided for in Section 63-9-310(F). This section does not prohibit the assumption by a prospective adoptive parent of child support obligations previously established by the order of any court.

Any person violating the provisions of this section or the provisions of Section 63-9-310(F) is guilty of a felony and, upon conviction or plea of guilty, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court.

HISTORY: 1984 Act No. 474, Section 1; 1988 Act No. 653, Section 18A.

SECTION 16-3-1072.

Reporting medical treatment for gunshot wound; immunity; physician-patient privilege abrogated; penalties.

(A) Any physician, nurse, or any other medical or emergency medical services personnel of a hospital, clinic, or other health care facility or provider who knowingly treats any person suffering from a gunshot wound or who receives a request for such treatment shall report within a reasonable time the existence of the gunshot wound to the sheriff's department of the county in which the treatment is administered or a request is received. However, no report is necessary if a law enforcement officer is present with the victim while treatment is being administered.

(B) The reports provided for in subsection (A) may be made orally, or otherwise. A hospital, clinic, or other health care facility or provider may designate an individual to make the reports provided for in this section. However, a report must be made as soon as possible, but no later than the time of the victim's release from that facility.

(C) A person required to make a report pursuant to this section or who participates in judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil and criminal proceedings, good faith is rebuttably presumed.

(D) For purposes of this section, the confidential or privileged nature of communication between physician and patient and any other professional person and his patient or client is abrogated and does not constitute grounds for failure to report or the exclusion of evidence resulting from a report made pursuant to this section.

(E) A person required to report the existence of a gunshot wound who knowingly fails to do so is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars.

HISTORY: 1999 Act No. 69, Section 1.

SECTION 16-3-1075.

Felony of carjacking; penalties.

(A) For purposes of this section, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(B) A person is guilty of the felony of carjacking who takes, or attempts to take, a motor vehicle from another person by force and violence or by intimidation while the person is operating the vehicle or while the person is in the vehicle. Upon conviction for this offense, a person must:

- (1) be imprisoned not more than twenty years; or
- (2) if great bodily injury results, be imprisoned not more than thirty years.

HISTORY: 1993 Act No. 163, Section 1; 1998 Act No. 402, Section 1.

SECTION 16-3-1080.

Committing or attempting to commit a violent crime while wearing body armor a felony.

(A) Except as provided in subsection (B), a person who commits or attempts to commit a violent crime, as defined in Section 16-1-60, or threatens to commit a violent crime, as defined in Section 16-1-60, while wearing body armor is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than two thousand dollars, or both. A term of imprisonment imposed for violating this section may be served consecutively to any term of imprisonment imposed for the crime committed or attempted.

(B) Subsection (A) does not apply to:

- (1) a peace officer of this State or another state, or of a local unit of government of this State or another state, or of the United States, while in the performance of his official duties; or
- (2) a security officer while in the performance of his official duties.

(C) As used in this section:

- (1) "Body armor" means clothing or a device designed or intended to protect a person's body or a portion of a person's body from injury caused by a firearm;
- (2) "Security officer" means a person lawfully employed to protect another person or to protect the property of another person.

HISTORY: 2001 Act No. 100, Section 1.

SECTION 16-3-1083.

Death or injury of child in utero due to commission of violent crime.

(A)(1) A person who commits a violent crime, as defined in Section 16-1-60, that causes the death of, or bodily injury to, a child who is in utero at the time that the violent crime was committed, is guilty of a separate offense under this section.

(2)(a) Except as otherwise provided in this subsection, the punishment for a separate offense, as provided for in subsection (A)(1), is the same as the punishment provided for that criminal offense had the death or bodily injury occurred to the unborn child's mother.

(b) Prosecution of an offense under this section does not require proof that:

- (i) the person committing the violent offense had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or
- (ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

(c) If the person engaging in the violent offense intentionally killed or attempted to kill the unborn child, that person must, instead of being punished under subsection (A)(2)(a), be punished for murder or attempted murder.

(d) Notwithstanding any provision of this section or any other provision of law, the death penalty must not be imposed for an offense prosecuted under this section.

(B) Nothing in this section may be construed to permit the prosecution under this section:

- (1) of a person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;
- (2) of a person for any medical treatment of the pregnant woman or her unborn child; or
- (3) of a woman with respect to her unborn child.

(C) As used in this section, the term "unborn child" means a child in utero, and the term "child in utero" or "child who is in utero" means a member of the species homo sapiens, at any state of development, who is carried in the womb.

(D) Nothing in this section shall be construed to broaden or restrict any other rights currently existing for the child who is in utero.

HISTORY: 2006 Act No. 325, Section 2, eff June 2, 2006.

Editor's Note

2006 Act No. 325, Section 1, provides as follows:

"This act may be cited as the 'Unborn Victims of Violence Act of 2006'."

SECTION 16-3-1085.

Violent offender prohibited from purchasing, owning, or using body armor; exceptions.

(A) Except as otherwise provided in this section, it is unlawful for a person who has been convicted of a violent crime, as defined in Section 16-1-60, to purchase, own, possess, or use body armor.

(B)(1) A person who has been convicted of a violent crime whose employment, livelihood, or safety is dependent on his ability to purchase, own, possess, or use body armor may petition the chief of police of the local unit of government in which he resides or, if he does not reside in a local unit of government that has a police department, he may petition the county sheriff for written permission to purchase, own, possess, or use body armor.

(2) The chief of police of a local unit of government or the county sheriff may grant a person who properly petitions the chief of police or county sheriff under subsection (B)(1) written permission to purchase, own, possess, or use body armor as provided in this section if the chief of police or county sheriff determines that the petitioner:

- (a) is likely to use body armor in a safe and lawful manner; and
- (b) has reasonable need for the protection provided by body armor.

(3) In making the determination required under subsection (B)(1), the chief of police or county sheriff must consider:

- (a) the petitioner's continued employment;
- (b) the interests of justice; and
- (c) other circumstances justifying issuance of written permission to purchase, own, possess, or use body armor.

(4) The chief of police or county sheriff may restrict written permission issued to a petitioner under this section in any manner determined appropriate by that chief of police or county sheriff. If permission is restricted, the chief of police or county sheriff must state the restrictions in the permission document.

(5) Chiefs of police and county sheriffs must exercise broad discretion in determining whether to issue written permission to purchase, own, possess, or use body armor under this section. However, nothing in this section requires a chief of police or county sheriff to issue written permission to any particular petitioner. The issuance of written permission to purchase, own, possess, or use body armor under this section does not relieve any person or entity from criminal liability that might otherwise be imposed.

(6) A person who receives written permission from a chief of police or county sheriff to purchase, own, possess, or use body armor must have the written permission in his possession when he is purchasing, owning, possessing, or using body armor.

(C) A law enforcement agency may issue body armor to a person who is in the custody of a law enforcement agency or a local or state correctional facility or who is a witness to a crime for his protection without a petition being filed under subsection (B). If the law enforcement agency issues body armor to a person under this subsection, the law enforcement agency must document the reasons for issuing the body armor and retain a copy of that document as an official record. The law enforcement agency must issue written permission to the person to possess and use body armor under this section.

(D) A person who violates this section is guilty of:

- (1) a felony for a violation of subsection (A) and, upon conviction, must be imprisoned not more than five years or fined not more than two thousand dollars, or both;
- (2) a misdemeanor for a violation of subsection (B)(6) and, upon conviction, must be imprisoned not more than ninety days or fined not more than one hundred dollars, or both.

(E) As used in this section "body armor" means clothing or a device designed or intended to protect a person's body or a portion of a person's body from injury caused by a firearm.

HISTORY: 2001 Act No. 100, Section 2.

SECTION 16-3-1090.

Assisted suicide; penalties; injunctive relief.

(A) As used in this section:

(1) "Licensed health care professional" means a duly licensed physician, surgeon, podiatrist, osteopath, osteopathic physician, osteopathic surgeon, physician assistant, nurse, dentist, or pharmacist.

(2) "Suicide" means the act or instance of taking one's life voluntarily and intentionally.

(B) It is unlawful for a person to assist another person in committing suicide. A person assists another person in committing suicide if the person:

- (1) by force or duress intentionally causes the other person to commit or attempt to commit suicide; or

(2) has knowledge that the other person intends to commit or attempt to commit suicide and intentionally:

(a) provides the physical means by which the other person commits or attempts to commit suicide; or

(b) participates in a physical act by which the other person commits or attempts to commit suicide.

(C) None of the following may be construed to violate subsection (B):

(1) the withholding or withdrawing of a life sustaining procedure or compliance with any other state or federal law authorizing withdrawal or refusal of medical treatments or procedures;

(2) the administering, prescribing, or dispensing of medications or procedures, by or at the direction of a licensed health care professional, for the purpose of alleviating another person's pain or discomfort, even if the medication or procedure may increase the risk of death, as long as the medication or procedure is not also intentionally administered, prescribed, or dispensed for the purpose of causing death, or the purpose of assisting in causing death, for any reason; or

(3) the administering, prescribing, or dispensing of medications or procedures to a patient diagnosed with a medical condition that includes an element of suicidal ideation, even if the medication or procedure may increase the risk of death, as long as the medication or procedure is not also intentionally administered, prescribed, or dispensed for the purpose of causing death, or the purpose of assisting in causing death, for any reason.

(D) Subsection (C) must not be construed to affect the duty of care or legal requirements other than those in this section concerning acts or omissions under subsection (C).

(E) A person who violates subsection (B) is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years or fined not more than one hundred thousand dollars, or both.

(F) Injunctive relief may be sought against a person who it is reasonably believed is about to violate or who is in the course of violating subsection (B) by a person who is:

(1) the spouse, parent, child, or sibling of the person who would commit suicide;

(2) entitled to inherit from the person who would commit suicide;

(3) a current or former health care provider of the person who would commit suicide;

(4) a legally appointed guardian or conservator of the person; or

(5) a public official with the appropriate jurisdiction to prosecute or enforce the laws of this State.

An injunction shall legally prevent the person from assisting any suicide in this State regardless of who is being assisted.

(G) The licensing agency which issued a license or certification to a licensed health care professional who assists in a suicide in violation of subsection (B) shall revoke or suspend the license or certification of that person upon receipt of a copy of the record of:

(1) a criminal conviction, plea of guilty, or plea of nolo contendere for the violation of subsection (B); or

(2) a judgment of contempt of court for violating an injunction issued under subsection (F).

HISTORY: 1998 Act No. 398, Section 1.

ARTICLE 12

Crime Victim Assistance Grants

SECTION 16-3-1095.

Creation of Department of Crime Victim Assistance Grants; solicitation and administration of grants and awards.

(A) The Department of Crime Victim Assistance Grants is created within the Office of the Attorney General, South Carolina Crime Victim Services Division to administer the Victims of Crime Act grants, the Violence Against Women Act grants, and the State Victim's Assistance Program grants. The Director of the Crime Victim Services Division shall appoint a deputy director of the department.

(B) The deputy director shall establish a process to solicit and administer the disbursement of funds for Victims of Crime Act grants, the Violence Against Women Act grants, and the State Victim's Assistance Program grants available under Public Law 98-473 establishing the Victims of Crime Act of 1984, and the Violence Against Women Act (VAWA-I) established under Title IV of the Violent Crime Control and Law Enforcement Act of 1994, Public Law No. 103-322, 108 Stat. 1796 (September 13, 1994), and administer all other crime victim service funding as provided by law, including, but not limited to, the authority to solicit for federal formula or discretionary grant awards and foundation funding.

HISTORY: 2017 Act No. 96 (S.289), Section 8.A, eff July 1, 2017.

ARTICLE 13

Compensation of Victims of Crime

SECTION 16-3-1110.

Definitions.

(A) For the purpose of this article and Articles 14 and 15 of this chapter:

(1) "Board" means the South Carolina Crime Victim Advisory Board.

(2) "Claimant" means any person filing a claim pursuant to this article.

(3) "Fund" means the South Carolina Victim Compensation Fund, which is administered by the Office of the Attorney General, South Carolina Crime Victim Services Division.

(4) "Director" means the Director of the Office of the Attorney General, South Carolina Crime Victim Services Division who is appointed by the Attorney General.

(5) "Field representative" means a field representative of the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation assigned to handle a claim.

(6) "Crime" means an act which is defined as a crime by state, federal, or common law, including terrorism as defined in Section

2331 of Title 18, United States Code. Unless injury or death was recklessly or intentionally inflicted, "crime" does not include an act involving the operation of a motor vehicle, boat, or aircraft.

(7) "Recklessly or intentionally" inflicted injury or death includes, but is not limited to, injury or death resulting from an act which violates Sections 56-5-1210, 56-5-2910, 56-5-2920, or 56-5-2930 or from the use of a motor vehicle, boat, or aircraft to flee the scene of a crime in which the driver of the motor vehicle, boat, or aircraft knowingly participated.

(8) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime. The term includes immediate family members of a homicide victim or of any other victim who is either incompetent or a minor and includes an intervenor. The term also includes a minor who is a witness to a domestic violence offense pursuant to Section 16-25-20 or Section 16-25-65.

(9) "Intervenor" means a person other than a law enforcement officer performing normal duties, who goes to the aid of another, acting not recklessly, to prevent the commission of a crime or lawfully apprehend a person reasonably suspected of having committed a crime.

(10) "Panel" means a three-member panel of the board designated by the board chairman to hear appeals.

(11) "Restitution" means payment for all injuries, specific losses, and expenses sustained by a crime victim resulting from an offender's criminal conduct. It includes, but is not limited to:

(a) medical and psychological counseling expenses;

(b) specific damages and economic losses;

(c) funeral expenses and related costs;

(d) vehicle impoundment fees;

(e) child care costs; and

(f) transportation related to a victim's participation in the criminal justice process.

(B) Restitution does not include awards for pain and suffering, wrongful death, emotional distress, or loss of consortium.

Restitution orders do not limit any civil claims a crime victim may file.

(C) Notwithstanding any other provision of law, the applicable statute of limitations for a crime victim, who has a cause of action against an incarcerated offender based upon the incident which made the person a victim, is tolled and does not expire until three years after the offender's release from the sentence including probation and parole time or three years after release from commitment pursuant to Chapter 48 of Title 44, whichever is later. However, this provision shall not shorten any other tolling period of the statute of limitations which may exist for the crime victim.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1988 Act No. 405, Section 1; 1993 Act No. 181, Section 271; 1996 Act No. 437, Section 6; 1997 Act No. 45, Section 1; 1998 Act No. 321, Section 2; 2015 Act No. 58 (S.3), Pt IV, Section 17, eff June 4, 2015; 2017 Act No. 96 (S.289), Section 5.A, eff July 1, 2017.

Editor's Note

1996 Act No. 437, Section 8, eff January 1, 1997, provides as follows:

"Implementation of the changes in law effectuated by this act to Sections 16-3-1110, 16-3-1535, 17-25-322, 17-25-324, and 24-21-490 of the 1976 Code and the requirements thereunder or in any new provisions of law contained herein which would necessitate funding are contingent upon appropriations of sufficient funding by the General Assembly. Nothing herein shall relieve the various agencies and authorities within the offices of the respective clerks of court or judicial, correctional, and parole systems of this State from continuing to meet, enforce, and address those provisions of law related to restitution in effect prior to the enactment hereof."

Effect of Amendment

2015 Act No. 58, Section 17, in (8), added the last sentence, relating to Sections 16-25-20 and 16-25-65.

2017 Act No. 96, Pt. II, Section 5.A, inserted the (A), (B), and (C) identifiers; in (A)(1), substituted "Victim" for "Victim's"; in (A)(3), substituted "Victim Compensation Fund, which is administered by the Office of the Attorney General, South Carolina Crime Victim Services Division" for "Victim's Compensation Fund, which is a division of the Office of the Governor"; in (A)(4), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division who is appointed by the Attorney General" for "Victim's Compensation Fund who is appointed by the Governor. The director shall be in charge of the State Office of Victim's Assistance which is part of this division under the supervision of the Governor"; in (A)(5), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation" for "State Victim's Compensation Fund"; deleted (A)(10), which had related to the definition of "deputy director", and redesignated accordingly; and made nonsubstantive changes.

SECTION 16-3-1120.

Director of Crime Victim Services Division; powers and duties.

(A) A director of the South Carolina Crime Victim Services Division must be appointed by the Attorney General and shall serve at his pleasure. The director is responsible for administering the provisions of this article. Included among the duties of the director is the responsibility, with approval of the South Carolina Crime Victim Advisory Board as established in this article, for developing and administering a plan for informing the public of the availability of the benefits provided under this article and procedures for filing claims for the benefits.

(B) The director, upon approval by the South Carolina Crime Victim Advisory Board, has the following additional powers and duties:

(1) to appoint a deputy director of the Department of Crime Victim Compensation, and staff necessary for the operation of the

department, and to contract for services. The director shall recommend the salary for the deputy director and other staff members, as allowed by statute or applicable law;

(2) to request from the Attorney General, South Carolina Law Enforcement Division, solicitors, magistrates, judges, county and municipal police departments, and any other agency or department such assistance and data as will enable the director to determine whether, and the extent to which, a claimant qualifies for awards. Any person, agency, or department listed above is authorized to provide the director with the information requested upon receipt of a request from the director. Any provision of law providing for confidentiality of juvenile records does not apply to a request of the deputy director, the director, the board, or a panel of the board pursuant to this section;

(3) to reopen previously decided award cases as the director or deputy director considers necessary;

(4) to require the submission of medical records as are needed by the board, a panel of the board, or deputy director or his staff and, when necessary, to direct medical examination of the victim;

(5) to take or cause to be taken affidavits or depositions within or without the State. This power may be delegated to the deputy director or the board or its panel;

(6) to render each year to the Governor and to the General Assembly a written report of the activities of the Department of Crime Victim Compensation and the Victim Compensation Fund pursuant to this article;

(7) to delegate the authority to the deputy director to reject incomplete claims for awards or assistance;

(8) to render awards to victims of crime or to those other persons entitled to receive awards in the manner authorized by this article. The power may be delegated to the deputy director;

(9) to apply for funds from, and to submit all necessary forms to, any federal agency participating in a cooperative program to compensate victims of crime;

(10) to delegate to the board or a panel of the board on appeal matters any power of the director or deputy director.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1988 Act No. 658, Part II, Section 16; 1993 Act No. 181, Section 272; 2017 Act No. 96 (S.289), Section 5.B, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.B, inserted the (A) and (B) identifiers; in (A), substituted "South Carolina Crime Victim Services Division" for "Victim's Compensation Fund", "Attorney General" for "Governor", and "Victim" for "Victim's"; in (B), substituted "Victim" for "Victim's"; in (B)(1), substituted "Department of Crime Victim Compensation" for "Victim's Compensation Fund" and "of the department" for "thereof"; deleted (B)(2), relating to regulations and redesignated accordingly; in (B)(3), deleted "investigate or" prior to "reopen" and inserted "director or"; and, in (B)(6), substituted "Department of Crime Victim Compensation and the Victim Compensation Fund" for "Victim's Compensation Fund".

SECTION 16-3-1130.

Claims; assignment to field representative; investigation and reports.

(1) A claim, once accepted for filing and completed, must be assigned to a field representative. The field representative shall examine the papers filed in support of the claim and cause an investigation to be conducted into the validity of the claim. The investigation shall include but not be limited to an examination of police, court, and official records and reports concerning the crime and an examination of medical and hospital reports relating to the injury upon which the claim is based. All claims arising from the death of an individual as a direct result of a crime must be considered together by a single field representative.

(2) Claims must be investigated and determined, regardless of whether the alleged criminal has been apprehended, prosecuted, or convicted of any crime based upon the same incident or whether the alleged criminal has been acquitted or found not guilty of the crime in question.

(3) The field representative conducting the investigation shall file with the deputy director a written report setting forth a recommendation and his reason for the recommendation. The deputy director shall render a written decision and furnish the claimant with a copy of the decision.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1989 Act No. 181, Section 1.

SECTION 16-3-1140.

Application for review of decision; appeals; subpoenas; report on review.

(A) The claimant may, within thirty days after receipt of the report of the decision of the deputy director, make an application in writing to the deputy director for review of the decision.

(B) Upon receipt of an application for review pursuant to subsection (A), the deputy director shall forward all relevant documents and information to the Chairman of the Crime Victim Advisory Board. The chairman shall appoint a three-member panel of the board which shall review the records and affirm or modify the decision of the deputy director; provided, that the chairman may order, in his discretion, that any particular case must be heard by the full board. If considered necessary by the board or its panel or if requested by the claimant, the board or its panel shall order a hearing prior to rendering a decision. At the hearing any relevant evidence, not legally privileged, is admissible. The board or its panel shall render a decision within ninety days after completion of the investigation. The action of the board or its panel is final and nonappealable. If the deputy director receives no application for review pursuant to subsection (A), his decision becomes the final decision of the Department of Crime Victim Compensation.

(C) The board or its panel, for purposes of this article, may subpoena witnesses, administer or cause to be administered oaths, and examine such parts of the books and records of the parties to proceedings as relate to questions in dispute.

(D) The deputy director shall within ten days after receipt of the board's or panel's final decision make a report to the claimant including a copy of the final decision and the reasons why the decision was made.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 2017 Act No. 96 (S.289), Section 5.C, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.C, made nonsubstantive changes throughout the section.

SECTION 16-3-1150.

Emergency awards.

Notwithstanding the provisions of Section 16-3-1130, if it appears to the deputy director that the claim is one with respect to which an award probably will be made and undue hardship will result to the claimant, if immediate payment is not made, the deputy director may make one or more emergency awards to the claimant pending a final decision in the case, provided that:

- (1) the amount of each emergency award shall not exceed five hundred dollars;
- (2) the total amount of such emergency awards shall not exceed one thousand dollars;
- (3) the amount of such emergency awards must be deducted from any final award made to the claimant; and
- (4) the excess of the amount of any emergency award over the amount of the final award, or the full amount of any emergency award if no final award is made, must be repaid by the claimant to the Victim Compensation Fund as created by this article.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1986 Act No. 540, Part II, Section 27A; 2017 Act No. 96 (S.289), Section 5.D, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.D, made nonsubstantive changes throughout the section.

SECTION 16-3-1160.

South Carolina Crime Victim Advisory Board; appointments; terms of office; vacancies in office; meetings; subsistence, mileage, and per diem.

(A) There is created a board to be known as the South Carolina Crime Victim Advisory Board to consist of eleven members to be appointed by the Attorney General. Of the original seven members, at least two of the members shall have been admitted to practice law in this State for not less than five years next preceding their appointment, one member shall be a physician licensed to practice medicine under the laws of this State, and one member shall have at least four years' administrative experience in a court-related Victim's Assistance Fund, provided that such a qualified person is available. Of the four additional members, one must be a law enforcement officer with at least five years' administrative experience, one shall have at least five years' experience in directing sexual assault prevention or treatment services, one shall have at least five years' experience in providing services for domestic violence victims, and one shall have been a victim of crime.

(B) The term of office of each appointed member is five years and until his successor is appointed and qualified. Of those seven members first appointed, two shall serve for a term of one year, two for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, with the initial terms to be designated by the Attorney General when making the initial appointments. The initial terms of four additional members to be appointed as provided in this section are for two, three, four, and five years, respectively, the initial term of each member to be designated by the Attorney General when making the appointment. The Attorney General shall select a chairman. The board may elect a secretary and other officers as deemed necessary.

(C) Any vacancy must be filled for the remainder of the unexpired term by appointment in the same manner of the initial appointments. On June 30, 2017, the terms of the members of the board currently serving shall terminate, and members serving on that date, or subsequently appointed by the Attorney General, are eligible for reappointment at the discretion of the Attorney General.

The board shall meet at least twice each year and must be subject to the call of the chairperson, to consider improvements in and monitor the effectiveness of the Victim Compensation Fund, and to review and comment on the budget and approve the regulations pertaining to the Victim Compensation Fund and the Victim/Witness Assistance Program of Article 14. The members of the board shall receive the same subsistence, mileage, and per diem as is provided by law for members of state boards, committees, and commissions, to be paid from the Victim Compensation Fund as created by this article.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 2008 Act No. 273, Section 4, eff June 4, 2008; 2017 Act No. 96 (S.289), Section 5.E, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.E, inserted the paragraph identifiers; substituted "Attorney General" for "Governor" throughout the section; in (C), added the second sentence, relating to the termination of board members currently serving; and made nonsubstantive changes.

SECTION 16-3-1170.

Basis for award.

(A) No award may be made unless:

- (1) a crime was committed;
- (2) the crime directly resulted in physical or psychic trauma to the victim;
- (3) the crime was promptly reported to the proper authority and recorded in police records; and
- (4) the claimant or other award recipient has fully cooperated with all law enforcement agencies and with the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation.

(B) For the purposes of subsection (A)(3), a crime reported more than forty-eight hours after its occurrence is not "promptly reported", absent a showing of special circumstances or causes which justify the delay.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1988 Act No. 405, Section 2; 2017 Act No. 96 (S.289),

Section 5.F, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.F, in (A)(4), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation" for "South Carolina Victim's Compensation Fund"; and in (B), substituted "subsection (A)(3)" for "item (3) of subsection (A)".

SECTION 16-3-1180.

Amount of award; apportionment among multiple claimants; rejection of application for award.

(A) An award may be made for:

(1) reasonable and customary charges as periodically determined by the board for medical services, including mental health counseling, required and rendered as a direct result of the injury on which the claim is based, as long as these services are rendered by a licensed professional. Payment for mental health counseling is limited to the number of sessions during a one hundred eighty-day period beginning on the date of the first counseling session or twenty sessions, whichever is greater. Upon recommendation of the director, the board may allow victims who max out the current benefit of twenty mental health counseling sessions to request up to an additional twenty sessions for a total of forty sessions;

(2) reasonable and customary charges as periodically determined by the board for other services required and rendered as a direct result of the injury upon which the claim is based, as long as the service is rendered by a professional or paraprofessional who holds a license, certificate, or other documentary evidence of specific training and qualification in a field of service which, by regulation, the board recognizes as a service required by and beneficial to crime victims;

(3) loss of earning or support, provided that:

(a) claimant is deprived of that income for at least two consecutive weeks;

(b) the loss is not reimbursable;

(c) the amount may not exceed the maximum rate provided in Section 42-1-50;

(d) conditions (a), (b), and (c) may be waived in severe hardship cases;

(4) reasonable and customary charges for employment-oriented retraining or rehabilitative services incurred as a direct result of the injury; and

(5) burial expenses not to exceed four thousand dollars.

(B) If there are two or more family members as specified in Section 16-3-1210(c) who are entitled to an award as a result of the death of a person, the award must be apportioned among the claimants; however, the amount awarded for burial expenses must be paid to or on behalf of the person who has paid or is responsible for that expense.

(C) The aggregate of award to and on behalf of victims may not exceed fifteen thousand dollars unless the Crime Victim Advisory Board, by two-thirds vote, and the director concur that extraordinary circumstances exist. In this case, the award may not exceed twenty-five thousand dollars.

(D) An award may be made only if and to the extent that the amount of compensable loss exceeds one hundred dollars; however, this limitation may be waived in the interest of justice and must be waived upon a showing that the claimant is at least sixty-five years old.

(E) A previously decided award may be reopened for the purpose of increasing the compensation previously awarded, subject to the maximum provided in this article. In this case the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation shall send immediately to the claimant a copy of the notice changing the award. This review may not affect the award as regards any monies paid, and the review may not be made after eighteen months from the date of the last payment of compensation pursuant to an award under this article unless the director or deputy director determines there is a need to reopen the case as specified in Section 16-3-1120(B)(3).

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1986 Act No. 540, Part II, Sections 27B, 2C; 1988 Act No. 406; 1990 Act No. 480, Section 1; 1991 Act No. 144, Section 1; 1995 Act No. 83, Section 12; 1996 Act No. 458, Part II, Section 51A; 2008 Act No. 271, Section 1, eff January 1, 2009; 2017 Act No. 96 (S.289), Section 5.G, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.G, in (C), substituted "Victim" for "Victim's"; in (E), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation" for "State Office of Victim Assistance", inserted "deputy director", and substituted "16-3-1120(B)(3)" for "16-3-1120(4)".

SECTION 16-3-1190.

Reduction of award.

Any award made pursuant to this article may be reduced by or set off by the amount of any payments received or to be received as a result of the injury (a) from or on behalf of the person who committed the crime, (b) from any other private or public source, including an award of workers' compensation pursuant to the laws of this State or (c) as an emergency award pursuant to Section 16-3-1150; provided, that private sources shall not include contributions received from family members, or persons or private organizations making charitable donations to a victim.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.

SECTION 16-3-1200.

Conduct of victim or intervenor contributing to infliction of injury; reduction of award; rejection of claim.

In determining the amount of an award, the Deputy Director, the Board, or its panel shall determine whether because of his conduct the victim or intervenor of such crime contributed to the infliction of his injury, and the Deputy Director, the Board, or its panel may

reduce the amount of the award or reject the claim altogether in accordance with such determination; provided, however, the Deputy Director, the Board, or its panel may disregard for this purpose the contribution of an intervenor for his own injury or death where the record shows that the contribution was attributable to efforts by the intervenor as set forth in subsection (8) of Section 16-3-1110.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.

SECTION 16-3-1210.

Persons eligible for award.

Except as provided in Section 16-3-1220, a victim, surviving spouse, or a parent or legally dependent child of a victim is entitled to file for benefits under this article if either:

- (a) the offense was committed in this State; or
- (b) the victim was a resident of this State when the crime was committed in either another state or outside the United States if the crime is terrorism. In either case the award payable under this article must be reduced by the amount paid or payable under the laws of another state as a result of the criminal act giving rise to the claim; or
- (c) the victim was a resident of this State when the offense was committed in another state. In any case, the award payable under this article must be reduced by the amount paid or payable under the laws of another state as a result of the criminal act giving rise to the claim.

A surviving spouse, parent, or legally dependent child is not entitled to file for benefits under this section if that person is the subject of an investigation, has been charged with, convicted of, or pled guilty or nolo contendere to the offense in question, or acted on behalf of the suspect, juvenile offender, or defendant.

HISTORY: 1982 Act No. 455 Section 2. 1984 Act No. 489, Section 1; 1989 Act No. 181, Section 2; 1997 Act No. 45, Section 2; 1997 Act No. 141, Section 2.

SECTION 16-3-1220.

Persons ineligible for award.

A person listed in Section 16-3-1210 is not eligible to recover under this article if the person:

- (1) committed or aided in the commission of the crime upon which the claim is based or engaged in other unlawful activity which contributed to or aggravated the resulting injury;
- (2) is the surviving parent, spouse, or dependent of a deceased victim who would have been barred by subsection (1) had he survived;
- (3) is a dependent of the offender who committed the crime upon which the claim is based, and the offender would be a principal beneficiary of the award.

HISTORY: 1982 Act No. 455, Section 2. 1984 Act No. 489, Section 1; 1989 Act No. 181, Section 3; 1991 Act No. 144, Section 2; 2017 Act No. 96 (S.289), Section 5.H, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.H, substituted "Section 16-3-1210" for "Section 16-3-1210(1)".

SECTION 16-3-1230.

Claim filed on behalf of minor or incompetent; time limitations.

(A) A claim may be filed by a person eligible to receive an award, as provided in Section 16-3-1210, or, if the person is an incompetent or a minor, by his parent or legal guardian or other individual authorized to administer his affairs.

(B) A claim must be filed by the claimant not later than one hundred eighty days after the latest of the following events:

- (1) the occurrence of the crime upon which the claim is based;
 - (2) the death of the victim;
 - (3) the discovery by the law enforcement agency that the occurrence was the result of crime; or
 - (4) the manifestation of a mental or physical injury is diagnosed as a result of a crime committed against a minor.
- (C) Upon good cause shown, the time for filing may be extended for a period not to exceed four years after the occurrence, diagnosed manifestation, or death. "Good cause" for the above purposes includes reliance upon advice of an official victim assistance specialist who either misinformed or neglected to inform a victim of rights and benefits of the Victim Compensation Fund but does not mean simply ignorance of the law.

(D) Claims must be filed in the Department of Crime Victim Compensation with input from the board by conventional mail, facsimile, in person, or through another electronic submission mechanism approved by the director. The director shall accept for filing all claims submitted by persons eligible pursuant to subsection (A) and meeting the requirements as to the form of the claim contained in the form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1989 Act No. 181, Section 4; 2006 Act No. 380, Section 5, eff upon approval (became law without the Governor's signature on June 14, 2006); 2008 Act No. 271, Section 2, eff January 1, 2009; 2017 Act No. 96 (S.289), Section 5.I, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.I, renumbered the section; in (C), substituted "Victim Compensation Fund" for "Victim's Compensation Fund"; and, in (D), substituted "Department of Crime Victim Compensation with input from the board" for "office of the director", "subsection (A)" for "subsection (1)", and "form developed by the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation" for "regulations of the board".

SECTION 16-3-1240.

Disclosure of records as to claims; confidentiality; applicability of Freedom of Information Act.

It is unlawful, except for purposes directly connected with the administration of the fund, for any person to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards pursuant to the provisions of this article without the written consent of the applicant or recipient. The records, papers, files, and communications of the board, its panel, and the director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 4, Title 30.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 2017 Act No. 96 (S.289), Section 5.J, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.J, substituted "fund" for "victim's compensation program", "pursuant to the provisions of this article" for "hereunder", "Chapter 4, Title 30" for "Chapter 3 of Title 30", and made nonsubstantive changes.

SECTION 16-3-1250.

Subrogation of State to right of action accruing to claimant, victim, or intervenor.

Payment of an award pursuant to this article subrogates the State to the extent of the payment to any right of action accruing to the claimant or to the victim or intervenor to recover losses resulting from the crime with respect to which the award is made, except that subrogation shall not reduce the financial recovery by the victim, claimant, or intervenor to less than one hundred percent of actual losses or expenses. The subrogation amount must be reduced if there is a jury award or judicial award in a bench trial, which results in a loss to the victim, claimant, or intervenor. Subrogation shall not be reduced if the action is terminated other than by a jury award or judicial award in a bench trial.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1996 Act No. 458, Part II, Section 51B.

SECTION 16-3-1260.

Reimbursement of State by convicted person for payment by Office of the Attorney General, South Carolina Crime Victim Services Division.

(A) A payment of benefits to, or on behalf of, a victim or intervenor, or eligible family member under this article creates a debt due and owing to the State by a person as determined by a court of competent jurisdiction of this State, who has committed the criminal act.

(B) The circuit court, when placing on probation a person who owes a debt to the State as a consequence of a criminal act, may set as a condition of probation the payment of the debt or a portion of the debt to the State. The court also may set the schedule or amounts of payments subject to modification based on change of circumstances.

(C) The Department of Probation, Parole and Pardon Services shall also have the right to make payment of the debt or a portion of the debt to the State a condition of parole or community supervision.

(D) When a juvenile is adjudicated delinquent in a Family Court proceeding involving a crime upon which a claim under this article can be made, the family court, in its discretion, may order that the juvenile pay the debt to the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, as created by this article, as an adult would have to pay had an adult committed the crime. Any assessments ordered may be made a condition of probation as provided in Section 63-19-1410.

(E) Payments authorized or required under this section must be paid to the Office of the Attorney General, South Carolina Crime Victim Services Division. The Director of the Office of the Attorney General, South Carolina Crime Victim Services Division, together with the Deputy Director of the Department of Crime Victim Compensation, shall coordinate the development of policies and procedures for the South Carolina Department of Corrections, the Department of Juvenile Justice, the South Carolina Office of Court Administration, the Department of Probation, Parole and Pardon Services, and the South Carolina Board of Probation, Parole and Pardon Services to assure that victim restitution programs are administered in an effective manner to increase payments into the fund.

(F) Restitution payments to the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund may be made by the Department of Corrections from wages accumulated by offenders in its custody who are subject to this article, except that offenders' wages must not be used for this purpose if monthly wages are at or below minimums required to purchase basic necessities.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1995 Act No. 83, Section 13; 2017 Act No. 96 (S.289), Section 5.K, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.K, redesignated the paragraph identifiers; in (D), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation" for "State Office of Victim Assistance"; in (E), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division" for "State Office of Victim Assistance", "Office of the Attorney General, South Carolina Crime Victim Services Division, together with the Deputy Director of the Department of Crime Victim Compensation," for "State Office of Victim Assistance", and "fund" for "State Office of Victim Assistance"; in (F), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund" for "State Office of Victim Assistance"; and made nonsubstantive changes throughout.

SECTION 16-3-1270.

Restitution by offender; lien against offender; filing of lien.

If a person is unable at the time of sentencing or at any other time the court may set to pay a restitution charge imposed by the court pursuant to Sections 24-23-210 through 24-23-230, such restitution charge shall constitute a lien against the offender and against any real or personal property of the offender. A restitution charge shall not constitute a lien if it is waived by the Director pursuant to Section 24-23-210. Such lien may be filed by the Attorney General in the respective offices of the clerks of court and registers of deeds of this State in the same manner state tax liens are filed and may be enforced and collected by the Attorney General in the same manner state tax liens are enforced and collected.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1997 Act No. 34, Section 1.

Editor's Note

Section 24-23-210 was repealed by 1994 Act No. 497, Part II Section 36.U, and section 24-23-220 was repealed by 1996 Act No. 292, Section 6.

SECTION 16-3-1280.

False claim; penalties.

Any person who knowingly makes a false claim or a false statement in connection with any claim hereunder is guilty of a misdemeanor and upon conviction must be punishable by a fine of not less than five hundred dollars or by a term of imprisonment for not less than one year, or both, and shall further forfeit all money received hereunder, if any.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.

SECTION 16-3-1290.

Victim Compensation Fund; payment of claims, expenses and administrative costs.

(A) There is hereby created a special fund to be known as the Victim Compensation Fund for the purpose of providing for the payment of all necessary and proper expenses incurred by the operation of the fund and the payment of claims. The State Treasurer is the custodian of the fund and all monies in the fund are held by the State Treasurer.

(B) The funds placed in the Victim Compensation Fund shall consist of all money appropriated by the General Assembly, if any, for the purpose of compensating claimants under this article and money recovered on behalf of the State pursuant to this article by subrogation or other action, recovered by court order, received from the federal government, received from additional court costs, received from assessments or fines, or received from any other public or private source, pursuant to this article.

(C) All administrative costs of this article, except the director's salary, must be paid out of money collected pursuant to this article which has been deposited in the fund.

(D) Interest earned on all monies held in the fund shall be remitted to the general fund of the State.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1984 Act No. 512, Part II, Section 73; 2017 Act No. 96 (S.289), Section 5.L, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.L, redesignated the paragraph identifiers; in (A), substituted "Victim Compensation Fund" for "Victim's Compensation Fund" and "fund" for "Victim's Compensation Fund"; in (B), substituted "Victim Compensation Fund" for "Victim's Compensation Fund"; in (C), substituted "fund" for "Victim's Compensation Fund"; in (D), substituted "fund" for "Victim's Compensation Fund"; and made nonsubstantive changes.

SECTION 16-3-1300.

Payment of award; exemption from garnishment, execution, or attachment.

Any award made under this article must be paid in accordance with the discretion and decision of the Deputy Director as to the manner of payment, subject to the regulations of the board and not inconsistent with the Board's or panel's award. No award made pursuant to this article is subject to garnishment, execution, or attachment other than for expenses resulting from the injury which is the basis for the claim. In every case providing for an award to a claimant under this article, the Deputy Director, the Board or its panel may, if in its opinion the facts and circumstances of the case warrant it, convert the award to be paid into a partial or total lump sum, without discount.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.

SECTION 16-3-1310.

Payment of award to victim or intervenor confined in correctional facility.

No award of any kind must be made under this article to a victim or intervenor injured while confined in any federal, state, county, or municipal jail, prison, or other correctional facility.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.

SECTION 16-3-1320.

Payment of award as not constituting ordinary income for tax purposes.

An award made pursuant to this article shall not constitute a payment which is treated as ordinary income under either the provisions of Chapter 7 of Title 12 of the 1976 Code, or to the extent lawful, under the United States Internal Revenue Code.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1.

SECTION 16-3-1330.

Insufficient funds for payment of claims.

(A) When the director determines that projected revenue in any fiscal year will be insufficient to pay projected claims or awards in the amounts provided pursuant to the provisions of this article, he shall reduce the amount of all claims or awards by an amount equal to the ratio of projected revenue to the total projected claims or awards cost. When these reductions are required, the director

shall inform the public through the media of the reductions as promptly as possible. The reductions apply to all claims or awards not paid as of the effective date of the reductions order.

(B) Any award is specifically not a claim against the State if it cannot be paid due to a lack of funds in the Victim Compensation Fund.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1988 Act No. 367, Section 1; 2017 Act No. 96 (S.289), Section 5.M, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.M, inserted the paragraph identifiers; in (A), substituted "pursuant to the provisions of this article" for "herein"; and, in (B), deleted "hereunder" following "Any award", and substituted "Victim Compensation Fund" for "Victim's Compensation Fund".

SECTION 16-3-1340.

Attorney for claimant; fees; attorney for Department of Crime Victim Compensation; soliciting employment to pursue claim or award; penalties.

(A) A claimant may be represented by an attorney in proceedings under this article. Attorneys' fees must be paid from the Victim Compensation Fund, subject to the approval of the director, except that in the event of an appeal pursuant to Section 16-3-1140, attorneys' fees are subject to the approval of the board or its panel hearing the appeal. Attorneys within the Office of the Attorney General shall represent the Department of Crime Victim Compensation in proceedings under this article.

(B) Any person who receives any fee or other consideration or any gratuity on account of services so rendered, unless the consideration or gratuity is approved by the deputy director, or who makes it a business to solicit employment for a lawyer or for himself in respect to any claim or award for compensation is guilty of a misdemeanor and, upon conviction must for each offense, be punished by a fine of not more than five hundred dollars or by imprisonment not more than one year, or both.

HISTORY: 1982 Act No. 455, Section 2; 1984 Act No. 489, Section 1; 1993 Act No. 181, Section 996; 2017 Act No. 96 (S.289), Section 5.N, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.N, rewrote the section, making conforming changes reflecting the restructuring of victim services generally relating to the Victim Compensation Fund and certain responsibilities of the newly created Office of the Attorney General, South Carolina Crime Services Division, Department of Crime Victim Compensation.

SECTION 16-3-1350.

Medicolegal examinations for victims of criminal sexual conduct or child sexual abuse.

(A) The State must ensure that a victim of criminal sexual conduct in any degree, criminal sexual conduct with a minor in any degree, or child sexual abuse must not bear the cost of his or her routine medicolegal exam following the assault.

(B) These exams must be standardized relevant to medical treatment and to gathering evidence from the body of the victim and must be based on and meet minimum standards for rape exam protocol as developed by the South Carolina Law Enforcement Division, the South Carolina Hospital Association, and the Office of the Attorney General, South Carolina Crime Victim Services Division with production costs to be paid from funds appropriated for the Victim Compensation Fund. These exams must include treatment for sexually transmitted diseases, and must include medication for pregnancy prevention if indicated and if desired. The South Carolina Law Enforcement Division must distribute these exam kits to any licensed health care facility providing sexual assault exams. When dealing with a victim of criminal sexual assault, the law enforcement agency immediately must transport the victim to the nearest licensed health care facility which performs sexual assault exams. A health care facility providing sexual assault exams must use the standardized protocol described in this subsection.

(C) A licensed health care facility, upon completion of a routine sexual assault exam as described in subsection (B) performed on a victim of criminal sexual conduct in any degree, criminal sexual conduct with a minor in any degree, or child sexual abuse, may file a claim for reimbursement directly to the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation if the offense occurred in South Carolina. The department must develop procedures for health care facilities to follow when filing a claim with respect to the privacy of the victim. Health care facility personnel must obtain information necessary for the claim at the time of the exam, if possible. The department must reimburse eligible health care facilities directly from the fund.

(D) The Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation must utilize existing funds appropriated from the general fund for the purpose of compensating licensed health care facilities for the cost of routine medical exams for sexual assault victims as described above. When the director determines that projected reimbursements in a fiscal year provided in this section exceed funds appropriated for payment of these reimbursements, he must direct the payment of the additional services from the fund. For the purpose of this particular exam, the one hundred dollar deductible is waived for award eligibility under the fund. The department must develop appropriate guidelines and procedures and distribute them to law enforcement agencies and appropriate health care facilities.

HISTORY: 1997 Act No. 141, Section 1; 2009 Act No. 59, Section 5, eff June 2, 2009; 2017 Act No. 96 (S.289), Section 5.O, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 5.O, rewrote the section, making conforming changes reflecting the restructuring of victim services generally relating to the Victim Compensation Fund and certain responsibilities of the newly created Office of the Attorney General, South Carolina Crime Services Division, Department of Crime Victim Compensation.

SECTION 16-3-1360.

Debt collection activities prohibited until award is made or denied; suspension of statute of limitations; definition.

(A) When a person files a claim pursuant to this article, a health care provider that has received written notice of a pending claim is prohibited from all debt collection activities relating to medical and psychological treatment received by the person in connection with the claim until an award is made on the claim or the claim is determined to be noncompensable and is denied, or ninety days have passed after the health care provider first received notice of a pending claim. The statute of limitations for collection of the debt is suspended during the period in which the applicable health care provider is required to refrain from debt collection activities.

(B) For purposes of this section, "debt collection activities" means repeatedly calling or writing to the claimant and threatening to turn the matter over to a debt collection agency or to an attorney for collection, enforcement, or filing of other process. The term does not include routine billing or inquiries about the status of the claim.

HISTORY: 2010 Act No. 241, Section 1, eff June 11, 2010.

ARTICLE 14

Crime Victim Services Training, Provider Certification, and Statistical Analysis

SECTION 16-3-1400.

Omitted.

HISTORY: Former Section, titled Definitions, had the following history: 1984 Act No. 489, Section 2; 1988 Act No. 405, Section 3; 2008 Act No. 271, Section 3, eff January 1, 2009; 2010 Act No. 293, Section 1, eff August 27, 2010. Omitted by 2017 Act No. 96, Section 6, eff July 1, 2017. See now, Section 16-3-1420.

SECTION 16-3-1410.

Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis; public crime victim assistance programs.

(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis is created within the Office of the Attorney General, South Carolina Crime Victim Services Division. The Director of the Crime Victim Services Division shall appoint a deputy director of the department.

(B) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis shall:

- (1) provide oversight of training, education, and certification of victim assistance programs;
- (2) in cooperation with the Victim Services Coordinating Council, promulgate training standards and requirements;
- (3) approve training curricula for credit hours toward certification;
- (4) provide victim service provider certification;
- (5) maintain records of certified victim service providers; and
- (6) collect and analyze statistical data gathered from providers; grant providers; grant recipients; all victim services funding streams; and local, state, and federal crime data and publish analysis, needs assessments, and reports.

(C) Public crime victim assistance programs shall ensure that all victim service providers employed in their respective offices are certified through the department.

(1) Private, nonprofit programs shall ensure that all crime victim service providers in these nonprofit programs are certified by a Victim Services Coordinating Council-approved certification program. Victim Services Coordinating Council approval must include review of the program to ensure that requirements are commensurate with the certification requirements for public victim assistance service providers.

(2) Crime victim service providers, serving in public or private nonprofit programs and employed on the effective date of this article, are exempt from basic certification requirements but must meet annual continuing education requirements to maintain certification. Crime victim service providers, serving in public or private nonprofit programs and employed after the effective date of this article, are required to complete the basic certification requirements within one year from the date of employment and to meet annual continuing education requirements to maintain certification throughout their employment.

(3) The mandatory minimum certification requirements, as promulgated by the deputy director, may not exceed fifteen hours, and the mandatory minimum requirements for continuing advocacy education, as promulgated by the deputy director, may not exceed twelve hours.

(4) Nothing in this section shall prevent an entity from requiring, or an individual from seeking, additional certification credits beyond the basic required hours.

HISTORY: 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

Editor's Note

Prior Laws: Former Section 16-3-1410 was titled Victim assistance services; membership of Victim Services Coordinating Council, and had the following history: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009. See now, Code 1976 Section 16-3-1430.

SECTION 16-3-1420.

Definitions.

For purposes of this article:

(1) "Victim service provider" means a person:

- (a) who is employed by a local government or state agency and whose job duties involve providing victim assistance as mandated by South Carolina law; or
- (b) whose job duties involve providing direct services to victims and who is employed by an organization that is incorporated in

South Carolina, holds a certificate of authority in South Carolina, or is registered as a charitable organization in South Carolina, and the organization's mission is victim assistance or advocacy and the organization is privately funded or receives funds from federal, state, or local governments to provide services to victims.

"Victim service provider" does not include a municipal court judge, magistrates court judge, circuit court judge, special circuit court judge, or family court judge.

(2) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution or who by reason of having relevant information is subject to call or likely to be called as a witness for the prosecution, whether or not an action or proceeding is commenced.

HISTORY: 1984 Act No. 489, Section 2; 1988 Act No. 405, Section 3; 2008 Act No. 271, Section 3, eff January 1, 2009; 2010 Act No. 293, Section 1, eff August 27, 2010. Formerly Section 16-3-1400, renumbered by 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

Editor's Note

Prior Laws: Former Section 16-3-1420 was titled Director, and had the following history: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 6, reenacted former Section 16-3-1400 as Section 16-3-1420.

SECTION 16-3-1430.

Victim assistance services; membership of Victim Services Coordinating Council.

(A) The Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis, in collaboration with the Department of Crime Victim Compensation, is authorized to provide the following victim assistance services, contingent upon the availability of funds in the Victim Compensation Fund:

(1) provide information, training, and technical assistance to state and local agencies and groups involved in victim and domestic violence assistance, such as the Attorney General's Office, the solicitors' offices, law enforcement agencies, judges, hospital staff, rape crisis centers, and spouse abuse shelters;

(2) provide recommendations to the Governor and General Assembly on needed legislation and services for victims;

(3) serve as a clearinghouse of victim information;

(4) develop ongoing public awareness and programs to assist victims, such as newsletters, brochures, television and radio spots and programs, and news articles;

(5) provide staff support for a Victim Services Coordinating Council representative of all agencies and groups involved in victim and domestic violence services to improve coordination efforts, suggest policy and procedural improvements to those agencies and groups as needed, and recommend needed statutory changes to the General Assembly; and

(6) coordinate the development and implementation of policy and guidelines for the treatment of victims with appropriate agencies.

(B) The Victim Services Coordinating Council shall consist of the following twenty-two members:

(1) the Director of the Office of the Attorney General, South Carolina Crime Victim Services Division, or his designee, who shall serve as chairperson;

(2) the Director of the South Carolina Department of Probation, Parole and Pardon Services, or his designee;

(3) the Director of the South Carolina Department of Corrections, or his designee;

(4) the Director of the South Carolina Department of Juvenile Justice, or his designee;

(5) the Director of the South Carolina Commission on Prosecution Coordination, or his designee;

(6) the deputy directors of the three departments and the ombudsman under the Office of the Attorney General, South Carolina Crime Victim Services Division;

(7) the Director of the South Carolina Sheriffs' Association, or his designee;

(8) the President of the South Carolina Police Chiefs Association, or his designee;

(9) the President of the South Carolina Jail Administrators' Association, or his designee;

(10) the President of the Solicitors' Advocate Forum, or his designee;

(11) the President of the Law Enforcement Victim Advocate Association, or his designee;

(12) the Director of the South Carolina Coalition Against Domestic Violence and Sexual Assault, or his designee;

(13) the Attorney General, or his designee;

(14) three representatives appointed by the State Office of Victim Assistance for a term of two years and until their successors are appointed and qualified for each of the following categories:

(a) one representative of university or campus services;

(b) one representative of a statewide child advocacy organization; and

(c) one crime victim; and

(15) three at-large seats elected upon two-thirds vote of the other eighteen members of the Victim Services Coordinating Council for a term of two years and until their successors are appointed and qualified, at least one of whom must be a crime victim and two of which must be representatives of community-based nongovernmental organizations.

The Victim Services Coordinating Council shall solicit input on issues affecting relevant stakeholders when those stakeholders are not explicitly represented. The Victim Services Coordinating Council shall meet at least four times per year.

HISTORY: 1984 Act No. 489, Section 2; 2008 Act No. 271, Section 3, eff January 1, 2009. Formerly Section 16-3-1410, renumbered and amended by 2017 Act No. 96 (S.289), Section 6, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 6, in (A), substituted "Department of Crime Victim Services Training, Provider Certification, and Statistical Analysis, in collaboration with the Department of Crime Victim Compensation," for "Victim Compensation Fund", and added "in the Victim Compensation Fund"; in (B)(1), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division" for "State Office of Victim Assistance", and added ", who shall serve as chairperson"; in (B)(6), substituted "deputy directors of the three departments and the Ombudsman under the Office of the Attorney General, South Carolina Crime Victim Services Division" for "Governor's Crime Victims' Ombudsman, or his designee"; deleted (B)(14), which related to the administrator of the Office of Justice Programs and redesignated accordingly; in (B)(14), substituted "three" for "four"; deleted (B)(14)(b), which related to one representative of a statewide crime victim organization and redesignated accordingly; in (B)(15), substituted "three" for "four"; and made nonsubstantive changes.

ARTICLE 15

Victim and Witness Services

SECTION 16-3-1505.

Legislative intent.

In recognition of the civic and moral duty of victims of and witnesses to a crime to cooperate fully and voluntarily with law enforcement and prosecution agencies, and in further recognition of the continuing importance of this citizen cooperation to state and local law enforcement efforts and to the general effectiveness and the well-being of the criminal and juvenile justice systems of this State, and to implement the rights guaranteed to victims in the Constitution of this State, the General Assembly declares its intent, in this article, to ensure that all victims of and witnesses to a crime are treated with dignity, respect, courtesy, and sensitivity; that the rights and services extended in this article to victims of and witnesses to a crime are honored and protected by law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protections afforded criminal defendants; and that the State has a responsibility to provide support to a network of services for victims of a crime, including victims of domestic violence and criminal sexual assault.

HISTORY: 1997 Act No. 141, Section 3.

SECTION 16-3-1510.

Definitions.

For the purpose of this article:

(1) "Victim" means any individual who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a criminal offense, as defined in this section. "Victim" also includes any individual's spouse, parent, child, or the lawful representative of a victim who is:

- (a) deceased;
- (b) a minor;
- (c) incompetent; or
- (d) physically or psychologically incapacitated.

"Victim" does not include any individual who is the subject of an investigation for, who is charged with, or who has been convicted of or pled guilty or nolo contendere to the offense in question. "Victim" also does not include any individual, including a spouse, parent, child, or lawful representative, who is acting on behalf of the suspect, juvenile offender, or defendant unless his actions are required by law. "Victim" also does not include any individual who was imprisoned or engaged in an illegal act at the time of the offense.

(2) "Individual" means a human being.

(3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, or the property of an individual when the value of the property stolen or destroyed, or the cost of the damage to the property is in excess of one thousand dollars. This includes both common law and statutory offenses, the offenses contained in Sections 16-25-20, 16-25-30, 16-25-50, 56-5-1210, 56-5-2910, 56-5-2920, 56-5-2930, 56-5-2945, and the common law offense of attempt, punishable pursuant to Section 16-1-80. However, "criminal offense" specifically excludes the drawing or uttering of a fraudulent check or an offense contained in Title 56 that does not involve personal injury or death.

For purposes of this article, a victim of any misdemeanor or felony under state law must be notified of or provided with the information required by this section. The terms "crime", "criminal conduct", "charge", or any variation of these terms as used in this article mean all misdemeanors and felonies under state law except the crimes the General Assembly specifically excludes from the notification provisions contained in this article.

(4) "Witness" means a person who has been or is expected to be summoned to testify for either the prosecution or the defense or who by reason of having relevant information is subject to be called or likely to be called as a witness for the prosecution or defense for criminal offenses defined in this section, whether or not any action or proceeding has been commenced.

(5) "Prosecuting agency" means the solicitor, Attorney General, special prosecutor, or any person or entity charged with the prosecution of a criminal case in general sessions or family court.

(6) "Summary court" means magistrate or municipal court.

(7) "Initial offense incident report" means a uniform traffic accident report or a standardized incident report form completed at the time of the initial law enforcement response. "Initial offense incident report" does not include supplementary reports, investigative notes or reports, statements, letters, memos, other communications, measurements, sketches, or diagrams not included in the initial offense incident report, or any material that may be considered the work product of a law enforcement officer or witness.

(8) "In writing" means any written communication, including electronically transmitted data.

HISTORY: 1984 Act No. 418, Section 1; 1997 Act No. 141, Section 3; 1998 Act No. 343, Section 1A.

SECTION 16-3-1515.

Victim or witness to supply certain information; requirements for restitution; victims wishing to be present in court to notify prosecuting agency or summary court judge; victim impact statement.

(A) A victim or prosecution witness who wishes to exercise his rights under this article or receive services under this article, or both, must provide a law enforcement agency, a prosecuting agency, a summary court judge, the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, his legal name, current mailing address, and current telephone number upon which the agency must rely in the discharge of its duties under this article.

(B) A victim who wishes to receive restitution must, within appropriate time limits set by the prosecuting agency or summary court judge, provide the prosecuting agency or summary court judge with an itemized list which includes the values of property stolen, damaged, or destroyed; property recovered; medical expenses or counseling expenses, or both; income lost as a result of the offense; out-of-pocket expenses incurred as a result of the offense; any other financial losses that may have been incurred; an itemization of financial recovery from insurance, the offense victim compensation fund, or other sources. The prosecuting agency, court, or both, may require documentation of all claims. This information may be included in a written victim impact statement.

(C) A victim who wishes to be present for any plea, trial, or sentencing must notify the prosecuting agency or summary court judge of his desire to be present. This notification may be included in a written victim impact statement.

(D) A victim who wishes to submit a written victim impact statement must provide it to the prosecuting agency or summary court judge within appropriate time limits set by the prosecuting agency or summary court judge.

(E) A victim who wishes to make an oral victim impact statement to the court at sentencing must notify the prosecuting agency or summary court judge of this desire in advance of the sentencing.

HISTORY: 1997 Act No. 141, Section 3.

Code Commissioner's Note

Pursuant to 2017 Act No. 96, Section 14, the reference to "victim's compensation fund" in (B) was changed to "victim compensation fund".

SECTION 16-3-1520.

Victim entitled to copy of initial incident report; assistance in applying for victim's compensation benefits; information on progress of case.

(A) A law enforcement agency must provide a victim, free of charge, a copy of the initial incident report of his case, and a document which:

- (1) describes the constitutional rights the State grants victims in criminal cases;
- (2) describes the responsibilities of victims in exercising these rights;
- (3) lists local victim assistance and social service providers;
- (4) provides information on eligibility and application for victim's compensation benefits; and
- (5) provides information about the rights of victims and witnesses who are harassed or threatened.

(B) A law enforcement agency, within a reasonable time of initial contact, must assist each eligible victim in applying for victim's compensation benefits and other available financial, social service, and counseling assistance.

(C) Law enforcement victim advocates, upon request, may intervene with, and seek special consideration from, creditors of a victim who is temporarily unable to continue payments as a result of an offense and with the victim's employer, landlord, school, and other parties as considered appropriate through the investigative process.

(D) A law enforcement agency, upon request, must make a reasonable attempt to inform a victim of the status and progress of his case from initial incident through:

- (1) disposition in summary court;
- (2) the referral of a juvenile offender to the Department of Juvenile Justice; or
- (3) transmittal of a general sessions warrant to the prosecuting agency.

HISTORY: 1984 Act No. 418, Section 2; 1988 Act No. 405, Section 4; 1997 Act No. 141, Section 3.

SECTION 16-3-1525.

Arrest or detention of person accused of committing offense; notification to victims; protection of witnesses; notification of bond proceedings; juvenile detention hearings.

(A) A law enforcement agency, upon effecting the arrest or detention of a person accused of committing an offense involving one or more victims, must make a reasonable attempt to notify each victim of the arrest or detention and of the appropriate bond or other pretrial release hearing or procedure.

(B) A law enforcement agency, before releasing to his parent or guardian a juvenile offender accused of committing an offense involving one or more victims, must make a reasonable effort to inform each victim of the release.

(C) A law enforcement agency, upon effecting the arrest or detention of a person accused of committing an offense involving one or more victims, must provide to the jail, prison, or detention or holding facility, including a mental health facility, having physical custody of the defendant, the name, mailing address, and telephone number of each victim. If the person is transferred to another facility, this information immediately must be transmitted to the receiving facility. The names, addresses, and telephone numbers of victims and witnesses contained in the files of a jail, prison, or detention or holding facility, including a mental health facility, are

confidential and must not be disclosed directly or indirectly, except as necessary to provide notification.

(D) A law enforcement agency, after detaining a juvenile accused of committing an offense involving one or more victims, must provide to the Department of Juvenile Justice the name, address, and telephone number of each victim. The law enforcement officer detaining the juvenile, regardless of where the juvenile is physically detained, retains the responsibility of notifying the victims of the pretrial, bond, and detention hearings, or pretrial releases that are not delegated pursuant to this article.

(E) Upon detention of a person, other than a juvenile, accused of committing an offense not under the jurisdiction of a summary court, and involving one or more victims, the arresting law enforcement agency must provide, in writing, to the prosecuting agency before a bond or release hearing before a circuit or family court judge the name, address, and telephone number of each victim.

(F) Upon detention of a person, other than a juvenile, accused of committing an offense involving one or more victims and which is triable in summary court or an offense involving one or more victims for which a preliminary hearing may be held, the arresting law enforcement agency must provide, in writing, to the summary court the name, mailing address, and telephone number of each victim.

(G) A law enforcement agency must provide any measures necessary to protect the victims and witnesses, including transportation to and from court and physical protection in the courthouse.

(H) In cases in which a defendant has bond set by a summary court judge:

(1) the arresting agency of the defendant reasonably must attempt to notify each victim of each case for which bond is being determined of his right to attend the bond hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article;

(2) the summary court judge, before proceeding with a bond hearing in a case involving a victim, must ask the representative of the facility having custody of the defendant to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend the proceeding. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice; and

(3) the summary court judge must impose bond conditions which are sufficient to protect a victim from harassment or intimidation by the defendant or persons acting on the defendant's behalf.

(I) In cases in which a defendant has a bond proceeding before a circuit court judge:

(1) the prosecuting agency reasonably must attempt to notify each victim of each case for which bond is being determined of his right to attend the bond hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article;

(2) the circuit court judge, before proceeding with a bond hearing in a case involving a victim, must ask the representative of the prosecuting agency to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice; and

(3) the circuit court judge must impose bond conditions which are sufficient to protect a victim from harassment or intimidation by the defendant or persons acting on the defendant's behalf.

(J) In cases in which a juvenile has a detention hearing before a family court judge:

(1) the prosecuting agency reasonably must attempt to notify each victim of each case for which the juvenile is appearing before the court of his right to attend the detention hearing and make recommendations to the presiding judge. This notification must be made sufficiently in advance to allow the victim to exercise his rights pertaining to the detention hearing;

(2) the family court judge, before proceeding with a detention hearing in a case involving a victim, must ask the prosecuting agency to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice; and

(3) the family court judge, if he does not rule that a juvenile must be detained, must impose conditions of release which are sufficient to protect a victim from harassment or intimidation by the juvenile or a person acting on the juvenile's behalf.

(K) Upon scheduling a preliminary hearing in a case involving a victim, the summary court judge reasonably must attempt to notify each victim of each case for which the defendant has a hearing of his right to attend.

(L) A diversion program, except a diversion program administered by the South Carolina Prosecution Coordination Commission or by a circuit solicitor, reasonably must attempt to notify the victim of a crime prior to the defendant's release from the program unless the defendant is released to a law enforcement agency.

(M) In every case when there is a court-ordered or mandatory mental evaluation, which takes place in an inpatient facility, the organization or facility responsible for the evaluation reasonably must attempt to notify the victim of the crime prior to the defendant's release from the facility unless the defendant is released to a law enforcement agency.

(N)(1) Notification of a victim pursuant to the provisions of this section may be by electronic or other automated communication or recording. However, after three unsuccessful attempts to reach the victim in cases involving criminal domestic violence, criminal sexual conduct, and stalking and harassment, and those cases when physical injury has occurred as a result of a physical or sexual assault and in cases where a pattern of conduct exists by the offender or suspected offender that would cause a reasonable person to believe he may be at risk of physical assault the appropriate agency or diversion program shall attempt to make personal contact with the victim, or the victim's guardian, upon the judicial or administrative release or the escape of the offender.

(2) For purposes of this section, "pattern" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.

HISTORY: 1997 Act No. 141, Section 3; 1998 Act No. 343, Section 1B; 2005 Act No. 106, Sections 3, 4, eff January 1, 2006; 2006 Act No. 380, Section 4, eff upon approval (became law without the Governor's signature on June 14, 2006).

SECTION 16-3-1530.

Notification of victim of release, escape or transfer of accused.

(A) Notwithstanding another provision of law, except the provisions contained in Section 16-3-1525(D) relating to juvenile detention:

(1) notwithstanding the provisions of Section 22-5-510, a department or agency having custody or custodial supervision of a person accused, convicted, or adjudicated guilty of committing an offense involving one or more victims reasonably must attempt to notify each victim, upon request, before the release of the person;

(2) a department or agency having custody or custodial supervision of a person accused of committing an offense involving one or more victims reasonably must attempt to notify each victim, upon request, of an escape by the person;

(3) a department or agency having custody of a person accused, convicted, or adjudicated guilty of committing an offense involving one or more victims must inform each victim, upon request, before any nonintradepartmental transfer of the person to a less secure facility or to a diversionary program including, but not limited to, a drug court program or a mental health court. The provisions of this item do not apply to transfers to other law enforcement agencies and transfers to other nonlaw enforcement locations if the person remains under security supervision. All victims, upon request, must be notified of intradepartmental transfers after the transfer occurs; and

(4) a department or agency having custody or custodial supervision of a person convicted or adjudicated guilty of committing an offense involving one or more victims must reasonably attempt to notify each victim and prosecution witness, upon request, of an escape by the person.

(B) Notification of a victim pursuant to the provisions of this section may not be only by electronic or other automated communication or recording except in the case of an intradepartmental transfer.

HISTORY: 1984 Act No. 418, Section 3; 1991 Act No. 68, Section 1; 1995 Act No. 83, Sections 14, 15; 1997 Act No. 141, Section 3; 1998 Act No. 343, Section 1C; 2005 Act No. 106, Section 5, eff January 1, 2006.

SECTION 16-3-1535.

Summary court's duty to notify victim of victim's rights; form for victim impact statement.

(A) The summary court, upon retaining jurisdiction of an offense involving one or more victims, reasonably must attempt to notify each victim of his right to:

(1) be present and participate in all hearings;

(2) be represented by counsel;

(3) pursue civil remedies; and

(4) submit an oral or written victim impact statement, or both, for consideration by the summary court judge at the disposition proceeding.

(B) The summary court must provide to each victim who wishes to make a written victim impact statement a form that solicits pertinent information regarding the offense, including:

(1) the victim's personal information and supplementary contact information;

(2) an itemized list of the victim's economic loss and recovery from any insurance policy or any other source;

(3) details of physical or psychological injuries, or both, including their seriousness and permanence;

(4) identification of psychological services requested or obtained by the victim;

(5) a description of any changes in the victim's personal welfare or family relationships; and

(6) any other information the victim believes to be important and pertinent.

(C) The summary court judge must inform a victim of the applicable procedures and practices of the court.

(D) The summary court judge reasonably must attempt to notify each victim related to the case of each hearing, trial, or other proceeding.

(E) A law enforcement agency and the summary court must return to a victim personal property recovered or taken as evidence as expeditiously as possible, substituting photographs of the property and itemized lists of the property including serial numbers and unique identifying characteristics for use as evidence when possible.

(F) The summary court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant.

(G) In cases in which the sentence is more than ninety days, the summary court judge must forward, as appropriate and within fifteen days, a copy of each victim's impact statement or the name, mailing address, and telephone number of each victim, or both, to the Department of Corrections, the Department of Probation, Parole and Pardon Services, or the Board of Juvenile Parole, the Department of Juvenile Justice, and a diversion program. The names, addresses, and telephone numbers of victims and prosecution witnesses contained in the records of the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Board of Juvenile Parole, and the Department of Juvenile Justice are confidential and must not be disclosed directly or indirectly, except by order of a court of competent jurisdiction or as necessary to provide notifications, or services, or both, between these agencies, these agencies and the prosecuting agency, or these agencies and the Attorney General.

HISTORY: 1996 Act No. 437, Section 1; 1997 Act No. 141, Section 3; 2005 Act No. 106, Section 6, eff January 1, 2006.

Editor's Note

1996 Act No. 437, Section 8, eff January 1, 1997, provides as follows:

"Implementation of the changes in law effectuated by this act to Sections 16-3-1110, 16-3-1535, 17-25-322, 17-25-324, and 24-21-490 of the 1976 Code and the requirements thereunder or in any new provisions of law contained herein which would necessitate funding are contingent upon appropriations of sufficient funding by the General Assembly. Nothing herein shall relieve

the various agencies and authorities within the offices of the respective clerks of court or judicial, correctional, and parole systems of this State from continuing to meet, enforce, and address those provisions of law related to restitution in effect prior to the enactment hereof."

SECTION 16-3-1540.

Department of Juvenile Justice to confer with victims before taking certain actions.

(A) The Department of Juvenile Justice, upon referral of a juvenile accused of committing an offense involving one or more victims, must make a reasonable effort to confer with each victim before:

- (1) placing the juvenile in a diversion program;
- (2) issuing a recommendation for diversion;
- (3) referring the juvenile to the prosecuting agency for prosecution;
- (4) issuing a recommendation for evaluation at the agency's reception and evaluation center; or
- (5) taking other action.

(B) The Department of Juvenile Justice must make a reasonable effort to keep each victim reasonably informed of the status and progress of a case from the time it is referred by law enforcement until it is referred to the prosecuting agency.

HISTORY: 1984 Act No. 418, Section 4; 1997 Act No. 141, Section 3.

SECTION 16-3-1545.

Juvenile cases; notification to victims of right to submit victim impact statement for disposition proceeding; form of statement; other required information for victims.

(A) The prosecuting agency, when a juvenile case is referred or a general sessions charge is received involving one or more victims, reasonably must attempt to notify each victim of his right to submit an oral or written victim impact statement, or both, for consideration by the circuit or family court judge at the disposition proceeding. The victim also must be informed that a written victim impact statement may be submitted at any postadjudication proceeding by the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice. The prosecuting agency must provide to each victim who wishes to make a written victim impact statement a form that solicits pertinent information regarding the offense that may include:

- (1) the victim's personal information and supplementary contact information;
- (2) an itemization of the victim's economic loss and recovery from any insurance policy or another source;
- (3) details of physical or psychological injuries, or both, including their seriousness and permanence;
- (4) identification of psychological services requested or obtained by the victim;
- (5) a description of any changes in the victim's personal welfare or family relationships; and
- (6) any other information the victim believes to be important and pertinent.

(B) The prosecuting agency must offer the victim assistance in preparing a comprehensive victim impact statement and assistance in reviewing and updating the statement, as appropriate, before the case is disposed.

(C) The prosecuting agency must inform victims and witnesses of the applicable procedures and practices of the criminal or juvenile justice system, or both.

(D) The prosecuting agency must inform each victim of his right to legal counsel and of any available civil remedies.

(E) A law enforcement agency, the prosecuting agency, and the circuit and family courts must return to a victim personal property recovered or taken as evidence as expeditiously as possible, substituting photographs of the property and itemized lists of the property including serial numbers and unique identifying characteristics to use as evidence when possible.

(F) The prosecuting agency must inform victims and prosecution witnesses of financial assistance, compensation, and fees to which they may be entitled and must offer to the victims and witnesses assistance with applications for these items.

(G) The prosecuting agency, upon request, must make a reasonable attempt to keep each victim informed of the status and progress of a case, with the exception of preliminary hearings, from the time a juvenile case is referred to, or a general sessions charge is received by, the prosecuting agency for disposition of the case in general sessions or family court.

(H) The prosecuting agency must discuss a case with the victim. The agency must confer with each victim about the disposition of the case including, but not limited to, diversions and plea negotiations.

(I) The prosecuting agency reasonably must attempt to notify each victim of each hearing, trial, or other proceeding. This notification must be made sufficiently in advance to allow the victim to exercise his rights contained in this article. When proceedings are canceled or rescheduled, the prosecuting agency must reasonably attempt to inform victims and witnesses in a timely manner.

(J) The prosecuting agency victim advocate, upon request, may intercede with, and seek special consideration from, employers of victims and witnesses to prevent loss of pay or benefits, or both, resulting from their participation in the criminal or juvenile justice system and with the victim's creditors, landlord, school, and other parties, as appropriate, throughout the prosecution process.

(K) If a victim or witness is threatened, the prosecuting agency immediately must refer the incident to the appropriate law enforcement agency for prompt investigation and make a reasonable attempt to prosecute the case.

(L) The prosecuting agency must take reasonable and appropriate steps to minimize inconvenience to victims and witnesses throughout court preparation and court proceedings and must familiarize victims and witnesses with courtroom procedure and protocol.

(M) The prosecuting agency must refer victims to counselors, social service agencies, and victim assistance providers, as appropriate.

HISTORY: 1997 Act No. 141, Section 3.

SECTION 16-3-1550.

Restriction on employers of victims and witnesses; protection of rights of victims and witnesses.

(A) Employers of victims and witnesses must not retaliate against or suspend or reduce the wages and benefits of a victim or witness who lawfully responds to a subpoena. A wilful violation of this provision constitutes contempt of court.

(B) A person must not be sequestered from a proceeding adjudicating an offense of which he was a victim.

(C) For proceedings in the circuit or family court, the law enforcement and prosecuting agency must make reasonable efforts to provide victims and prosecution witnesses waiting areas separate from those used by the defendant and defense witnesses.

(D) The circuit or family court judge must recognize and protect the rights of victims and witnesses as diligently as those of the defendant. A circuit or family court judge, before proceeding with a trial, plea, sentencing, or other dispositive hearing in a case involving a victim, must ask the prosecuting agency to verify that a reasonable attempt was made to notify the victim sufficiently in advance to attend. If notice was not given in a timely manner, the hearing must be delayed for a reasonable time to allow notice.

(E) The circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate. The prosecuting agency or defense attorney must notify the court when a victim or witness deserves special consideration.

(F) The circuit or family court must hear or review any victim impact statement, whether written or oral, before sentencing. Within a reasonable period of time before sentencing, the prosecuting agency must make available to the defense any written victim impact statement and the court must allow the defense an opportunity to respond to the statement. However, the victim impact statement must not be provided to the defense until the defendant has been found guilty by a judge or jury. The victim impact statement and its contents are not admissible as evidence in any trial.

(G) The circuit and family court must address the issue of restitution as provided by statute.

HISTORY: 1984 Act No. 418, Section 5; 1987 Act No. 9, Section 1; 1988 Act No. 579; 1995 Act No. 83, Section 16; 1997 Act No. 141, Section 3.

SECTION 16-3-1555.

Expert witness fees; distribution, maintenance and use of victim's impact statements.

(A) The circuit or family court must order, in a timely manner, reasonable expert witness fees and reimbursement to victims of reasonable out-of-pocket expenses associated with lawfully serving a subpoena.

(B) In cases in which the sentence is more than ninety days, the prosecuting agency must forward, as appropriate and within fifteen days, a copy of each victim's impact statement or the name, mailing address, and telephone number of each victim, or both, to the Department of Corrections, the Department of Probation, Parole and Pardon Services, or the Board of Juvenile Parole, the Department of Juvenile Justice, and a diversion program. The names, addresses, and telephone numbers of victims and prosecution witnesses contained in the records of the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Board of Juvenile Parole, and the Department of Juvenile Justice are confidential and must not be disclosed directly or indirectly, except by order of a court of competent jurisdiction or as necessary to provide notifications, or services, or both, between these agencies, these agencies and the prosecuting agency, or these agencies and the Attorney General.

(C) The prosecuting agency must maintain the victim's original impact statement. The victim's impact statement must not be provided to the defendant until the defendant has been adjudicated, found guilty, or has pled guilty. The victim's impact statement and its contents are not admissible as evidence in any trial.

(D) The prosecuting agency must inform the victim and the prosecution witnesses of their responsibility to provide the prosecuting agency, the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Board of Juvenile Parole, the Department of Juvenile Justice, or the Attorney General, as appropriate, their legal names, current addresses, and telephone numbers.

(E) The prosecuting agency must inform the victim about the collection of restitution, fees, and expenses, the recovery of property used as evidence, and how to contact the Department of Corrections, the Board of Juvenile Parole, the Department of Probation, Parole and Pardon Services, the Department of Juvenile Justice, or the Attorney General, as appropriate.

HISTORY: 1997 Act No. 141, Section 3; 1998 Act No. 343, Section 1D; 2005 Act No. 106, Section 10, eff January 1, 2006.

SECTION 16-3-1560.

Notification to victim of post-conviction proceedings affecting probation, parole, or release, and of victim's right to attend.

(A) The Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, reasonably must attempt to notify each victim, who has indicated a desire to be notified, of post-conviction proceedings affecting the probation, parole, or release of the offender, including proceedings brought under Chapter 48 of Title 44, and of the victim's right to attend and comment at these proceedings. This notification must be made sufficiently in advance to allow the victim to exercise his rights as they pertain to post-conviction proceedings.

(B) The Attorney General, upon receiving notice of appeal or other post-conviction action by an offender convicted of or adjudicated guilty for committing an offense involving one or more victims, must request from the Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, as appropriate, the victim's personal information.

(C) The Department of Corrections, the Department of Probation, Parole, and Pardon Services, the Board of Juvenile Parole, or the Department of Juvenile Justice, upon receipt of request for the victim's personal information from the Attorney General in an appeal or post-conviction proceeding, must supply the requested information within a reasonable period of time.

(D) The Attorney General must confer with victims regarding the defendant's appeal and other post-conviction proceedings, including proceedings brought under Chapter 48 of Title 44.

(E) The Attorney General must keep each victim reasonably informed of the status and progress of the appeal or other post-conviction proceedings, including proceedings brought under Chapter 48 of Title 44, until their resolution.

(F) The Attorney General reasonably must attempt to notify a victim of all post-conviction proceedings, including proceedings brought under Chapter 48 of Title 44, and of the victim's right to attend. This notification must be made sufficiently in advance to allow the victim to exercise his rights pertaining to post-conviction proceedings.

HISTORY: 1984 Act No. 418, Section 6; 1988 Act No. 367, Section 2; 1996 Act No. 458, Part II, Section 51C; 1997 Act No. 141, Section 3; 1998 Act No. 321, Section 3; 1998 Act No. 343, Section 1E.

SECTION 16-3-1565.

No cause of action against public employees or agencies.

(A) Nothing in this article creates a cause of action on behalf of a person against a public employee, public agency, the State, or an agency responsible for the enforcement of rights and provision of services set forth in this article.

(B) A sentence must not be invalidated because of failure to comply with the provisions of this article.

(C) This article must not be construed to create a cause of action for monetary damages.

HISTORY: 1997 Act No. 141, Section 3.

ARTICLE 16

Crime Victim Ombudsman

Editor's Note

1994 Act No. 433, Section 2, provides:

"SECTION 2. Upon the effective date of this act, there is transferred from the Division of Victim's Assistance of the Office of the Governor \$125,000 and three full-time equivalent positions to the Crime Victims' Ombudsman of the Office of the Governor. The transfer shall apply for the current and succeeding fiscal years."

SECTION 16-3-1610.

Definitions.

As used in this article:

(1) "Criminal and juvenile justice system" means circuit solicitors and members of their staffs; the Attorney General and his staff; law enforcement agencies and officers; adult and juvenile probation, parole, and correctional agencies and officers; officials responsible for victims' compensation and other services which benefit victims of crime, and state, county, and municipal victim advocacy and victim assistance personnel.

(2) "Victim assistance program" means an entity, whether governmental, corporate, nonprofit, partnership, or individual, which provides, is required by law to provide, or claims to provide services or assistance, or both to victims on an ongoing basis.

(3) "Victim" means a person who suffers direct or threatened physical, emotional, or financial harm as the result of an act by someone else, which is a crime. The term includes immediate family members of a homicide victim or of any other victim who is either incompetent or a minor and includes an intervenor.

HISTORY: 1994 Act No. 433, Section 1; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, reenacted the section with no apparent change.

SECTION 16-3-1620.

Department of Crime Victim Ombudsman.

(A) The Department of Crime Victim Ombudsman is created in the Office of the Attorney General, South Carolina Crime Victim Services Division. The Crime Victim Ombudsman is appointed by the Director of the Crime Victim Services Division.

(B) The Crime Victim Ombudsman shall:

(1) refer crime victims to the appropriate element of the criminal and juvenile justice systems or victim assistance programs, or both, when services are requested by crime victims or are necessary as determined by the ombudsman;

(2) act as a liaison between elements of the criminal and juvenile justice systems, victim assistance programs, and crime victims when the need for liaison services is recognized by the ombudsman; and

(3) review and attempt to resolve complaints against elements of the criminal and juvenile justice systems or victim assistance programs, or both, made to the ombudsman by victims of criminal activity within the state's jurisdiction.

HISTORY: 1994 Act No. 433, Section 1; 2008 Act No. 271, Section 4, eff January 1, 2009; 2014 Act No. 121 (S.22), Pt V, Section 7.Z, eff July 1, 2015; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, rewrote the section, making conforming changes reflecting the restructuring of victim services all generally relating to the newly created Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Ombudsman and its responsibilities.

SECTION 16-3-1630.

Ombudsman; responsibilities; authority; annual report.

Upon receipt of a written complaint that contains specific allegations and is signed by a victim of criminal activity within the state's jurisdiction, the ombudsman shall forward copies of the complaint to the person, program, and agency against whom it makes allegations, and conduct an inquiry into the allegations stated in the complaint.

In carrying out the inquiry, the ombudsman is authorized to request and receive information and documents from the complainant, elements of the criminal and juvenile justice systems, and victim assistance programs that are pertinent to the inquiry. Following each inquiry, the ombudsman shall issue a report verbally or in writing to the complainant and the persons or agencies that are the object of the complaint and recommendations that in the ombudsman's opinion will assist all parties. The persons or agencies that are the subject of the complaint shall respond, within a reasonable time, to the ombudsman regarding actions taken, if any, as a result of the ombudsman's report and recommendations.

The ombudsman shall prepare a public annual report, not identifying individual agencies or individuals, summarizing his activity. The annual report must be submitted directly to the Governor, General Assembly, elements of the criminal and juvenile justice systems, and victim assistance programs.

HISTORY: 1994 Act No. 433, Section 1; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, reenacted the section with no apparent change.

SECTION 16-3-1640.

Confidentiality of information and files.

Information and files requested and received by the ombudsman are confidential and retain their confidential status at all times.

Juvenile records obtained under this section may be released only in accordance with provisions of the Children's Code.

HISTORY: 1994 Act No. 433, Section 1; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, reenacted the section with no apparent change.

SECTION 16-3-1650.

Cooperation with the criminal and juvenile justice systems and victim assistance programs.

All elements of the criminal and juvenile justice systems and victim assistance programs shall cooperate with the ombudsman in carrying out the duties described in Sections 16-3-1620 and 16-3-1630.

HISTORY: 1994 Act No. 433, Section 1; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, reenacted the section with no apparent change.

SECTION 16-3-1660.

Grounds for dismissal.

A victim's exercise of rights granted by this article is not grounds for dismissing a criminal proceeding or setting aside a conviction or sentence.

HISTORY: 1994 Act No. 433, Section 1; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, reenacted the section with no apparent change.

SECTION 16-3-1670.

Purpose.

This article does not create a cause of action on behalf of a person against an element of the criminal and juvenile justice systems, victim assistance programs, the State, or any agency or person responsible for the enforcement of rights and provision of services set forth in this chapter.

HISTORY: 1994 Act No. 433, Section 1; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II Section 7, reenacted the section with no apparent change.

SECTION 16-3-1680.

Recommendation of regulations.

The Department of Crime Victim Ombudsman through the Crime Victim Services Division may recommend to the Attorney General those regulations necessary to assist it in performing its required duties as provided by this chapter.

HISTORY: 2008 Act No. 271, Section 5, eff January 1, 2009; 2014 Act No. 121 (S.22), Pt V, Section 7.AA, eff July 1, 2015; 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 7, substituted "Department of Crime Victim Ombudsman through the Crime Victim Services Division may recommend to the Attorney General" for "Crime Victims' Ombudsman Office through the Department of Administration may promulgate".

SECTION 16-3-1690.

Submission of complaints; appeals.

Complaints regarding any allegations against the Office of the Attorney General, Crime Victim Services Division or any of its affiliated departments concerning crime victim services should be submitted in writing to the Crime Victim Ombudsman, who shall cause a rotating three-person panel of the Crime Victim Services Coordinating Council chosen by him to record, review, and respond to the allegations. Appeal of the three-person panel's response or any decision made by the panel regarding the allegations will be heard by the State Inspector General under the authority provided by the provisions of Chapter 6, Title 1. The State Inspector General shall provide the procedures for this appeal process, including, but not limited to, a written finding at the end of the appeal process, which must be provided to the complainant and to the Attorney General and the Director of the Crime Victim Services

Division.

HISTORY: 2017 Act No. 96 (S.289), Section 7, eff July 1, 2017.

ARTICLE 17

Harassment and Stalking

SECTION 16-3-1700.

Definitions.

As used in this article:

(A) "Harassment in the first degree" means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress. Harassment in the first degree may include, but is not limited to:

- (1) following the targeted person as he moves from location to location;
- (2) visual or physical contact that is initiated, maintained, or repeated after a person has been provided oral or written notice that the contact is unwanted or after the victim has filed an incident report with a law enforcement agency;
- (3) surveillance of or the maintenance of a presence near the targeted person's:
 - (a) residence;
 - (b) place of work;
 - (c) school; or
 - (d) another place regularly occupied or visited by the targeted person; and
- (4) vandalism and property damage.

(B) "Harassment in the second degree" means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a targeted person that serves no legitimate purpose and causes the person and would cause a reasonable person in his position to suffer mental or emotional distress. Harassment in the second degree may include, but is not limited to, verbal, written, or electronic contact that is initiated, maintained, or repeated.

(C) "Stalking" means a pattern of words, whether verbal, written, or electronic, or a pattern of conduct that serves no legitimate purpose and is intended to cause and does cause a targeted person and would cause a reasonable person in the targeted person's position to fear:

- (1) death of the person or a member of his family;
- (2) assault upon the person or a member of his family;
- (3) bodily injury to the person or a member of his family;
- (4) criminal sexual contact on the person or a member of his family;
- (5) kidnapping of the person or a member of his family; or
- (6) damage to the property of the person or a member of his family.

(D) "Pattern" means two or more acts occurring over a period of time, however short, evidencing a continuity of purpose.

(E) "Family" means a spouse, child, parent, sibling, or a person who regularly resides in the same household as the targeted person.

(F) "Electronic contact" means any transfer of signs, signals, writings, images, sounds, data, intelligence, or information of any nature transmitted in whole or in part by any device, system, or mechanism including, but not limited to, a wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(G) This section does not apply to words or conduct protected by the Constitution of this State or the United States, a law enforcement officer or a process server performing official duties, or a licensed private investigator performing services or an investigation as described in detail in a contract signed by the client and the private investigator pursuant to Section 40-18-70.

(H) A person who commits the offense of harassment in any degree or stalking, as defined in this section, while subject to the terms of a restraining order issued by the family court may be charged with a violation of this article and, upon conviction, may be sentenced pursuant to the provisions of Section 16-3-1710, 16-3-1720, or 16-3-1730.

HISTORY: 1995 Act No. 94, Section 1; 2001 Act No. 81, Section 4; 2005 Act No. 106, Section 7, eff January 1, 2006; 2013 Act No. 99, Section 1, eff June 20, 2013.

Editor's Note

2005 Act No. 106, Section 1, provides as follows:

"This act may be cited as 'Mary Lynn's Law'".

SECTION 16-3-1705.

Electronic mail service provider; immunity; definition.

(A) An electronic mail service provider must not be charged with or have a penalty assessed based upon a violation of this article or have a cause of action filed against it based on the electronic mail service provider's:

- (1) being an intermediary between the sender and recipient in the transmission of an electronic contact that violates this article; or
- (2) providing transmission of an electronic contact over the provider's computer network or facilities that violates this article.

(B) For purposes of this article, "electronic mail service provider" means a person or entity which:

- (1) is an intermediary in sending or receiving electronic mail; and
- (2) provides to users of electronic mail services the ability to send or receive electronic mail.

HISTORY: 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1710.

Penalties for conviction of harassment in the second degree.

(A) Except as provided in subsection (B), a person who engages in harassment in the second degree is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars, imprisoned not more than thirty days, or both.

(B) A person convicted of harassment in the second degree is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than one year, or both if:

(1) the person has a prior conviction of harassment or stalking within the preceding ten years; or

(2) at the time of the harassment an injunction or restraining order, including a restraining order issued by the family court, was in effect prohibiting the harassment.

(C) In addition to the penalties provided in this section, a person convicted of harassment in the second degree who received licensing or registration information pursuant to Article 4 of Chapter 3 of Title 56 and used the information in furtherance of the commission of the offense under this section must be fined two hundred dollars or imprisoned thirty days, or both.

HISTORY: 1995 Act No. 94, Section 1; 1996 Act No. 458, Part II, Section 31B; 2005 Act No. 106, Section 7, eff January 1, 2006; 2013 Act No. 99, Section 2, eff June 20, 2013.

SECTION 16-3-1720.

Penalties for conviction of harassment in the first degree.

(A) Except as provided in subsections (B) and (C), a person who engages in harassment in the first degree is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars, imprisoned not more than three years, or both.

(B) A person who engages in harassment in the first degree when an injunction or restraining order, including a restraining order issued by the family court, is in effect prohibiting this conduct is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars, imprisoned not more than three years, or both.

(C) A person who engages in harassment in the first degree and who has a prior conviction of harassment or stalking within the preceding ten years is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.

(D) In addition to the penalties provided in this section, a person convicted of harassment in the first degree who received licensing or registration information pursuant to Article 4 of Chapter 3 of Title 56 and used the information in furtherance of the commission of the offense under this section must be fined one thousand dollars or imprisoned one year, or both.

HISTORY: 1995 Act No. 94, Section 1; 1996 Act No. 458, Part II, Section 31C; 2005 Act No. 106, Section 7, eff January 1, 2006; 2013 Act No. 99, Section 3, eff June 20, 2013.

SECTION 16-3-1730.

Penalties for conviction of stalking.

(A) A person who engages in stalking is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars, imprisoned not more than five years, or both.

(B) A person who engages in stalking when an injunction or restraining order, including a restraining order issued by the family court, is in effect prohibiting this conduct is guilty of a felony and, upon conviction, must be fined not more than seven thousand dollars, imprisoned not more than ten years, or both.

(C) A person who engages in stalking and who has a prior conviction of harassment or stalking within the preceding ten years is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars, imprisoned not more than fifteen years, or both.

(D) In addition to the penalties provided in this section, a person convicted of stalking who received licensing or registration information pursuant to Article 4, Chapter 3 of Title 56 and used the information in furtherance of the commission of the offense pursuant to this section must be fined one thousand dollars or imprisoned one year, or both.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006; 2013 Act No. 99, Section 4, eff June 20, 2013.

SECTION 16-3-1735.

Law enforcement officer empowered to sign warrant in place of victim.

A law enforcement officer or another person with knowledge of the circumstances may sign a warrant in place of the victim for a person alleged to have committed a harassment or stalking offense as provided in Section 16-3-1710, 16-3-1720, or 16-3-1730.

HISTORY: 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1740.

Mental health evaluations of persons convicted of stalking or harassment; notice to victim in person of unsupervised release.

(A) Before sentencing a person convicted of stalking or harassment in the first or second degree, the court may require the person to undergo a mental health evaluation. If the court determines from the results of the evaluation that the person needs mental health treatment or counseling, the court shall require him to undergo mental health treatment or counseling by a court-approved mental health professional, mental health facility, or facility operated by the State Department of Mental Health as a part of his sentence.

(B) When the court orders a mental health evaluation, the evaluation may not take place until the facility conducting the evaluation has received all of the documentation including, but not limited to, warrants, incident reports, and NCIC reports associated with the charges.

(C) If the evaluation results in the unsupervised release of the person, the victim must be notified prior to the person's release. All reasonable efforts must be made to notify the victim personally to assure the notice is received.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1750.

Action seeking a restraining order against a person engaged in harassment or stalking; jurisdiction and venue; forms; enforceability.

(A) Pursuant to this article, the magistrates court has jurisdiction over an action seeking a restraining order against a person engaged in harassment in the first or second degree or stalking.

(B) An action for a restraining order must be filed in the county in which:

- (1) the defendant resides when the action commences;
- (2) the harassment in the first or second degree or stalking occurred; or
- (3) the plaintiff resides if the defendant is a nonresident of the State or cannot be found.

(C) A complaint and motion for a restraining order may be filed by any person. The complaint must:

- (1) allege that the defendant is engaged in harassment in the first or second degree or stalking and must state the time, place, and manner of the acts complained of, and other facts and circumstances upon which relief is sought;
- (2) be verified; and
- (3) inform the defendant of his right to retain counsel to represent him at the hearing on the complaint.

(D) The magistrates court must provide forms to facilitate the preparation and filing of a complaint and motion for a restraining order by a plaintiff not represented by counsel. The court must not charge a fee for filing a complaint and motion for a restraining order against a person engaged in harassment or stalking. However, the court shall assess a filing fee against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.

(E) A restraining order remains in effect for a fixed period of time of not less than one year, as determined by the court on a case-by-case basis.

(F) Notwithstanding another provision of law, a restraining order or a temporary restraining order issued pursuant to this article is enforceable throughout this State.

HISTORY: 1995 Act No. 94, Section 1; 2002 Act No. 175, Section 1, eff March 5, 2002; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1760.

When temporary restraining orders may be granted without notice; notice and hearing on motion seeking restraining order.

(A) Within twenty-four hours after the filing of a complaint and motion seeking a restraining order pursuant to Section 16-3-1750, the court, for good cause shown, may hold an emergency hearing and, if the plaintiff proves his allegation by a preponderance of the evidence, may issue a temporary restraining order without giving the defendant notice of the motion for the order. A prima facie showing of present danger of bodily injury, verified by supporting affidavits, constitutes good cause.

(B) A temporary restraining order granted without notice must be served upon the defendant together with a copy of the complaint and a Rule to Show Cause why the order should not be extended for the full one-year period. The Rule to Show Cause must provide the date and time of the hearing for the Rule to Show Cause. The defendant must be served within five days before the hearing in the same manner required for service as provided in the South Carolina Rules of Civil Procedure.

(C) In cases not provided in subsection (A), the court shall cause a copy of the complaint and motion to be served upon the defendant at least five days before the hearing in the same manner required for service as provided in the South Carolina Rules of Civil Procedure.

(D) The court shall hold a hearing on a motion for a restraining order within fifteen days of the filing of a complaint and motion, but not sooner than five days after service has been perfected upon the defendant.

(E) Upon motion of a party, the court may determine that a temporary restraining order was improperly issued due to unknown facts. The court may order the temporary restraining order vacated and all records of the improperly issued restraining order destroyed.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006; 2013 Act No. 99, Section 6, eff June 20, 2013.

SECTION 16-3-1770.

Form and content of temporary restraining order.

(A) A temporary restraining order granted without notice must be endorsed with the date and hour of issuance and entered of record with the magistrates court.

(B) The terms of the restraining order must protect the plaintiff and may include temporarily enjoining the defendant from:

- (1) abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family;
- (2) entering or attempting to enter the plaintiff's place of residence, employment, education, or other location; and
- (3) communicating or attempting to communicate with the plaintiff in a way that would violate the provisions of this article.

(C) A restraining order issued pursuant to this article conspicuously must bear the following language:

- (1) "Violation of this order is a criminal offense punishable by thirty days in jail, a fine of five hundred dollars, or both."; and
- (2) "Pursuant to Section 16-25-125, it is unlawful for a person who has been charged with or convicted of criminal domestic violence or criminal domestic violence of a high and aggravated nature, who is subject to an order of protection, or who is subject to a restraining order, to enter or remain upon the grounds or structure of a domestic violence shelter in which the person's household member resides or the domestic violence shelter's administrative offices. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.".

(D) A restraining order issued by a court may not contain the social security number of a party to the order and must contain as little

identifying information as is necessary of the party it seeks to protect.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006; 2008 Act No. 319, Section 2, eff June 11, 2008.

SECTION 16-3-1780.

Expiration of temporary restraining orders and restraining orders; extensions and modifications.

(A) A temporary restraining order remains in effect until the hearing on the Rule to Show Cause why the order should not be extended for the full one-year period. The temporary restraining order must be for a fixed period in accordance with subsection (B) if the court finds the defendant in default at the hearing.

(B) In cases not provided for in subsection (A), a restraining order must be for a fixed period not to exceed one year but may be extended by court order on a motion by the plaintiff, showing good cause, with notice to the defendant. The defendant is entitled to a hearing on the extension of an order issued pursuant to this subsection within thirty days of the date upon which the order will expire.

(C) Notwithstanding subsection (B), the provisions included in a restraining order granting relief pursuant to Section 16-3-1770 dissolve one year following the issuance of the order unless, prior to the expiration of this period, the court has charged the defendant with the crime of harassment in the first or second degree or stalking and has scheduled a date for trial on the charge. If the trial has been scheduled, relief granted pursuant to Section 16-3-1770 remains in effect beyond the one-year period only until the conclusion of the trial.

(D) The court may modify the terms of an order issued pursuant to this section.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1790.

Service of certified copies of restraining orders.

A magistrates court shall serve the defendant with a certified copy of an order issued pursuant to this article and provide a copy to the plaintiff and to the local law enforcement agencies having jurisdiction over the area where the plaintiff resides. Service must be made without charge to the plaintiff.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1800.

Arrest upon violation of restraining order.

Law enforcement officers shall arrest a defendant who is acting in violation of a restraining order after service and notice of the order is provided. An arrest warrant is not required.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1810.

Law enforcement officer's responsibilities when responding to a harassment or stalking incident.

(A) The primary responsibility of a law enforcement officer when responding to a harassment in the first or second degree or stalking incident is to enforce the law and protect the complainant.

(B) The law enforcement officer shall notify the complainant of the right to initiate criminal proceedings and to seek a restraining order.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1820.

Immunity from liability for filing a report or complaint or participating in a judicial proceeding concerning alleged harassment or stalking; rebuttable presumption of good faith.

A person who reports an alleged harassment in the first or second degree or stalking, files a criminal complaint, files a complaint for a restraining order, or who participates in a judicial proceeding pursuant to this article and who is acting in good faith is immune from criminal and civil liability that might otherwise result from these actions. A rebuttable presumption exists that the person was acting in good faith.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1830.

Availability of other civil and criminal remedies.

A proceeding commenced pursuant to this article is in addition to other civil and criminal remedies.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

SECTION 16-3-1840.

Mental health evaluation prior to setting bail; purpose; report.

Prior to setting bail, a magistrate or a municipal judge may order a defendant charged with harassment in the first or second degree or stalking pursuant to this article to undergo a mental health evaluation performed by the local mental health department. The purpose of this evaluation is to determine if the defendant needs mental health treatment or counseling as a condition of bond. The evaluation must be scheduled within ten days of the order's issuance. Once the evaluation is completed, the examiner must, within forty-eight hours, issue a report to the local solicitor's office, summary court judge, or other law enforcement agency. Upon receipt of the report, the solicitor, summary court judge, or other law enforcement agency must arrange for a bond hearing before a circuit court judge or summary court judge.

HISTORY: 1995 Act No. 94, Section 1; 2005 Act No. 106, Section 7, eff January 1, 2006.

ARTICLE 18

Permanent Restraining Orders

SECTION 16-3-1900.

Definitions.

For purposes of this article:

- (1) "Complainant" means a victim of a criminal offense that occurred in this State, a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State, or a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.
- (2) "Conviction" means a conviction, adjudication of delinquency, guilty plea, nolo contendere plea, or forfeiture of bail.
- (3) "Criminal offense" means an offense against the person of an individual when physical or psychological harm occurs, including both common law and statutory offenses contained in Sections 16-3-1700, 16-3-1710, 16-3-1720, 16-3-1730, 16-25-20, 16-25-30, 16-25-65 and 23-3-430; criminal sexual conduct offenses pled down to assault and battery of a high and aggravated nature; domestic violence offenses pled down to assault and battery or assault and battery of a high and aggravated nature; and the common law offense of attempt, punishable pursuant to Section 16-1-80.
- (4) "Family" means a spouse, child, parent, sibling, or a person who regularly resides in the same household.
- (5) "Respondent" means a person who was convicted of a criminal offense for which the victim was the subject of the crime or the witness who assisted the prosecuting entity in prosecuting the criminal offense.
- (6) "Victim" means:
 - (a) a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a criminal offense; or
 - (b) the spouse, parent, child, or lawful representative of a victim who is deceased, a minor, incompetent, or physically or psychologically incapacitated."Victim" does not include a person who is the subject of an investigation for, charged with, or has been convicted of the offense in question; a person, including a spouse, parent, child, or lawful representative, who is acting on behalf of a suspect, juvenile offender, or defendant, unless such actions are required by law; or a person who was imprisoned or engaged in an illegal act at the time of the offense.
- (7) "Witness" means a person who has been or is expected to be summoned to testify for the prosecution, or who by reason of having relevant information is subject to being called or likely to be called as a witness for the prosecution, whether or not any action or proceeding has been commenced.

HISTORY: 2015 Act No. 58 (S.3), Pt V, Section 24, eff June 4, 2015.

SECTION 16-3-1910.

Permanent restraining orders; procedure.

- (A) The circuit court and family court have jurisdiction over an action seeking a permanent restraining order.
- (B) To seek a permanent restraining order, a person must:
 - (1) request the order in general sessions court or family court, as applicable, at the time the respondent is convicted for the criminal offense committed against the complainant; or
 - (2) file a summons and complaint in common pleas court in the county in which:
 - (a) the respondent resides when the action commences;
 - (b) the criminal offense occurred; or
 - (c) the complainant resides, if the respondent is a nonresident of the State or cannot be found.
- (C) The following persons may seek a permanent restraining order:
 - (1) a victim of a criminal offense that occurred in this State;
 - (2) a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State; or
 - (3) a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.
- (D) A complaint must:
 - (1) state that the respondent was a person convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity;
 - (2) state when and where the conviction took place, and the name of the prosecuting entity and court;
 - (3) be verified; and
 - (4) inform the respondent of his right to retain counsel to represent the respondent at the hearing on the complaint.
- (E) A complainant shall provide his address to the court and to any appropriate law enforcement agencies. The complainant's address must be kept under seal, omitted from all documents filed with the court, and is not subject to Freedom of Information Act requests pursuant to Section 30-4-10, et seq. The complainant may designate an alternative address to receive notice of motions or pleadings from the respondent.
- (F) The circuit court must provide forms to facilitate the preparation and filing of a summons and complaint for a permanent restraining order by a complainant not represented by counsel. The court must not charge a fee for filing a summons and complaint for a permanent restraining order.
- (G) A complainant shall serve his summons and complaint for a permanent restraining order along with a notice of the date, time, and location of the hearing on the complaint pursuant to Rule 4 of the South Carolina Rules of Civil Procedure. The summons must require the respondent to answer or otherwise plead within thirty days of the date of service.

(H) The court may enter a permanent restraining order by default if the respondent was served in accordance with the provisions of this section and fails to answer as directed, or fails to appear on a subsequent appearance or hearing date agreed to by the parties or set by the court.

(I) The hearing on a permanent restraining order may be done electronically via closed circuit television or through other electronic means when possible. If the respondent is confined in a Department of Corrections facility, the complainant may come to the Department of Probation, Parole and Pardon Services in Richland County to have the hearing held electronically via closed circuit television or through other electronic means.

(J) Upon a finding that the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable, the court may issue a permanent restraining order. In determining whether to issue a permanent restraining order, physical injury to the victim or witness is not required.

(K) The terms of a permanent restraining order must protect the victim or witness and may include enjoining the respondent from:

- (1) abusing, threatening to abuse, or molesting the victim, witness, or members of the victim's or witness' family;
- (2) entering or attempting to enter the victim's or witness' place of residence, employment, education, or other location; and
- (3) communicating or attempting to communicate with the victim, witness, or members of the victim's or witness' family in a way that would violate the provisions of this section.

(L) A permanent restraining order must conspicuously bear the following language: "Violation of this order is a felony criminal offense punishable by up to five years in prison."

(M)(1) A permanent restraining order remains in effect for a period of time to be determined by the judge. If a victim or witness is a minor at the time a permanent restraining order is issued on the minor's behalf, the victim or witness, upon reaching the age of eighteen, may file a motion with the circuit court to have the permanent restraining order removed.

(2) The court may modify the terms of a permanent restraining order upon request of the complainant, including extending the duration of the order or lifting the order.

(N) Notwithstanding another provision of law, a permanent restraining order is enforceable throughout this State.

(O) Law enforcement officers shall arrest a respondent who is acting in violation of a permanent restraining order after service and notice of the order is provided. A respondent who is in violation of a permanent restraining order is guilty of a felony, if the underlying conviction that was the basis for the permanent restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the permanent restraining order was a misdemeanor, a respondent who is in violation of a permanent restraining order is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(P) Permanent restraining orders are protection orders for purposes of Section 20-4-320, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, as long as all other criteria of Article 3, Chapter 4, Title 20 are met. However, permanent restraining orders are not orders of protection for purposes of Section 16-25-30.

(Q) The remedies provided by this section are not exclusive, but are additional to other remedies provided by law.

HISTORY: 2015 Act No. 58 (S.3), Pt V, Section 24, eff June 4, 2015.

SECTION 16-3-1920.

Emergency restraining orders; procedure.

(A) The magistrates court has jurisdiction over an action seeking an emergency restraining order.

(B) An action for an emergency restraining order must be filed in the county in which:

- (1) the respondent resides when the action commences;
- (2) the criminal offense occurred; or
- (3) the complainant resides, if the respondent is a nonresident of the State or cannot be found.

(C) A summons and complaint for an emergency restraining order may be filed by:

- (1) a victim of a criminal offense that occurred in this State;
- (2) a competent adult who resides in this State on behalf of a minor child who is a victim of a criminal offense that occurred in this State; or
- (3) a witness who assisted the prosecuting entity in the prosecution of a criminal offense that occurred in this State.

(D) The complaint must:

- (1) state that the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity;
- (2) state when and where the conviction took place, and the name of the prosecuting entity and court;
- (3) be verified; and
- (4) inform the respondent of his right to retain counsel to represent the respondent at the hearing on the complaint.

(E) A complainant shall provide his address to the court and to any appropriate law enforcement agencies. The complainant's address must be kept under seal, omitted from all documents filed with the court, and is not subject to Freedom of Information Act requests pursuant to Section 30-4-10, et seq. The complainant may designate an alternative address to receive notice of motions or pleadings from the respondent.

(F) The court must provide forms to facilitate the preparation and filing of a summons and complaint for an emergency restraining order by a complainant not represented by counsel. The court must not charge a fee for filing a summons and complaint for an emergency restraining order.

(G)(1) Except as provided in subsection (H), the court shall hold a hearing on an emergency restraining order within fifteen days of

the filing of a summons and complaint, but not sooner than five days after service has been perfected upon the respondent.

(2) The court shall serve a copy of the summons and complaint upon the respondent at least five days before the hearing in the same manner required for service as provided in the South Carolina Rules of Civil Procedure.

(3) The hearing may be done electronically via closed circuit television or through other electronic means when possible. If the respondent is confined in a Department of Corrections facility, the complainant may come to the Department of Probation, Parole and Pardon Services in Richland County to have the hearing held electronically via closed circuit television or through other electronic means.

(4) The court may issue an emergency restraining order upon a finding that:

(a) the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable; and

(b) a restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order.

In determining whether to issue an emergency restraining order, physical injury to the victim or witness is not required.

(H)(1) Within twenty-four hours after the filing of a summons and complaint seeking an emergency restraining order, the court may hold an emergency hearing and issue an emergency restraining order without giving the respondent notice of the motion for the order if:

(a) the respondent was convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity, as applicable;

(b) a restraining order has expired, is set to expire, or is not available and the common pleas court is not in session for the complainant to obtain a permanent restraining order;

(c) it clearly appears from specific facts shown by a verified complaint or affidavit that immediate injury, loss, or damage will result to the victim or witness before the respondent can be heard; and

(d) the complainant certifies to the court that one of the following has occurred:

(i) efforts have been made to serve the notice; or

(ii) there is good cause to grant the remedy because the harm that the remedy is intended to prevent would likely occur if the respondent were given prior notice of the complainant's efforts to obtain judicial relief.

In determining whether to issue an emergency restraining order, physical injury to the victim or witness is not required.

(2) An emergency restraining order granted without notice must be endorsed with the date and hour of issuance and entered on the record with the magistrates court. The order must be served upon the respondent together with a copy of the summons, complaint, and a Rule to Show Cause why the order should not be extended until the hearing for a permanent restraining order.

(I) The terms of an emergency restraining order must protect the victim or witness and may include temporarily enjoining the respondent from:

(1) abusing, threatening to abuse, or molesting the victim, witness, or members of the victim's or witness' family;

(2) entering or attempting to enter the victim's or witness' place of residence, employment, education, or other location; and

(3) communicating or attempting to communicate with the victim, witness, or members of the victim's or witness' family in a way that would violate the provisions of this section.

(J) An emergency restraining order conspicuously must bear the following language: "Violation of this order is a felony criminal offense punishable by up to five years in prison."

(K) The court shall serve the respondent with a certified copy of the emergency restraining order and provide a copy to the complainant and to the local law enforcement agencies having jurisdiction over the area where the victim or witness resides. Service must be made without charge to the complainant.

(L)(1) An emergency restraining order remains in effect until a hearing on a restraining order. However, if a complainant does not seek a permanent restraining order pursuant to Section 16-3-1910 within forty-five days of the issuance of an emergency restraining order, the emergency restraining order no longer remains in effect.

(2) The court may modify the terms of an emergency restraining order.

(M) Notwithstanding another provision of law, an emergency restraining order is enforceable throughout this State.

(N) Law enforcement officers shall arrest a respondent who is acting in violation of an emergency restraining order after service and notice of the order is provided. An arrest warrant is not required. A respondent who is in violation of an emergency restraining order is guilty of a felony, if the underlying conviction that was the basis for the emergency restraining order was a felony and, upon conviction, must be imprisoned not more than five years. If the underlying conviction that was the basis for the emergency restraining order was a misdemeanor, a respondent who is in violation of an emergency restraining order is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

(O) Emergency restraining orders are protection orders for purposes of Section 20-4-320, the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, as long as all other criteria of Article 3, Chapter 4, Title 20 are met. However, permanent restraining orders are not orders of protection for purposes of Section 16-25-30.

(P) The remedies provided by this section are not exclusive but are additional to other remedies provided by law.

HISTORY: 2015 Act No. 58 (S.3), Pt V, Section 24, eff June 4, 2015.

ARTICLE 19

Trafficking in Persons

SECTION 16-3-2010.

Definitions.

As used in this article:

- (1) "Business" means a corporation, partnership, proprietorship, firm, enterprise, franchise, organization, or self-employed individual.
 - (2) "Charitable organization" means a charitable organization pursuant to Section 33-56-20.
 - (3) "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.
 - (4) "Forced labor" means any type of labor or services performed or provided by a person rendered through another person's coercion of the person providing the labor or services.
This definition does not include labor or services performed or provided by a person in the custody of the Department of Corrections or a local jail, detention center, or correctional facility.
 - (5) "Involuntary servitude" means a condition of servitude induced through coercion.
 - (6) "Person" means an individual, corporation, partnership, charitable organization, or another legal entity.
 - (7) "Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any person:
 - (a) criminal sexual conduct pursuant to Section 16-3-651;
 - (b) criminal sexual conduct in the first degree pursuant to Section 16-3-652;
 - (c) criminal sexual conduct in the second degree pursuant to Section 16-3-653;
 - (d) criminal sexual conduct in the third degree pursuant to Section 16-3-654;
 - (e) criminal sexual conduct with a minor pursuant to Section 16-3-655;
 - (f) engaging a child for sexual performance pursuant to Section 16-3-810;
 - (g) producing, directing, or promoting sexual performance by a child pursuant to Section 16-3-820;
 - (h) sexual battery pursuant to Section 16-3-651;
 - (i) sexual conduct pursuant to Section 16-3-800;
 - (j) sexual performance pursuant to Section 16-3-800;
 - (k) sexual exploitation of a minor pursuant to Section 16-15-395, 16-15-405, or 16-15-410; or
 - (l) promoting or participating in prostitution of a minor pursuant to Section 16-15-415 or 16-15-425.
 - (8) "Services" means an act committed at the behest of, under the supervision of, or for the benefit of another person.
 - (9) "Victim of trafficking in persons" or "victim" means a person who has been subjected to the crime of trafficking in persons.
- HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012; 2015 Act No. 7 (S.196), Section 3, eff April 2, 2015; 2018 Act No. 238 (H.3329), Section 1, eff May 17, 2018; 2024 Act No. 213 (S.142), Section 1, eff July 2, 2024.

Effect of Amendment

2015 Act No. 7, Section 3, in (7), substituted "person performing the act" for "person forced to perform the act"; deleted former (7)(g), relating to Section 16-3-800; and redesignated the remaining paragraphs accordingly.

2018 Act No. 238, Section 1, in (7), substituted "by any person" for "by another person" at the end; and deleted (9), which related to the definition of "trafficking in persons", and redesignated (10) as (9).

2024 Act No. 213, Section 1, in (7), added (k) and (l) and made a nonsubstantive change.

SECTION 16-3-2020.

Trafficking in persons; penalties; minor victims; defenses.

(A) A person is guilty of trafficking in persons if he:

- (1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or for the purposes of, sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons;
 - (2) aids, abets, or conspires with another person to violate the criminal provisions of this section; or
 - (3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.
- (B) A person convicted of a violation of subsection (A) is guilty of a felony and, upon conviction:
- (1) for a first offense, must be imprisoned not more than fifteen years;
 - (2) for a second offense, must be imprisoned not more than thirty years;
 - (3) for a third or subsequent offense, must be imprisoned not more than forty-five years.

(C) If the victim of an offense contained in this section is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years. For a second or subsequent offense, if the victim is under the age of eighteen, the person convicted under this section is guilty of a felony and, upon conviction, must be imprisoned not more than forty-five years.

(D) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

(E) A plea of guilty or the legal equivalent entered pursuant to a provision of this article by an offender entitles the victim of trafficking in persons to all benefits, rights, and compensation granted pursuant to Section 16-3-1110.

(F) In a prosecution or adjudication of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution or adjudication, if the offenses were committed as a direct result of, or interrelated to trafficking. A victim of trafficking in persons convicted or adjudicated delinquent of a violation of this article, prostitution, or any other nonviolent misdemeanor or Class F felony offenses may motion the court to expunge the record of the conviction or adjudication for a nonviolent misdemeanor or Class F felony offense committed as a direct result of, or interrelated to trafficking. The court may grant the motion on a finding by a preponderance of evidence that the person's participation in the offense was a direct result of or interrelated to being a victim of trafficking. The court may consider any prior rulings made by a court on the petitioner's use of the affirmative defense provided in this section. An alleged victim of trafficking who files a motion to expunge the record pursuant to this subsection must file reasonable notice of the motion with the original prosecuting agency for the underlying offense and reasonable notice must be given or attempted to be given to any victims pursuant to the Victim's Bill of Rights. For purposes of this subsection, nonviolent misdemeanor offense or Class F felony means all offenses listed in Section 16-1-20(A)(6), (7), (8), and (9).

(G) If the victim was a minor under the age of eighteen at the time of the offense, the victim of trafficking in persons may not be prosecuted in court or adjudicated delinquent for a violation of this article, a prostitution offense, or for any other nonviolent misdemeanor or Class F felony offense if it is determined after investigation that the victim committed the offense as a direct result of, or interrelated to trafficking. For purposes of this subsection, nonviolent misdemeanor offense or Class F felony means all offenses listed in Section 16-1-20(A)(6), (7), (8), and (9). However, if the victim is still under the age of eighteen, the victim must be referred by law enforcement or the prosecuting agency to the Department of Social Services in accordance with Sections 63-7-20, 63-7-310, 63-7-630, 63-7-980 and 63-11-2400. The department must assess the referral and proceed according to the provisions in Title 63.

(H) The human trafficking specialized service providers must be certified by the Attorney General through criteria established by the Human Trafficking Task Force. The Attorney General, through the task force, must also establish necessary criteria for Human Trafficking Acute Crisis Care and Resource Centers to be established in the communities of South Carolina. Once the service providers are certified and the assessment centers are open, the information must be disseminated to the family court bench and bar as well as law enforcement to be utilized in carrying out the mandates of this statute. The court must determine the most appropriate way to provide specialized services to the juveniles to address the concerns relating to human trafficking.

(I) Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation:

(1) the victim's sexual history or history of commercial sexual activity, the specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct;

(2) the victim's connection by blood or marriage to a defendant in the case or to anyone involved in the victim's trafficking;

(3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section;

(4) age of consent to sex, legal age of marriage, or other discretionary age; and

(5) mistake as to the victim's age, even if the mistake is reasonable.

(J) A person who violates the provisions of this section may be prosecuted by the State Grand Jury, pursuant to Section 14-7-1600, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012; 2015 Act No. 74 (S.183), Section 1, eff June 8, 2015; 2018 Act No. 238 (H.3329), Section 2, eff May 17, 2018; 2024 Act No. 213 (S.142), Section 2, eff July 2, 2024.

Editor's Note

2024 Act No. 213, Section 6, provides as follows:

"SECTION 6. The rights delineated under SECTION 2 of this act shall apply retroactively."

Effect of Amendment

2015 Act No. 74, Section 1, in (E), added a comma following "and"; in (G), added the second sentence; and in (J), added the last three sentences.

2018 Act No. 238, Section 2, rewrote the section, restructuring the offense of trafficking in persons, providing a penalty when the victim is a minor under the age of eighteen, and ensuring the protection of minor victims.

2024 Act No. 213, Section 2, rewrote (F) and (G).

SECTION 16-3-2030.

Criminal liability of principal owners of business; loss of profits and government contracts; penalties.

(A) The principal owners of a business, a business entity, including a corporation, partnership, charitable organization, or another legal entity, that knowingly aids or participates in an offense provided in this article is criminally liable for the offense and will be subject to a fine or loss of business license in the State, or both. In addition, the court may consider disgorgement of profit from activity in violation of this article and disbarment from state and local government contracts.

(B) If the principal owners of a business entity are convicted of violating a section of this article, the court or Secretary of State, when appropriate, may:

(1) order its dissolution or reorganization;

(2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state or local government agency; or

(3) order the surrender of its charter if it is organized under state law or the revocation of its certificate to conduct business in the State if it is not organized under state law.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012; 2015 Act No. 74 (S.183), Section 2, eff June 8, 2015.

Effect of Amendment

2015 Act No. 74, Section 2, in (A), added the last sentence.

SECTION 16-3-2040.

Restitution for victims of trafficking.

(A) An offender convicted of a violation of this article must be ordered to pay mandatory restitution to the victim as provided in this section.

(B) If the victim of trafficking dies as a result of being trafficked, a surviving spouse of the victim is eligible for restitution. If no surviving spouse exists, restitution must be paid to the victim's issue or their descendants per stirpes. If no surviving spouse or issue or descendants exist, restitution must be paid to the victim's estate. A person named in this subsection may not receive funds from restitution if he benefited or engaged in conduct described in this article.

(C) If a person is unable to pay restitution at the time of sentencing, or at any other time, the court may set restitution pursuant to Section 16-3-1270.

(D) Restitution for this section, pursuant to Section 16-3-1270, means payment for all injuries, specific losses, and expenses, including, but not limited to, attorney's fees, sustained by a crime victim resulting from an offender's criminal conduct pursuant to Section 16-3-1110(12)(a). In addition, the court may order an amount representing the value of the victim's labor or services.

(E) Notwithstanding another provision of law, the applicable statute of limitations for a victim of trafficking in persons is pursuant to Section 16-3-1110(12)(a).

(F) Restitution must be paid to the victim promptly upon the conviction of the defendant. The return of the victim to his home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012; 2015 Act No. 74 (S.183), Section 3, eff June 8, 2015.

Effect of Amendment

2015 Act No. 74, Section 3, in (D), inserted ", including, but not limited to, attorney's fees," and added the last sentence.

SECTION 16-3-2050.

Interagency task force established to develop and implement State Plan for Prevention of Trafficking in Persons; members; responsibilities; grants.

(A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking in persons, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16-3-2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(B) The task force shall consist of, at a minimum, representatives from:

(1) the Office of the Attorney General, who must be chair;

(2) the South Carolina Department of Labor, Licensing and Regulation;

(3) the South Carolina Police Chiefs Association;

(4) the South Carolina Sheriffs' Association;

(5) the State Law Enforcement Division;

(6) the Department of Health and Environmental Control Board;

(7) the Office of the Attorney General, South Carolina Crime Victim Services Division;

(8) the South Carolina Commission on Prosecution Coordination;

(9) the Department of Social Services;

(10) a representative from the Office of the Governor;

(11) a representative from the Department of Employment and Workforce; and

(12) two persons appointed by the Attorney General from nongovernmental organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of trafficking in persons.

(C) The Attorney General shall invite representatives of the United States Department of Labor, the United States Attorneys' offices, and federal law enforcement agencies' offices within the State, including the Federal Bureau of Investigations and the United States Immigration and Customs Enforcement office, to be members of the task force.

(D) The task force shall carry out the following activities either directly or through one or more of its constituent agencies:

(1) develop the state plan within eighteen months of the effective date of this act;

(2) coordinate the implementation of the state plan; and

(3) starting one year after the formation of the task force, submit an annual report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before December thirty-first of each calendar year.

(E) The task force shall consider carrying out the following activities either directly or through one or more of its constituent agencies:

- (1) coordinate the collection and sharing of trafficking data among government agencies, which data collection must respect the privacy of victims of trafficking in persons;
- (2) coordinate the sharing of information between agencies for the purposes of detecting criminal groups engaged in trafficking in persons;
- (3) explore the establishment of state policies for time limits for the issuance of Law Enforcement Agency (LEA) endorsements as described in C.F.R. Chapter 8, Section 214.11(f)(1);
- (4) establish policies to enable state government to work with nongovernmental organizations and other elements of civil society to prevent trafficking in persons and provide assistance to United States citizens and foreign national victims;
- (5) review the existing services and facilities to meet trafficking victims' needs and recommend a system to coordinate services including, but not limited to, health services, including mental health, housing, education and job training, English as a second language classes, interpreting services, legal and immigration services, and victim compensation;
- (6) evaluate various approaches used by state and local governments to increase public awareness of the trafficking in persons, including United States citizens and foreign national victims of trafficking in persons;
- (7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;
- (8) collect and periodically publish statistical data on trafficking, that must be posted on the Attorney General's website;
- (9) prepare public awareness programs designed to educate potential victims of trafficking in persons and their families on the risks of victimization. These public awareness programs must include, but are not limited to:
 - (a) information about the risks of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to HIV or AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases;
 - (b) information about the risks of engaging in commercial sex and possible punishment;
 - (c) information about victims' rights in the State;
 - (d) methods for reporting suspected recruitment activities; and
 - (e) information on hotlines and available victims' services;
- (10) preparation and dissemination of awareness materials to the general public to educate the public on the extent of trafficking in persons, both United States citizens and foreign nationals, within the United States and to discourage the demand that fosters the exploitation of persons that leads to trafficking in persons.
 - (a) The general public awareness materials may include information on the impact of trafficking on individual victims, whether United States citizens or foreign nationals, aggregate information on trafficking in persons worldwide and domestically, and warnings of the criminal consequences of engaging in trafficking in persons. These materials may include pamphlets, brochures, posters, advertisements in mass media, and other appropriate media. All materials must be designed to communicate to the target population.
 - (b) Materials described in this section may include information on the impact of trafficking in persons on individual victims. However, information on the experiences of individual victims must preserve the privacy of the victim and the victim's family.
 - (c) All public awareness programs must be evaluated periodically by the task force to ensure their effectiveness.
- (F) To the extent that funds are appropriated, the task force may make grants to or contract with a state agency, local government, or private victim's service organization to develop or expand service programs for victims. A recipient of a grant or contract shall report annually to the task force the number and demographic information of all victims receiving services pursuant to the grant or contract.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012; 2015 Act No. 7 (S.196), Section 5, eff April 2, 2015; 2015 Act No. 74 (S.183), Section 4, eff June 8, 2015.

Code Commissioner's Note

Pursuant to 2017 Act No. 96, Section 14, the reference to "State Office of Victim Assistance" in (B)(7) was changed to "Office of the Attorney General, South Carolina Crime Victim Services Division".

Effect of Amendment

2015 Act No. 7, Section 5, in (B)(2), inserted "Department of"; deleted former (B)(7), relating to the U.S. Dept. of Labor; and redesignated the remaining paragraphs accordingly; and in (C), inserted "Department of Labor, the United States" and inserted a comma following "Attorneys' offices".

2015 Act No. 74, Section 4, added (F).

SECTION 16-3-2060.

Civil action for victim of trafficking; statute of limitations.

(A) A person who is a victim of trafficking in persons may bring a civil action in the court of common pleas. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A prevailing plaintiff also must be awarded attorney's fees and costs. Treble damages must be awarded on proof of actual damages when the defendant's acts were wilful and malicious.

(B) Pursuant to Section 16-3-1110, the applicable statute of limitations for a crime victim who has a cause of action against an incarcerated offender is tolled and does not expire until three years after the offender's sentence is completed, including probation and parole, or three years after release from commitment pursuant to Chapter 48, Title 44, whichever is later. However, this provision does not shorten any other tolling period of the statute of limitations which may exist for the victim.

(C) The statute of limitations for the filing of a civil suit does not begin to run until a minor victim has reached the age of majority.

(D) If a victim entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(E) The running of the statute of limitations may be suspended when a victim could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(F) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the victim to delay the filing of the action or placing the victim under duress.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012.

SECTION 16-3-2070.

Compensation for victims of trafficking; identity of victim and victim's family confidential.

(A) Victims of trafficking in persons pursuant to this article are considered victims for purposes of the Victims' Bill of Rights and are entitled to all appropriate forms of compensation available pursuant to the South Carolina Victim Compensation Fund in accordance with the provisions of Article 13, Chapter 3, Title 16. Victims of trafficking in persons pursuant to this article also are entitled to the rights provided in Article 15, Chapter 3, Title 16.

(B) In addition to the provisions of subsection (A), in a prosecution for violations of the criminal provisions of this article, the identity of the victim and the victim's family must be kept confidential by ensuring that names and identifying information of the victim and victim's family are not released to the public, including by the defendant.

(C) Pursuant to Section 16-3-1240, it is unlawful, except for purposes directly connected with the administration of the victim compensation fund, for any person to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards without the written consent of the applicant or recipient. The records, papers, files, and communications of the board, its panel and the director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 4, Title 30.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012.

Code Commissioner's Note

Pursuant to 2017 Act No. 96, Section 14, the reference to "State Crime Victim's Compensation Fund" in (A) was changed to "South Carolina Victim Compensation Fund", and the reference to "victim's compensation fund" in (C) was changed to "victim compensation fund".

SECTION 16-3-2080.

Unlawful disclosure; trespassing notice; unlawful entrance or presence on grounds of domestic violence or trafficking shelter; exceptions; penalties.

(A) For purposes of this section:

(1) "Domestic violence shelter" means a facility whose purpose is to serve as a shelter to receive and house persons who are victims of criminal domestic violence and that provides services as a shelter.

(2) "Trafficking shelter" means a confidential location which provides emergency housing for victims of trafficking in persons.

(3) "Grounds" means the real property of the parcel of land upon which a domestic violence or trafficking shelter or a domestic violence or trafficking shelter's administrative offices are located, whether fenced or unfenced.

(B) A person who maliciously or with criminal negligence publishes, disseminates, or otherwise discloses the location of a trafficking victim, a trafficking shelter, a domestic violence shelter, or another place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter, or domestic violence shelter, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

(C) It is unlawful for a person who has been charged with or convicted of a violation of Section 16-3-2020 to enter or remain upon the grounds or structure of a domestic violence or trafficking shelter in which the victim resides or the domestic violence shelter's administrative offices or the trafficking shelter's administrative offices.

(D) The domestic violence shelter and trafficking shelter must post signs at conspicuous places on the grounds of the domestic violence shelter, trafficking shelter, the domestic violence shelter's administrative offices, and the trafficking shelter's administrative offices which, at a minimum, must read substantially as follows: "NO TRESPASSING-VIOLATORS WILL BE SUBJECT TO CRIMINAL PENALTIES".

(E) This section does not apply if the person has legitimate business or any authorization, license, or invitation to enter or remain upon the grounds or structure of the domestic violence or trafficking shelter or the domestic violence or trafficking shelter's administrative offices.

(F) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012.

SECTION 16-3-2090.

Forfeiture.

(A)(1) The following are subject to forfeiture:

- (a) all monies used, or intended for use, in violation of Section 16-3-2020;
 - (b) all property constituting the proceeds obtained directly or indirectly, for a violation of Section 16-3-2020;
 - (c) all property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of Section 16-3-2020;
 - (d) all property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of Section 16-3-2020;
 - (e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of Section 16-3-2020;
 - (f) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels, which are used or intended for use unlawfully to conceal or transport or facilitate a violation of Section 16-3-2020. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of Section 16-3-2020;
 - (g) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any kind of services under Section 16-3-2020, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange under Section 16-3-2020; and
 - (h) overseas assets of persons convicted of trafficking in persons also are subject to forfeiture to the extent they can be retrieved by the government.
- (2) Any property subject to forfeiture may be seized by the investigating agency having authority upon warrant issued by any court having jurisdiction over the property. Seizure without process may be made if the:
- (a) seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;
 - (b) property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon Section 16-3-2020;
 - (c) the investigating agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or
 - (d) the investigating agency has probable cause to believe that the property was used or is intended to be used in violation of Section 16-3-2020.
- (3) In the event of seizure, proceedings under this section regarding forfeiture and disposition must be instituted within a reasonable time.
- (4) Any property taken or detained under this section is not subject to replevin but is considered to be in the custody of the investigating agency making the seizure subject only to the orders of the court having jurisdiction over the forfeiture proceedings. Property is forfeited and transferred to the government at the moment of illegal use. Seizure and forfeiture proceedings confirm the transfer.
- (5) For the purposes of this section, whenever the seizure of property subject to seizure is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.
- (6) Law enforcement agencies seizing property pursuant to this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for security in another manner.
- (7) When property and monies of any value as defined in this article or anything else of any value is seized, the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecution agency.
- (a) The report must provide the following information with respect to the property seized:
 - (i) description;
 - (ii) circumstances of seizure;
 - (iii) present custodian and where the property is being stored or its location;
 - (iv) name of owner;
 - (v) name of lienholder; and
 - (vi) seizing agency.
 - (b) If the property is a conveyance, the report shall include the:
 - (i) make, model, serial number, and year of the conveyance;
 - (ii) person in whose name the conveyance is registered; and
 - (iii) name of any lienholders.
 - (c) In addition to the report, the law enforcement agency shall prepare for dissemination to the public upon request a report providing the following information:
 - (i) a description of the quantity and nature of the property and money seized;
 - (ii) the seizing agency;
 - (iii) the make, model, and year of a conveyance; and
 - (iv) the law enforcement agency responsible for the property or conveyance seized.
 - (d) Property or conveyances seized by a law enforcement agency or department may not be used by officers for personal purposes.
- (B)(1) Forfeiture of property must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized. The petition must be submitted to the court

within a reasonable time period following seizure and shall provide the facts upon which the seizure was made. The petition shall describe the property and include the names of all owners of record and lienholders of record. The petition shall identify any other persons known to the petitioner to have interests in the property. Petitions for the forfeiture of conveyances also shall include the make, model, and year of the conveyance, the person in whose name the conveyance is registered, and the person who holds the title to the conveyance. A copy of the petition must be sent to each law enforcement agency which has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with interests in the property listed in the petition, including law enforcement agencies which have notified the petitioner of their involvement in effecting the seizure. Owners of record and lienholders of record may be served by certified mail, to the last known address as appears in the records of the governmental agency which records the title or lien.

(2) The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. The Attorney General or his designee or the circuit solicitor or his designee has the burden of proof to establish by a preponderance of the evidence that the property is subject to forfeiture. If the judge finds a forfeiture, he shall then determine the lienholder's interest as provided in this article. The judge shall determine whether any property must be returned to a law enforcement agency pursuant to this section.

(3) If there is a dispute as to the division of the proceeds of forfeited property among participating law enforcement agencies, this issue must be determined by the judge. The proceeds from a sale of property, conveyances, and equipment must be disposed of pursuant to this section.

(4) All property, conveyances, and equipment which will not be reduced to proceeds may be transferred to the law enforcement agency or agencies or to the prosecution agency. Upon agreement of the law enforcement agency or agencies and the prosecution agency, conveyances and equipment may be transferred to any other appropriate agency. Property transferred may not be used to supplant operating funds within the current or future budgets. If the property seized and forfeited is an aircraft or watercraft and is transferred to a state law enforcement agency or other state agency pursuant to the provisions of this subsection, its use and retainage by that agency is at the discretion and approval of the Department of Administration.

(5) If a defendant or his attorney sends written notice to the petitioner or the seizing agency of his interest in the subject property, service may be made by mailing a copy of the petition to the address provided, and service may not be made by publication. In addition, service by publication may not be used for a person incarcerated in a Department of Corrections facility, a county detention facility, or other facility where inmates are housed for the county where the seizing agency is located. The seizing agency shall check the appropriate institutions after receiving an affidavit of nonservice before attempting service by publication.

(6) Any forfeiture may be effected by consent order approved by the court without filing or serving pleadings or notices provided that all owners and other persons with interests in the property, including participating law enforcement agencies, entitled to notice under this section, except lienholders and agencies, consent to the forfeiture. Disposition of the property may be accomplished by consent of the petitioner and those agencies involved. Persons entitled to notice under this section may consent to some issues and have the judge determine the remaining issues.

(7) Disposition of forfeited property under this section must be accomplished as follows:

(a) Property forfeited under this subsection shall first be applied to payment to the victim. The return of the victim to his home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving compensation.

(b) The victim and the South Carolina Victim Compensation Fund shall each receive one-fourth, and law enforcement shall receive one-half of the value of the forfeited property.

(c) If no victim is named, or reasonable attempts to locate a named victim for forfeiture and forfeiture fails, then all funds shall revert to the South Carolina Victim Compensation Fund and law enforcement to be divided equally.

(d) If federal law enforcement becomes involved in the investigation, they shall equitably split the share local law enforcement receives under this section, if they request or pursue any of the forfeiture. The equitable split must be pursuant to 21 U.S.C. Section 881(e)(1)(A) and (e)(3), 18 U.S.C. Section 981(e)(2), and 19 U.S.C. Section 1616a.

(C)(1) An innocent owner, manager, or owner of a licensed rental agency or any common carrier or carrier of goods for hire may apply to the court of common pleas for the return of any item seized. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice. If the judge denies the application, the hearing may proceed as a forfeiture hearing.

(2) The court may return any seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

(a) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture; or

(b) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that any agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(3) The lien of an innocent person or other legal entity, recorded in public records, shall continue in force upon transfer of title of any forfeited item, and any transfer of title is subject to the lien, if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

(D) A person who uses property or a conveyance in a manner which would make the property or conveyance subject to forfeiture except for innocent owners, rental agencies, lienholders, and the like as provided for in this section, is guilty of a misdemeanor and, upon conviction, must be imprisoned for not less than thirty days nor more than one year, fined not more than five thousand dollars, or both. The penalties prescribed in this section are cumulative and must be construed to be in addition to any other penalty prescribed by another provision of this article.

HISTORY: 2012 Act No. 258, Section 1, eff December 15, 2012.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015. Pursuant to 2017 Act No. 96, Section 14, the references to "Victim's Compensation Fund" in (B)(7)(b) and (B)(7)(c) were changed to "Victim Compensation Fund".

SECTION 16-3-2100.

Posting of information regarding National Human Trafficking Resource Center Hotline in certain establishments; fines.

(A) The following establishments are required to post the information contained in subsection (B) regarding the National Human Trafficking Resource Center Hotline:

- (1) an establishment which has been declared a nuisance for prostitution pursuant to Chapter 43, Title 15;
- (2) an adult business, including a nightclub, bar, restaurant, or another similar establishment in which a person appears in a state of sexually explicit nudity, as defined in Section 16-15-375, or seminudity, as defined in Section 57-25-120;
- (3) businesses and establishments that offer massage or bodywork services by any person who is not licensed under Chapter 30, Title 40;
- (4) emergency rooms within any hospital;
- (5) urgent care centers;
- (6) any hotel, motel, room, or accommodation furnished to transients for which fees are charged in this State;
- (7) all agricultural labor contractors and agricultural labor transporters as defined pursuant to Section 41-27-120; and
- (8) all airports, train stations, bus stations, rest areas, and truck stops.

(B) The information must be posted in each public restroom for the business or establishment and a prominent location conspicuous to the public at the entrance of the establishment where posters and notices are customarily posted on a poster no smaller than eight and one-half by eleven inches in size and must state in both English and Spanish on the same poster information relevant to the hotline, including the following or language substantially similar:

"If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. Victims of human trafficking are protected under federal law and the laws of South Carolina. The hotline is:

- (1) available twenty-four hours a day, seven days a week;
- (2) operated by a nonprofit, nongovernmental organization;
- (3) anonymous and confidential;
- (4) accessible in one hundred seventy languages;
- (5) able to provide help, referral to services, training, and general information."

(C) The Department of Revenue, the State Law Enforcement Division, and the Department of Transportation, as appropriate depending on the regulatory control or authority the respective department exercises over the establishment, are directed to provide each establishment with the notice required to be posted by this section. The departments shall post on the departments' websites a sample of the notice required to be posted which must be accessible for download. The business must download and post the notice in not less than sixteen point font.

(D) The Department of Revenue, the State Law Enforcement Division, or the Department of Transportation, as appropriate, is authorized to issue a written warning to an establishment which fails to post the required notice provided in this section and may assess a fine of not more than fifty dollars for each subsequent violation. Each day that the establishment remains in violation of this section is considered a separate and distinct violation and the establishment may be fined accordingly.

(E) The South Carolina Human Trafficking Task Force, Department of Revenue, and Department of Transportation are directed to collaborate on the design of the required notice to be posted and may partner to develop materials, and shall have the design finalized no later than one hundred twenty days after the effective date of this section. Establishments required to post the notice must be in compliance no later than six months after the effective date of this action.

(F) This section does not apply to establishments providing entertainment in theatres, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances when the performances presented are expressing matters of serious literary, artistic, scientific, or political value.

HISTORY: 2015 Act No. 7 (S.196), Section 4, eff April 2, 2015.

ARTICLE 20

Female Genital Mutilation

SECTION 16-3-2210.

Definitions.

For purposes of this article:

(1) "Facilitate" means to raise, solicit, collect, or provide material support or resources with intent that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of female genital mutilation or hindering the prosecution of an act of female genital mutilation, or the concealment of an act of female genital mutilation.

(2) "Female genital mutilation" or "mutilation" means:

(a) the partial or total removal of the clitoris, prepuce, or labia minora, with or without excision of the labia majora; or

(b) the narrowing of the vaginal opening through the creation of a covering seal formed by cutting and repositioning the inner or outer labia, with or without the removal of the clitoris.

(3) "Health care professional" means an individual who is licensed, certified, or otherwise authorized by the laws of this State to provide health care to members of the public.

(4) "Hindering the prosecution of female genital mutilation" means actions to include, but not be limited to:

(a) harboring or concealing a person who is known or believed to be planning to commit an act of female genital mutilation;

(b) warning a person who is known or believed to be planning to commit an act of female genital mutilation of impending discovery or apprehension; or

(c) suppressing any physical evidence that might aid in the discovery or apprehension of a person who is known or believed to be planning to commit an act of female genital mutilation.

(5) "Material support or resources" means currency or other financial securities, financial services, instruments of value, lodging, training, false documentation or identification, medical equipment, computer equipment, software, facilities, personnel, transportation, or other physical assets.

(6) "Mutilate" means to commit female genital mutilation or mutilation.

(7) "Unable to consent" means unable to appreciate the nature and implications of the patient's condition and proposed health care, to make a reasoned decision concerning the proposed health care, or to communicate that decision in an unambiguous manner. A patient's inability to consent must be certified by two licensed physicians, each of whom has examined the patient. However, in an emergency the patient's inability to consent may be certified by a health care professional responsible for the care of the patient if the health care professional states in writing in the patient's record that the delay occasioned by obtaining certification from two licensed physicians would be detrimental to the patient's health. A certifying physician or other health care professional shall give an opinion regarding the cause and nature of the inability to consent, its extent, and its probable duration. If a patient unable to consent is being admitted to hospice care pursuant to a physician certification of a terminal illness required by Medicare, that certification meets the certification requirements of this item.

HISTORY: 2019 Act No. 71 (H.3973), Section 1, eff May 16, 2019.

SECTION 16-3-2220.

Female mutilation; penalty.

(A) It is unlawful for a person to:

(1) knowingly mutilate or attempt to mutilate a female who is under eighteen years of age or who is unable to consent;

(2) knowingly facilitate the mutilation of a female who is under eighteen years of age or who is unable to consent; or

(3) knowingly transport or facilitate the transportation of a female who is under eighteen years of age or who is unable to consent from this State for the purpose of mutilation.

(B) Any person who violates the provisions of this article is guilty of a felony and, upon conviction, must be fined not more than twenty thousand dollars or imprisoned not more than twenty years, or both.

(C) Section 63-5-330 does not apply to this chapter.

HISTORY: 2019 Act No. 71 (H.3973), Section 1, eff May 16, 2019.

SECTION 16-3-2230.

Defenses not applicable to violations of this article; procedures excepted from this article; revocation of professional license or certification.

(A) It is not a defense to prosecution for a violation of this article that a female genital mutilation procedure is:

(1) required as a matter of belief, custom, or ritual;

(2) consented to by the minor or female who is unable to consent on whom the procedure is performed; or

(3) consented to by the parent or legal guardian of the minor or female who is unable to consent on whom the procedure is performed.

(B) A procedure involving female genital mutilation is not a violation of this article if it is:

(1) necessary to the physical health of the minor or female who is unable to consent on whom it is performed; or

(2) performed on a minor or female who is unable to consent who is in labor or who has just given birth for medical purposes connected with that labor or birth.

(C) A physician, physician-in-training, nurse, certified nurse-midwife, or any other medical professional who performs, participates in, or facilitates a female genital mutilation procedure which does not fall under one of the exceptions listed in subsection (B), in addition to the criminal penalties provided in this article, shall have his professional license or certification permanently revoked.

HISTORY: 2019 Act No. 71 (H.3973), Section 1, eff May 16, 2019.

SECTION 16-3-2240.

Charges, conviction, or punishment for other violations of law arising out of same occurrence.

The provisions of this article do not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction or occurrence as the violation of this article.

HISTORY: 2019 Act No. 71 (H.3973), Section 1, eff May 16, 2019.

Title 16 - Crimes and Offenses

CHAPTER 5

Offenses Against Civil Rights

SECTION 16-5-10.

Conspiracy against civil rights.

It is unlawful for two or more persons to band or conspire together or go in disguise upon the public highway or upon the premises of another with the intent to injure, oppress, or violate the person or property of a citizen because of his political opinion or his expression or exercise of the same or attempt by any means, measures, or acts to hinder, prevent, or obstruct a citizen in the free exercise and enjoyment of any right or privilege secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both. A person convicted under this section is ineligible to hold, and disabled from holding, any office of honor, trust, or profit in this State.

HISTORY: 1962 Code Section 16-101; 1952 Code Section 16-101; 1942 Code Section 1380; 1932 Code Section 1380; Cr. C. '22 Section 310; Cr. C. '12 Section 320; Cr. C. '02 Section 233; G. S. 2567; R. S. 198; 1871 (14) 560; 1960 (51) 1602; 1993 Act No. 184, Section 22.

SECTION 16-5-20.

Punishment for commission of additional crimes.

If in violating any of the provisions of Sections 16-5-10 or 16-5-50 any other crime, misdemeanor or felony shall be committed, the offender or offenders shall, on conviction thereof, be subjected to such punishment for the same as is attached to such crime, misdemeanor and felony by the existing laws of this State.

HISTORY: 1962 Code Section 16-102; 1952 Code Section 16-102; 1942 Code Section 1381; 1932 Code Section 1381; Cr. C. '22 Section 311; Cr. C. '12 Section 321; Cr. C. '02 Section 234; G. S. 2568; R. S. 199; 1871 (14) 560.

SECTION 16-5-30.

Duty and liability of officers.

Any constable, sheriff or magistrate, upon receipt of notice from any person that he has knowledge of an intention or attempt to destroy his property or to collect a mob for that purpose, shall take all legal means necessary for the protection of such property as is attacked or threatened to be attacked, and if such constable, sheriff or magistrate, upon receipt of such notice or upon knowledge of such intention or attempt to destroy such property in any wise received, shall neglect or refuse to perform his duty in the premises, he shall be liable for the damages done to such property, to be recovered by action, and shall also be deemed guilty of a misdemeanor in office and, on conviction thereof, shall forfeit his commission.

HISTORY: 1962 Code Section 16-103; 1952 Code Section 16-103; 1942 Code Section 1386; 1932 Code Section 1386; Cr. C. '22 Section 316; Cr. C. '12 Section 326; Cr. C. '02 Section 239; G. S. 2573; R. S. 204; 1871 (14) 561.

SECTION 16-5-40.

Duty of officers to execute warrants.

All sheriffs, constables, and other officers specially empowered shall obey and execute all warrants and other processes issued under the provisions of Sections 16-5-10, 16-5-20, or 16-5-50 and directed to them. If a sheriff, constable, or other officer specially empowered refuses to receive a warrant or other process when tendered to him or neglects or refuses to execute the same, he is guilty of a misdemeanor and, upon conviction, must be fined five hundred dollars or imprisoned not more than three years. Fines collected are for use of citizens deprived of the rights secured by the provisions of this chapter.

Warrants and other processes run with and are executed by officers anywhere within the circuit or county in which they are issued.

HISTORY: 1962 Code Section 16-104; 1952 Code Section 16-104; 1942 Code Section 1382; 1932 Code Section 1382; Cr. C. '22 Section 312; Cr. C. '12 Section 322; Cr. C. '02 Section 235; G. S. 2569; R. S. 200; 1871 (14) 560; 1993 Act No. 184, Section 163.

SECTION 16-5-50.

Penalty for hindering officers or rescuing prisoners.

Any person who shall (a) hinder, prevent, or obstruct any officer or other person charged with the execution of any warrant or other process issued under the provisions of this chapter in arresting any person for whose apprehension such warrant or other process may have been issued, (b) rescue or attempt to rescue such person from the custody of the officer or person or persons lawfully assisting him, as aforesaid, (c) aid, abet, or assist any person so arrested, as aforesaid, directly or indirectly, to escape from the custody of the officer or person or persons assisting him, as aforesaid, or (d) harbor or conceal any person for whose arrest a warrant or other process shall have been issued, so as to prevent his discovery and arrest, after notice or knowledge of the fact of the issuing of such warrant or other process, shall, on conviction for any such offense, be subject to a fine of not more than three thousand dollars or imprisonment for not more than three years, or both, at the discretion of the court having jurisdiction.

HISTORY: 1962 Code Section 16-105; 1952 Code Section 16-105; 1942 Code Section 1383; 1932 Code Section 1383; Cr. C. '22 Section 313; Cr. C. '12 Section 323; Cr. C. '02 Section 236; G. S. 2570; R. S. 201; 1871 (14) 561; 2010 Act No. 273, Section 19, eff June 2, 2010.

SECTION 16-5-60.

Suits against county for damages to person or property resulting from violation of person's civil rights.

Any citizen who shall be hindered, prevented or obstructed in the exercise of the rights and privileges secured to him by the Constitution and laws of the United States or by the Constitution and laws of this State or shall be injured in his person or property

because of his exercise of the same may claim and prosecute the county in which the offense shall be committed for any damages he shall sustain thereby, and the county shall be responsible for the payment of such damages as the court may award, which shall be paid by the county treasurer of such county on a warrant drawn by the governing body thereof. Such warrant shall be drawn by the governing body as soon as a certified copy of the judgment roll is delivered to them for file in their office.

HISTORY: 1962 Code Section 16-106; 1952 Code Section 16-106; 1942 Code Section 1384; 1932 Code Section 1384; Cr. C. '22 Section 314; Cr. C. '12 Section 324; Cr. C. '02 Section 237; G. S. 2571; R. S. 202; 1871 (14) 561.

SECTION 16-5-70.

Indemnity for property destroyed by mob or riot.

When any dwelling house, building or other property, real or personal, shall be destroyed in consequence of any mob or riot it shall be lawful for any person owning or interested in such property to bring a suit against the county in which such property was situated and being for the recovery of such damages as he may have sustained by reason of the destruction thereof. The amount which shall be recovered in such action shall be paid in the manner provided by Section 16-5-60.

HISTORY: 1962 Code Section 16-107; 1952 Code Section 16-107; 1942 Code Section 1385; 1932 Code Section 1385; Cr. C. '22 Section 315; Cr. C. '12 Section 325; Cr. C. '02 Section 238; G. S. 2572; R. S. 203; 1871 (14) 561.

SECTION 16-5-80.

Damages not recoverable from county when property damage results from plaintiff's illegal or negligent conduct.

No person shall be entitled to the recovery of such damages if it shall appear that the destruction of his property was caused by his illegal conduct, nor unless it shall appear that he, upon knowledge had of the intention or attempt to destroy his property or to collect a mob for that purpose and sufficient time intervening, gave notice thereof to a constable, sheriff or magistrate of the county in which such property was situated and being.

HISTORY: 1962 Code Section 16-108; 1952 Code Section 16-108; 1942 Code Section 1386; 1932 Code Section 1386; Cr. C. '22 Section 316; Cr. C. '12 Section 326; Cr. C. '02 Section 239; G. S. 2573; R. S. 204; 1871 (14) 561.

SECTION 16-5-90.

Preservation of property owner's right of action against participants in mob or riot resulting in damage to property.

Nothing in this chapter shall be construed to prevent the person whose property is so injured or destroyed from having and maintaining his action against every person engaged or participating in such mob or riot to recover full damages for any injury sustained; provided, however, that no damages shall be recovered by such person against any of such rioters for the same injury for which compensation shall be made by the county.

HISTORY: 1962 Code Section 16-109; 1952 Code Section 16-109; 1942 Code Section 1387; 1932 Code Section 1387; Cr. C. '22 Section 317; Cr. C. '12 Section 327; Cr. C. '02 Section 240; G. S. 2574; R. S. 205; 1871 (14) 562.

SECTION 16-5-100.

Jurisdiction of circuit courts.

The circuit courts of this State within their respective circuits in the counties of which the circuits are respectively composed shall have cognizance of all actions arising under the provisions of Sections 16-5-30, 16-5-70 and 16-5-110.

HISTORY: 1962 Code Section 16-110; 1952 Code Section 16-110; 1942 Code Section 988; 1932 Code Section 988; Cr. P. '22 Section 79; Cr. C. '12 Section 330; Cr. C. '02 Section 243; G. S. 2577; R. S. 208; 1871 (14) 562.

SECTION 16-5-110.

County's right of action against participants in mob or riot resulting in county's liability for damages to property.

The governing body of the county against which damages shall be recovered under the provisions of this chapter may bring suit in the name of the county against any and all persons engaged or in any manner participating in any such mob or riot and against any constable, sheriff, magistrate or other officer charged with the maintenance of the public peace who may be liable, by neglect of duty, to the provisions of this chapter for the recovery of all damages, costs and expenses incurred by the county and such suits shall not abate or fail by reason of too many or too few parties defendant being named therein.

HISTORY: 1962 Code Section 16-111; 1952 Code Section 16-111; 1942 Code Section 1388; 1932 Code Section 1388; Cr. C. '22 Section 318; Cr. C. '12 Section 328; Cr. C. '02 Section 241; G. S. 2575; R. S. 206; 1871 (14) 562.

SECTION 16-5-120.

Penalty for engaging in riot when weapon not used.

Any person, upon conviction of engaging in a riot, rout or affray when no weapon was actually used and no wound inflicted shall be subject and liable for each offense to a fine not to exceed one hundred dollars or to imprisonment for a term not exceeding thirty days.

HISTORY: 1962 Code Section 16-113; 1952 Code Section 16-113; 1942 Code Section 1737; 1932 Code Section 1737; Cr. C. '22 Section 719; Cr. C. '12 Section 23; Cr. C. '02 Section 15; R. S. 14; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824.

SECTION 16-5-130.

Penalties for instigating, aiding or participating in riot.

A person who is convicted of riot, or of participating in a riot, either by being personally present, or by instigating, promoting, or aiding the same, is guilty of a:

(1) felony and must be imprisoned not more than five years or fined not more than one thousand dollars, or both, if the purpose of the assembly, or of the acts done or threatened or intended by the persons engaged, is to resist the enforcement of a statute of this State, or of the United States, or to obstruct any public officer of this State, or of the United States, in serving or executing any process or other mandate of a court of competent jurisdiction, or in the performance of any other duty; or if the offender carries, at

the time of the riot, firearms, or any other dangerous weapon, or is disguised;

(2) misdemeanor and must be imprisoned not more than two years or fined not more than five hundred dollars, or both, if the offender directs, advises, encourages, or solicits other persons, present or participating in the riot or assembly, to acts of force or violence;

(3) misdemeanor and must be imprisoned not more than two years or fined not more than two hundred and fifty dollars, or both, in any case, not embraced within the foregoing subdivisions of this section.

This section must not be construed to prevent the peaceable assembling of persons for lawful purposes of protest or petition.

HISTORY: 1962 Code Section 16-113.1; 1968 (55) 2286; 1993 Act No. 184, Section 164.

SECTION 16-5-140.

Enforcement of chapter.

Sheriffs, constables and other officers in the several circuits or counties vested with powers of arresting, imprisoning and bailing offenders against the laws of this State shall institute proceedings against every person who shall violate the provisions of this chapter and cause them to be arrested, imprisoned or bailed, as the case may require, for a trial before such court as shall have jurisdiction of the offense.

HISTORY: 1962 Code Section 16-112; 1952 Code Section 16-112; 1942 Code Section 1389; 1932 Code Section 1389; Cr. C. '22 Section 319; Cr. C. '12 Section 329; Cr. C. '02 Section 242; G. S. 2576; R. S. 207; 1871 (14) 566.

Title 16 - Crimes and Offenses

CHAPTER 7

Offenses Against the Peace

ARTICLE 1

Offenses During State of Emergency

SECTION 16-7-10.

Illegal acts during state of emergency.

(A) In any area designated by the Governor in his proclamation that a state of emergency exists, and during the duration of the proclamation, it is unlawful for a person to:

(1)(a) violate a provision in the proclamation including, but not limited to, any curfew set forth by the proclamation;

(b) congregate, unless authorized or in their homes, in groups of three or more and to refuse to disperse upon order of a law enforcement officer; or

(c) wilfully fail or refuse to comply with any lawful order or direction of any law enforcement officer.

A person violating the provisions of this item is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

(2)(a) enter into the property of another, without lawful authority and with criminal intent;

(b) damage the property of another; or

(c) take possession or otherwise disturb the property of another in any manner.

A person violating a provision of this item is guilty of the felony of looting and, upon conviction, must be fined or imprisoned, or both, in the discretion of the court. The court must order restitution pursuant to Section 17-25-322;

(3) charge unconscionable prices during a declared state of emergency or disaster, as described in Section 39-5-145, or knowingly and wilfully use a misleading practice or device to solicit the contribution or sale of goods or services for charitable purposes in connection with a declared state of emergency or disaster, as described in Section 39-5-147.

(B) Penalties provided in this article are cumulative of and in addition to those provided in Sections 39-5-145 and 39-5-147.

HISTORY: 1962 Code Section 16-171; 1968 (55) 2741; 2002 Act No. 339, Section 8, eff July 2, 2002.

Editor's Note

2002 Act No. 393, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-7-20.

Powers of law enforcement officers.

All law enforcement officers of the State or any of its subdivisions who may be called to duty in the area designated by the Governor in his proclamation, when engaged in the performance of duties in such area, shall have the full powers of constable at all places within such area and may pursue and arrest offenders against the laws of this State or the provisions of the proclamation.

HISTORY: 1962 Code Section 16-172; 1968 (55) 2741.

SECTION 16-7-30.

Powers of national guardsmen.

Members of the South Carolina National Guard shall have the powers of peace officers when they are (1) called or ordered into active State service by the Governor pursuant to Sections 25-1-1840, 25-1-1860 and 25-1-1890, (2) serving within the area wherein military assistance is required, and (3) directly assisting civil authorities. Any person arrested or taken into custody by a member of the Guard, under the provisions of this section, shall be dealt with as required by law of peace officers. No person arrested and taken into custody, under no circumstances, shall be detained or confined at any military installation.

HISTORY: 1962 Code Section 16-173; 1968 (55) 2741.

SECTION 16-7-40.

Article is cumulative.

The provisions of this article are cumulative and in addition to existing criminal laws.

HISTORY: 1962 Code Section 16-174; 1968 (55) 2741.

ARTICLE 3

Offenses Tending to Breach of Peace

SECTION 16-7-110.

Wearing masks and the like.

No person over sixteen years of age shall appear or enter upon any lane, walk, alley, street, road, public way or highway of this State or upon the public property of the State or of any municipality or county in this State while wearing a mask or other device which conceals his identity. Nor shall any such person demand entrance or admission to or enter upon the premises or into the enclosure or house of any other person while wearing a mask or device which conceals his identity. Nor shall any such person, while wearing a mask or device which conceals his identity, participate in any meeting or demonstration upon the private property of another unless he shall have first obtained the written permission of the owner and the occupant of such property.

HISTORY: 1962 Code Section 16-114; 1952 Code Section 16-114; 1951 (47) 132.

SECTION 16-7-120.

Placing burning or flaming cross in public place.

It shall be unlawful for any person to place or to cause to be placed in a public place in the State a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is the whole or a part or to place or cause to be placed on the property of another in the State a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is the whole or a part, without first obtaining written permission of the owner or occupier of the premises so to do.

HISTORY: 1962 Code Section 16-116; 1952 Code Section 16-116; 1951 (47) 132.

SECTION 16-7-130.

Exceptions to Sections 16-7-110 and 16-7-120.

The provisions of Sections 16-7-110 and 16-7-120 shall not affect the following:

- (1) Any person wearing traditional holiday costume;
- (2) Any person engaged in a trade or employment in which a mask is worn for the purpose of ensuring the physical safety of the wearer or because of the nature of the occupation, trade or profession;
- (3) Any person using a mask in a theatrical production or masquerade ball; or
- (4) Any person wearing a gas mask prescribed in a civil defense drill or exercise or in an emergency.

HISTORY: 1962 Code Section 16-115; 1952 Code Section 16-115; 1951 (47) 132.

SECTION 16-7-140.

Violations of Sections 16-7-110 and 16-7-120.

A person who violates any provision of Sections 16-7-110 and 16-7-120 is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not more than five hundred dollars or by imprisonment for a period not to exceed twelve months.

HISTORY: 1962 Code Section 16-117; 1952 Code Section 16-117; 1951 (47) 132; 2010 Act No. 237, Section 89, eff June 11, 2010.

SECTION 16-7-150.

Slander and libel.

Any person who shall with malicious intent originate, utter, circulate or publish any false statement or matter concerning another the effect of which shall tend to injure such person in his character or reputation shall be guilty of a misdemeanor and, upon conviction therefor, be subject to punishment by fine not to exceed five thousand dollars or by imprisonment for a term not exceeding one year, or by both fine and imprisonment, in the discretion of the court; provided, that nothing herein shall be construed to abridge any right any person may have by way of an action for damages for libel or slander under the existing law.

HISTORY: 1962 Code Section 16-161; 1952 Code Section 16-161; 1942 Code Section 1395; 1932 Code Section 1395; Cr. C. '22 Section 326; 1912 (27) 775.

SECTION 16-7-160.

Illegal use of stink bombs or other devices containing foul or offensive odors.

It is unlawful for a person, other than a peace officer engaged in the discharge of his duty, to place or throw a stink bomb, tear-gas bomb, smoke bomb, or similar device which contains foul or offensive odors, may inflict injury, or cause fear sufficient to incite a riot or conditions of panic in or in close proximity to a public building, storehouse, theater, stadium, arena, motion picture theater, private residence, boardinghouse, or other building or structure where people lodge, congregate, or reside.

A person who violates the provisions of this section is guilty of a:

- (1) misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than three thousand dollars, or both.
- (2) felony if he causes serious bodily harm or injury and, upon conviction, must be imprisoned not more than ten years or fined not more than ten thousand dollars, or both. The court may order all or a portion of a fine to be paid to persons injured as a result of the violation to recover necessary medical expenses.

HISTORY: 1962 Code Section 16-162; 1952 Code Section 16-162; 1942 Code Section 1177-1; 1932 (38) 1534; 1933 (38) 137; 1987 Act No. 50 Section 1; 1993 Act No. 184, Section 23.

SECTION 16-7-170.

Entering public building for purpose of destroying records or other property.

Any person who enters into any private or public school, college or university building, or a public building, for the purpose of destroying records or other property, or destroys or damages records or other property, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years.

HISTORY: 1962 Code Section 16-163; 1969 (56) 318; 1993 Act No. 184, Section 165.

Title 16 - Crimes and Offenses

CHAPTER 8

Offenses Promoting Civil Disorder

ARTICLE 1

General Provisions

Editor's Note

2007 Act No. 82, Section 4, provides as follows:

"Sections 16-8-10, 16-8-20, and 16-8-30 of the 1976 Code are designated as Article 1 of Chapter 8, Title 16."

SECTION 16-8-10.

Definitions.

As used in this chapter:

- (1) "Bacteriological weapon" and "biological weapon" mean devices which are designed in a manner as to permit the intentional release into the population or environment of microbiological or other biological materials, toxins, or agents, whatever their origin or method of production, in a manner not authorized by law, or any device, the development, production, or stockpiling of which is prohibited pursuant to the "Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction", 26 U.S.T. 583, TIAS 8063.
- (2) "Bomb" includes a destructive device capable of being detonated, triggered, or set off to release any substance or material that is destructive, irritating, odoriferous, or otherwise harmful to one or more organisms including, but not limited to, human beings, livestock, animals, crops or vegetation, or to earth, air, water, or any other material or substance necessary or required to sustain human or any other individual form of life, or to real or personal property.
- (3) "Civil disorder" means a public disturbance involving acts of violence by three or more persons which causes an immediate danger of or results in damage or injury to another person or his property.
- (4) "Destructive device" means:
 - (a) a bomb, incendiary device, or any thing that can detonate, explode, be released, or burn by mechanical, chemical, or nuclear means, or that contains an explosive, incendiary, poisonous gas, or toxic substance (chemical, biological, or nuclear materials) including, but not limited to, an incendiary or over-pressure device, or any other device capable of causing damage, injury, or death;
 - (b) a bacteriological weapon or biological weapon; or
 - (c) a combination of any parts, components, chemical compounds, or other substances, either designed or intended for use in converting any device into a destructive device which has been or can be assembled to cause damage, injury, or death.
- (5) "Device" means an object, contrivance, instrument, technique, or means that is designed, manufactured, assembled, or capable of serving any purpose in a bomb, destructive device, explosive, incendiary, or weapon of mass destruction.
- (6) "Explosive" means a chemical compound or other substance or a mechanical system intended for the purpose of producing an explosion capable of causing injury, death, or damage to property or one containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion capable of causing injury, death, or damage to property. Explosives include, but are not limited to, the list of explosive materials published and periodically updated by the Bureau of Alcohol, Tobacco and Firearms.
- (7) "Firearm" means a weapon which is designed to or readily may be converted to expel a projectile by the action of an explosive, or the frame or receiver of that weapon.
- (8) "Incendiary" means any material that:
 - (a) causes, or is capable of causing, fire when it is lit or ignited; and
 - (b) is used to ignite a flammable liquid or compound in an unlawful manner.
- (9) "Incendiary device" means a destructive device, however possessed or delivered, and by whatever name called, containing or holding a flammable liquid or compound, which is capable of being ignited by any means possible. Incendiary device includes, but is not limited to, any form of explosive, explosive bomb, grenade, missile, or similar device, whether capable of being carried or thrown by a person acting alone or with one or more persons, but does not include a device manufactured or produced for the primary purpose of illumination or for marking detours, obstructions, defective paving, or other hazards on streets, roads, highways, or bridges, when used in a lawful manner.
- (10) "Law enforcement officer" means:
 - (a) an officer or employee of the United States, a state, political subdivision of a state, or the District of Columbia, who is authorized to enforce laws and is acting within his official capacity;
 - (b) members of the National Guard;
 - (c) members of the organized militia of a state or territory;
 - (d) members of the Armed Forces of the United States.
- (11) "Over-pressure device" means a container filled with an explosive gas or expanding gas or liquid which is designed or constructed so as to cause the container to break, fracture, or rupture in such a manner which is capable of causing death, bodily harm, or property damage, and includes, but is not limited to, a chemical reaction bomb, an acid bomb, a caustic bomb, or a dry ice bomb.
- (12) "Parts" means a combination of parts, components, chemical compounds, or other substances, designed or intended for use in converting any device into a destructive device.
- (13) "Poisonous gases" means a toxic chemical or its precursors that through its chemical action or properties on life processes,

causes death or injury to human beings or other living organisms. Poisonous gases do not include:

(a) riot control agents, smoke and obscuration materials, or medical products which are manufactured, possessed, transported, or used in accordance with the laws of this State or the United States;

(b) tear gas devices designed to be carried on or about the person which contain not more than fifty cubic centimeters of the chemical; or

(c) pesticides, as used in agriculture and household products.

(14) "Weapon of mass destruction" means:

(a) any destructive device as defined in item (4);

(b) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

(c) any weapon involving a disease organism; or

(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

HISTORY: 1989 Act No. 42, Section 1; 2000 Act No. 237, Section 4; 2002 Act No. 339, Section 39, eff July 2, 2002.

Editor's Note

2002 Act No. 393, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-8-20.

Teaching or demonstrating use of or making of destructive device; penalties.

(A) A person may not:

(1) teach or demonstrate to another person the use, application, or making of a firearm or destructive device which is capable of causing injury or death if the person knows, has reason to know, or intends that what is taught or demonstrated will be employed unlawfully for use in, or in furtherance of, a civil disorder; nor

(2) assemble with one or more persons for the purpose of training, practicing, or instructing in the use of a firearm or destructive device which is capable of causing injury or death to persons if the training, practice, or instruction is used in furtherance of an unlawful purpose or a civil disorder.

(B) A person who violates the provisions of subsection (A) is guilty of a felony and, upon conviction:

(1) for a first offense must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

(2) for a second or subsequent offense must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

HISTORY: 1989 Act No. 42, Section 1; 2000 Act No. 237, Section 5.

SECTION 16-8-30.

Exceptions.

Nothing contained in this chapter prohibits:

(1) an act of a law enforcement officer performed within his official capacity;

(2) training for law enforcement officers conducted by or for an agency or a political subdivision of a state or an agency of the United States;

(3) activities of the National Guard or of the armed forces of the United States; or

(4) classes intended to teach the safe handling of legal firearms for hunting, recreation, competition, or self-defense.

HISTORY: 1989 Act No. 42, Section 1.

ARTICLE 3

Criminal Gang Prevention Act

SECTION 16-8-210.

Citation of article.

This article may be cited as the "Criminal Gang Prevention Act".

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-230.

Definitions.

As used in this article:

(1) "Contraband" means any real or personal property, including money, that is owned by, in the possession of, or subject to the control of a criminal gang member and which is acquired by, derived from, or traceable to criminal gang activity.

(2) "Criminal gang" means a formal or informal ongoing organization, association, or group that consists of five or more persons who form for the purpose of committing criminal activity and who knowingly and actively participate in a pattern of criminal gang activity.

(3) "Criminal gang member" means an individual who is an active member of a criminal gang.

(4) "Pattern of criminal gang activity" means the commission or attempted commission of, commission as an accessory before or after the fact to, or solicitation or conspiracy to commit, by a criminal gang member, while knowingly and actively participating in criminal gang activity, four or more of the following offenses occurring within a two-year period, provided that at least three of these offenses occurred after July 1, 2007:

(a) a violent offense as defined in Section 16-1-60 committed as a part of criminal gang activity;

- (b) financial transaction card crimes as defined in Chapter 14 of Title 16 committed as a part of criminal gang activity;
 - (c) first degree lynching as defined in Section 16-3-210 committed as a part of criminal gang activity;
 - (d) second degree lynching as defined in Section 16-3-220 committed as a part of criminal gang activity;
 - (e) breaking into a motor vehicle as defined in Section 16-13-160 committed as a part of criminal gang activity;
 - (f) grand larceny as defined in Section 16-13-30 committed as a part of criminal gang activity;
 - (g) blackmail as defined in Section 16-17-640 committed as a part of criminal gang activity;
 - (h) malicious injury to property as defined in Sections 16-11-510, 16-11-520, 16-11-530, and 16-11-535 committed as a part of criminal gang activity;
 - (i) drug offense as defined in Sections 44-53-370 and 44-53-375 committed as a part of criminal gang activity;
 - (j) harassment, stalking, or aggravated stalking as defined in Article 17, Chapter 3 of Title 16 committed as a part of criminal gang activity;
 - (k) pointing a firearm at any person as defined in Section 16-23-410 committed as a part of criminal gang activity;
 - (l) discharging a firearm at or into dwellings, structures, enclosures, vehicles, or equipment as defined in Section 16-23-440 committed as a part of criminal gang activity;
 - (m) the common law offense of assault and battery of a high and aggravated nature committed as a part of criminal gang activity; or
 - (n) the common law offense of obstruction of justice committed as a part of criminal gang activity.
- (5) "Gang-related incident" means an incident that, upon investigation, meets any of the following conditions:
- (a) the participants are identified as criminal gang members acting collectively to further a criminal purpose of the criminal gang;
 - (b) a reliable informant identifies an incident as criminal gang activity based upon first-hand knowledge or personal observation; or
 - (c) a person other than a reliable informant provides information that identifies an incident as criminal gang activity, and it is corroborated by independent information.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

Code Commissioner's Note

Section 16-3-220, referenced in item (4)(d) was repealed by 2010 Acts No. 273, Section 5.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

SECTION 16-8-240.

Use of or threat of physical violence by criminal gang member; penalties.

(A) It is unlawful for a criminal gang member to use or threaten to use physical violence against another person with the intent to coerce, induce, or solicit that person or another person to actively participate in criminal gang activity, or to prevent another criminal gang member from withdrawing from or leaving a criminal gang. A criminal gang member who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction for a first offense, must be fined not more than one thousand dollars or imprisoned not more than two years, or both. A criminal gang member convicted for a second or subsequent offense pursuant to this subsection is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(B) A criminal gang member who uses a firearm, any other deadly weapon, or physical violence to coerce, induce, or solicit another person to actively participate in a criminal gang, or to prevent another criminal gang member from withdrawing or leaving a criminal gang, in addition to the punishment prescribed in subsection (A), may be punished by an additional fine of not more than ten thousand dollars or by imprisonment for an additional period of not more than ten years, or both.

(C) If the person solicited, recruited, coerced, or threatened in violation of this section is under the age of eighteen, an additional term of three years may be imposed in addition and consecutive to the penalty prescribed for a violation of this section.

(D) A person who has been coerced, intimidated, threatened, or injured in violation of this section has a civil cause of action against a criminal gang or criminal gang member violating this section for treble the amount of the actual damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney's fees and costs from the criminal gang or criminal gang member.

(E) Nothing in this section limits prosecution under any other provision of law.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-250.

Preventing witness or victim from testifying; penalty; coerced person's right to bring civil action.

(A) It is unlawful for a criminal gang member by threat or force to:

- (1) prevent a witness or victim from attending or giving testimony at a trial, proceeding, or inquiry authorized by law that concerns or relates to any criminal activity; or
- (2) attempt to prevent a witness or victim from attending or giving testimony at a trial, proceeding, or inquiry authorized by law that concerns or relates to any criminal activity.

(B) A criminal gang member who violates a provision of this section is guilty of a felony and, upon conviction, must be punished by a fine of not more than ten thousand dollars or imprisoned for not more than ten years, or both.

(C) A person who has been coerced, intimidated, threatened, or injured in violation of this section has a civil cause of action against a criminal gang or criminal gang member violating this section for treble the amount of his actual damages, for punitive damages, an injunction, and any other appropriate relief in law or equity. Upon prevailing in the civil action, the plaintiff may recover reasonable attorney's fees and costs from the criminal gang or criminal gang member.

(D) Nothing in this section limits prosecution under any other provision of law.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-260.

Seizure of firearms, ammunition, electronic records, or money; forfeiture actions.

(A)(1) Any firearm, ammunition to be used in a firearm, or dangerous weapon in the possession of a member of a criminal gang may be seized by a law enforcement officer or agency when the law enforcement officer or agency reasonably believes that the firearm, ammunition to be used in a firearm, or dangerous weapon is or has been used in a pattern of criminal gang activity or in the commission of a criminal act for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

(2) Any written or electronic communications, records, money, negotiable instruments, or valuables may be seized by a law enforcement officer or agency when the law enforcement officer or agency reasonably believes that the written or electronic communications, records, money, negotiable instruments, or valuables have been used in a pattern of criminal gang activity or have been used for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

(3) Any contraband, as defined in Section 16-8-230, or other asset owned or titled in the name of the gang or an individual gang member may be seized by a law enforcement officer or agency when the law enforcement officer or agency reasonably believes that the contraband or asset has been used in a pattern of criminal gang activity or has been used for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

(B) The solicitor or another prosecuting attorney shall initiate, in a civil action, forfeiture proceedings by petition in a court of competent jurisdiction regarding any property seized pursuant to the provisions of this section within ninety days of seizure. The solicitor or another prosecuting attorney must provide notice of the filing of the petition to those criminal gang members who become known to law enforcement officials as a result of the seizure and any related arrests, and to any person learned by law enforcement officials to be the owner of any of the property involved. After initial notice of the filing of the petition, the court must ensure that all persons so notified continue to receive notice of all subsequent proceedings related to the property.

(C) A person who claims an interest in any seized property, in order to assert a claim that the property should not be forfeited, must file a notice with the court, without the necessity of paying costs, of the intent to establish either of the following:

(1) that the person asserting the claim did not know and could not have known of the property's use in the commission of a pattern of criminal gang activity or in furthering the interests of the criminal gang; or

(2) that the law enforcement officer lacked the requisite reasonable belief that the property was or would be used in the commission of a pattern of criminal gang activity or in furtherance of the interests of the criminal gang.

(D) In any hearings held and determinations made, pursuant to this section, the court may receive and consider, in making a determination of reasonable cause, all evidence admissible in determining reasonable or probable cause at a preliminary hearing together with inferences arising from the evidence presented.

(E) An acquittal or dismissal in a criminal proceeding must not preclude civil proceedings under this section. However, for good cause shown, on motion by the solicitor or another prosecuting attorney, the court may stay civil forfeiture proceedings during the criminal trial for a related criminal indictment or information alleging a violation of this section. A stay is not available pending an appeal.

(F) Except as otherwise provided by this section, all proceedings under this section are governed according to the common law, by statutory provisions relating to civil remedies and procedures, and the rules of civil procedure established for the circuit court. Additionally, any action under the provisions of this section may be consolidated with any other action or proceeding pursuant to this section relating to the same property on motion of the solicitor or prosecuting attorney.

(G) The forfeiture provided for in this section must be decided by the court. The hearing on the claim must be held within sixty days after service of the petition, unless continued for good cause. The solicitor or prosecuting attorney has the burden of proof to establish by a preponderance of the evidence that the property is subject to forfeiture.

(H) A person who asserts a successful claim in accordance with subsection (C) must be awarded the seized property by the court. All property to which no claim is filed, or to which no successful claim is made may be destroyed, sold at a public or private sale, retained for use by the seizing agency, or transferred without charge to any law enforcement agency of the State for use by the agency.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-270.

Civil cause of action in favor of State of South Carolina or political entity; actions for injunction; venue; service of process.

(A) A civil cause of action is created in favor of the State of South Carolina, a county, municipality, or another political subdivision, or an agency or instrumentality of them, that sustains any damage, impairment, or injury proximately caused by a pattern of criminal gang activity as defined in this article, or the commission of a criminal act for the purpose of benefiting, promoting, or furthering the interests of a criminal gang. The cause of action created by this section may be brought against a criminal gang, a criminal gang member, or any other person who intentionally directs, participates, conducts, furthers, or assists in the commission of a pattern of criminal gang activity, or any other person who commits a criminal act or delinquency for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

(B) Except as provided in this section, an action for injunction, damages, or other relief filed pursuant to this section must proceed according to the common law, statutory provisions relating to civil remedies and procedures, and the rules of civil procedure established for the circuit court.

(C) For purposes of venue, an action under this section for the recovery of damages may be brought in the county where the wrongful conduct occurred, or in the county where the damages were sustained. An action to enjoin the commission of an offense or an unlawful act may be brought in the county where the wrongful conduct occurred or may occur. For purposes of service of process, service of process upon a member of a criminal gang or a person representing a criminal gang member by appointment of court, operation of law, or mandate constitutes adequate service upon a criminal gang.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-280.

Identity of informant exempt from disclosure.

In all civil actions brought under the provisions of this article, the identity of an informant, identifying information relating to an informant, and all matters exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, are exempt from discovery or disclosure under the rules of civil procedure.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-290.

Notification of police or sheriff of release of criminal gang member from prison.

When a criminal gang member is released from the custody of a jail, prison, or corrections facility, and the criminal gang member was in the custody of the jail, prison, or corrections facility for a violation of the provisions of this article, the jail, prison, or corrections facility must transmit notice of the release of the criminal gang member to the sheriff of the county in which the crime was committed. Notice also must be given to a sheriff that the criminal gang member is being released and has provided an address within the jurisdiction of that sheriff for the county in which the criminal gang member intends to reside. If the crime was committed in a municipality, or if the criminal gang member will reside in a municipality upon release, that law enforcement agency must transmit the same notice to the chiefs of police of those municipalities.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-310.

Local ordinances.

Nothing in this article prohibits the governing body of a county, a municipality, or another political subdivision of the State from adopting and enforcing ordinances consistent with this article relating to criminal gangs, criminal gang members, and gang violence. When local ordinances duplicate or supplement this article, this article provides alternative remedies.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-320.

Access to and maintenance of records of criminal gang activity.

The State Law Enforcement Division must include the Violent Gang and Terrorist Organization File of the Federal Bureau of Investigation's National Crime Information Center among those National Crime Information Center data available for direct access by authorized criminal justice agencies. State, county, and municipal law enforcement agencies must maintain a record of all persons who are found to be criminal gang members in the Violent Gang and Terrorist Organization File in accordance with the National Crime Information Center entry criteria. All gang-related incidents must be appropriately annotated in the South Carolina Incident-Based Reporting System pursuant to the intent and purpose of this article.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-330.

Development and management of statewide criminal gang database.

(A) Pursuant to achieving the intent and purpose of this article, the State Law Enforcement Division must develop and manage a statewide criminal gang database to facilitate the exchange of information between federal, state, county, and municipal law enforcement agencies pursuant to the intent and purpose of this article.

(B) All state, county, and municipal law enforcement agencies must furnish information they acquire relating to criminal gangs and gang-related incidents to the State Law Enforcement Division to be included in the database.

(C) The State Law Enforcement Division may determine if information relating to criminal gangs, gang-related incidents, patterns of gang activity, or members or associates of criminal gangs received from federal law enforcement agencies and law enforcement agencies of other states is to be included in the database.

(D) Criminal information relating to a criminal gang and collected pursuant to this article must be consistent with the criteria required on the effective date of this act by the Violent Gang and Terrorist Organization File of the Federal Bureau of Investigation's National Crime Information Center. The State Law Enforcement Division is authorized pursuant to the Administrative Procedures Act in Chapter 23, Title 1:

(1) to promulgate emergency regulations to make the criteria effective for collection of database information until such time as permanent regulations are promulgated and affirmatively approved by the General Assembly;

(2) to promulgate permanent regulations consistent with the criteria required on the effective date of this act, which are to be affirmatively approved by the General Assembly, and to amend those regulations to reflect changes made in the criteria; and

(3) to promulgate permanent regulations concerning the punishment associated with intentional misuse of the database.

(E) Information relating to a person who does not have a criminal arrest record and is not a member of a criminal gang must be used

only for intelligence, investigative, and tracking purposes.

(F) The information contained in this database is not subject to the provisions of the Freedom of Information Act.

HISTORY: 2007 Act No. 82, Section 5, eff June 12, 2007.

SECTION 16-8-340.

Community anti-gang matching grants program.

There is established in the appropriate office of the Department of Administration a Community Safety Anti-Gang Matching Grants program to provide funding for local programs to prevent youth idleness and intervene with at-risk youth. These grants may be awarded to counties and municipalities upon application for after school programs, summer youth employment programs, and police and sheriff anti-gang task forces. Grants must be awarded on a two-for-one matching basis with the local match component consisting of cash. Grant applications must be reviewed and rated by the Governor's Committee on Criminal Justice, Crime, and Delinquency, but responsibility for the award of grants is solely with the board. Funding for these grants must be in the amount as the General Assembly shall provide by law.

HISTORY: 2007 Act No. 82, Section 7, eff June 12, 2007.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Title 16 - Crimes and Offenses

CHAPTER 9

Offenses Against Public Justice

ARTICLE 1

Perjury

SECTION 16-9-10.

Perjury and subornation of perjury.

(A)(1) It is unlawful for a person to wilfully give false, misleading, or incomplete testimony under oath in any court of record, judicial, administrative, or regulatory proceeding in this State.

(2) It is unlawful for a person to wilfully give false, misleading, or incomplete information on a document, record, report, or form required by the laws of this State.

(B)(1) A person who violates the provisions of subsection (A)(1) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(2) A person who violates the provisions of subsection (A)(2) is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months or fined not less than one hundred dollars, or both.

(C) A person may be convicted under this section if he induces, procures, or persuades another person to commit perjury or if he commits perjury by his own act, consent, or agreement.

HISTORY: 1962 Code Section 16-201; 1952 Code Section 16-201; 1942 Code Section 1397; 1932 Code Section 1397; Cr. C. '22 Section 332; Cr. C. '12 Section 340; Cr. C. '02 Section 253; G. S. 2531; R. S. 217; 1712 (2) 487; 1993 Act No. 184, Section 89.

SECTION 16-9-20.

Subornation of perjury in civil actions.

(A) It is unlawful for a person to:

(1) wilfully induce, procure, or persuade another person by any means to commit perjury in initiating a civil action or proceeding; or

(2) wilfully induce, procure, or persuade another person to give false, misleading, or incomplete testimony while under oath in a civil action or proceeding.

(B) A person who violates the provision of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than six months and fined not less than two hundred dollars.

HISTORY: 1962 Code Section 16-202; 1952 Code Section 16-202; 1942 Code Section 1398; 1932 Code Section 1398; Cr. C. '22 Section 333; Cr. C. '12 Section 341; Cr. C. '02 Section 254; G. S. 2532; R. S. 218; 1712 (2) 487; 1993 Act No. 184, Section 90.

SECTION 16-9-30.

False swearing before persons authorized to administer oaths.

It is unlawful for a person to wilfully and knowingly swear falsely in taking any oath required by law that is administered by a person directed or permitted by law to administer such oath.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

HISTORY: 1962 Code Section 16-203; 1952 Code Section 16-203; 1942 Code Section 1400; 1932 Code Section 1400; Cr. C. '22 Section 335; Cr. C. '12 Section 343; Cr. C. '02 Section 256; G. S. 2534; R. S. 220; 1833 (2) 485; 1993 Act No. 184, Section 166.

SECTION 16-9-50.

Disposition of fines.

The one moiety of the fines imposed by this article shall be for the State and the other moiety to such person as shall be grieved, hindered or molested by reason of the offense or offenses before mentioned that will sue for the same by action in any court of competent jurisdiction.

HISTORY: 1962 Code Section 16-205; 1952 Code Section 16-205; 1942 Code Section 1399; 1932 Code Section 1399; Cr. C. '22 Section 334; Cr. C. '12 Section 342; Cr. C. '02 Section 255; G. S. 2533; R. S. 219; 1712 (2) 488.

ARTICLE 3

Bribery, Corruption of Jurors and the Like

SECTION 16-9-210.

Giving or offering bribes to officers.

Whoever corruptly gives, offers or promises to any executive, legislative or judicial officer, after his election or appointment, either before or after he is qualified or has taken his seat, any gift or gratuity whatever, with intent to influence his act, vote, opinion, decision or judgment on any matter, question, cause or proceeding which may be pending or may by law come or be brought before him in his official capacity, shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years or by a fine not exceeding three thousand dollars and imprisonment in jail not exceeding one year.

HISTORY: 1962 Code Section 16-211; 1952 Code Section 16-211; 1942 Code Section 1402; 1932 Code Section 1402; Cr. C. '22 Section 337; Cr. C. '12 Section 348; Cr. C. '02 Section 261; G. S. 2536; R. S. 225; 1869 (14) 308.

SECTION 16-9-220.

Acceptance of bribes by officers.

Every executive, legislative or judicial officer who corruptly accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to such an officer under an agreement or with an understanding that his vote, opinion or judgment shall be given in any particular manner or on any particular side of any question, cause or proceeding which is or may be by law brought before him in his

official capacity or that, in such capacity, he shall make any particular nomination or appointment shall forfeit his office, be forever disqualified to hold any public office, trust or appointment under the laws of this State and be punished by imprisonment in the State Penitentiary at hard labor not exceeding ten years or by fine not exceeding five thousand dollars and imprisonment in jail not exceeding two years.

HISTORY: 1962 Code Section 16-212; 1952 Code Section 16-212; 1942 Code Section 1403; 1932 Code Section 1403; Cr. C. '22 Section 338; Cr. C. '12 Section 349; Cr. C. '02 Section 262; G. S. 2537; R. S. 226; 1869 (14) 308.

SECTION 16-9-230.

Acceptance of rebates or extra compensation.

No person holding an office or position of trust or profit in this State or in the public institutions thereof shall accept rebates or extra compensation in addition to that provided by law. Any person violating the provisions of this section shall be fined in a sum not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not less than three months nor more than five years.

This section shall not apply to officers accepting rebates not for their individual use but for the benefit and in behalf of the State.

HISTORY: 1962 Code Section 16-213; 1952 Code Section 16-213; 1942 Code Section 1518; 1932 Code Section 1518; Cr. C. '22 Section 466; Cr. C. '12 Section 539; Cr. C. '02 Section 382; 1899 (23) 96.

SECTION 16-9-240.

Taking of consideration or the like by sheriff or other officer for not performing duties.

If a sheriff, deputy sheriff, constable or other officer authorized to serve legal process receives from the defendant or any other person any money or other valuable thing as a consideration, reward or inducement for omitting or delaying to arrest a defendant or to carry him before a magistrate, for delaying to take a person to prison, for postponing the sale of property under an execution or for omitting or delaying to perform any duty pertaining to his office he shall be punished by a fine not exceeding three hundred dollars.

HISTORY: 1962 Code Section 16-214; 1952 Code Section 16-214; 1942 Code Section 1522; 1932 Code Section 1522; Cr. C. '22 Section 470; Cr. C. '12 Section 543; Cr. C. '02 Section 386; G. S. 2554; R. S. 303; 1869 (14) 308.

SECTION 16-9-250.

Unlawful acceptance of remuneration by peace officers for performing official duties.

It shall be a misdemeanor for any sheriff or other peace officer in South Carolina to make any charge for the arrest, detention, conveying or delivering of any person charged with the commission of crime in this State, except the mileage and necessary expenses as now provided by law. Any sheriff or other officer who shall violate the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than twenty-five dollars nor more than two hundred dollars or imprisoned not less than thirty days and not more than six months, or both fined and imprisoned at the discretion of the court.

HISTORY: 1962 Code Section 16-215; 1952 Code Section 16-215; 1942 Code Section 1523; 1932 Code Section 1523; 1931 (37) 76.

SECTION 16-9-260.

Corrupting jurors, arbitrators, umpires or referees.

Whoever corrupts or attempts to corrupt any juror, arbitrator, umpire or referee by giving, offering or promising any gift or gratuity whatever with intent to bias the opinion or influence the decision of such juror, arbitrator, umpire or referee in relation to any cause or matter pending in the court or before an inquest or for the decision of which such arbitrator, umpire or referee has been chosen or appointed shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years or by fine not exceeding one thousand dollars and imprisonment in jail not exceeding one year.

HISTORY: 1962 Code Section 16-217; 1952 Code Section 16-217; 1942 Code Section 1404; 1932 Code Section 1404; Cr. C. '22 Section 339; Cr. C. '12 Section 350; Cr. C. '02 Section 263; G. S. 2538; R. S. 227; 1869 (14) 309.

SECTION 16-9-270.

Acceptance of bribes by jurors, arbitrators, umpires or referees.

If any person summoned as a juror or chosen or appointed as an arbitrator, umpire or referee corruptly receives any gift or gratuity whatever from a party to a suit, cause or proceeding for the trial or decision of which such juror has been summoned or for the hearing or determination of which such arbitrator, umpire or referee has been chosen or appointed, he shall be punished by imprisonment in the State Penitentiary at hard labor not exceeding five years or by fine not exceeding one thousand dollars and imprisonment in jail not exceeding one year.

HISTORY: 1962 Code Section 16-218; 1952 Code Section 16-218; 1942 Code Section 1405; 1932 Code Section 1405; Cr. C. '22 Section 340; Cr. C. '12 Section 351; Cr. C. '02 Section 264; G. S. 2639; R. S. 228; 1869 (14) 309.

SECTION 16-9-280.

Offering bribe for purpose of inducing another to procure public office.

If any person shall, directly or indirectly, offer to give or engage to pay any sum of money or other valuable consideration to another in order to induce such other person to procure for him by his interest, influence or any other means whatsoever any office or place of trust within this State, whether such office is to be obtained through any general, special or primary election or from any elective tribunal, or shall offer, give, promise or bestow any reward by meat, drink or otherwise, for the aforesaid purpose, and be thereof convicted, he shall forfeit the sum of not less than one hundred nor more than five hundred dollars and suffer imprisonment for a term not exceeding six months.

HISTORY: 1962 Code Section 16-558.1; 1952 Code Section 16-558.1; 1950 (46) 2059.

SECTION 16-9-290.

Accepting bribes for purpose of procuring public office.

If any person shall receive of another any sum of money or reward of meat, drink or other valuable consideration for procuring or assisting to procure any office or place of trust in this State, whether such office is to be obtained through any general, special or primary election or from any elective tribunal, for any other person whatever and be convicted thereof, he shall forfeit the sum of not more than one hundred dollars and suffer imprisonment at the discretion of the court having cognizance of the same. And if such offender be in any office he shall, on conviction, be disabled from holding such office.

HISTORY: 1962 Code Section 16-558.2; 1952 Code Section 16-558.2; 1950 (46) 2059.

SECTION 16-9-300.

Trial of offenses against Sections 16-9-280 and 16-9-290.

All offenses against the provisions of Sections 16-9-280 and 16-9-290 shall be heard, tried and determined before the court of general sessions after the indictment.

HISTORY: 1962 Code Section 16-558.3; 1952 Code Section 16-558.3; 1950 (46) 2059.

ARTICLE 4

Interference With Judicial Process

SECTION 16-9-310.

"Law enforcement officer" defined.

For purposes of this article "law enforcement officer" shall mean any duly appointed or commissioned law enforcement officer of the State, a county or municipality.

HISTORY: 1980 Act No. 511, Section 3.

SECTION 16-9-320.

Opposing or resisting law enforcement officer serving process; assaulting officer engaged in serving process.

(A) It is unlawful for a person knowingly and wilfully to oppose or resist a law enforcement officer in serving, executing, or attempting to serve or execute a legal writ or process or to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than one year, or both.

(B) It is unlawful for a person to knowingly and wilfully assault, beat, or wound a law enforcement officer engaged in serving, executing, or attempting to serve or execute a legal writ or process or to assault, beat, or wound an officer when the person is resisting an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not more than ten years, or both.

HISTORY: 1980 Act No. 511, Section 3; 1990 Act No. 598, Section 2; 1993 Act No. 184, Section 24.

SECTION 16-9-330.

Refusal or wilful failure to obey subpoena; refusal to take oath or answer questions as required by court.

Any person who:

(a) Being duly served with a subpoena legally issued in any cause pending in any court or in any matter before any legal authority, shall refuse or wilfully fail to obey such subpoena or shall secret himself shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than six months, or both;

(b) Being present before any court and being called upon to give testimony, shall refuse to take an oath or affirmation or, being sworn or affirmed, shall refuse to answer any questions required by such court shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not more than six months, or both. Nothing in this item shall be construed to prohibit or punish the exercise by any person of his right not to be compelled to incriminate himself, as set forth in the Constitutions of this State and the United States and construed by the courts of this State and the United States.

HISTORY: 1980 Act No. 511, Section 3.

SECTION 16-9-340.

Intimidation of court officials, jurors or witnesses.

(A) It is unlawful for a person by threat or force to:

(1) intimidate or impede a judge, magistrate, juror, witness, or potential juror or witness, arbiter, commissioner, or member of any commission of this State or any other official of any court, in the discharge of his duty as such; or

(2) destroy, impede, or attempt to obstruct or impede the administration of justice in any court.

(B) A person who violates the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

HISTORY: 1980 Act No. 511, Section 3; 1993 Act No. 184, Section 25; 1996 Act No. 255, Section 1.

SECTION 16-9-350.

Attempting to influence juror by written or oral communication; communications authorized by court not prohibited.

Any person who attempts personally or through third parties to influence the action or decision of any grand or petit juror of any court in this State or any prospective juror, upon any issue or matter which is or may be pending before such juror or before the jury

of which he is or may become a member, by writing or sending him any written communication or making any oral communication relating to such issue or matter, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Nothing in this section shall be construed to prohibit the communication of a request to appear before the grand jury, or other communication authorized by the court.

HISTORY: 1980 Act No. 511, Section 3.

SECTION 16-9-360.

Unauthorized recording of grand or petit jury proceedings.

Any person who knowingly and wilfully, without authorization of the court, by any means or device, records or attempts to record the proceedings of any grand or petit jury in any court of this State while such jury is investigating or deliberating shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

HISTORY: 1980 Act No. 511, Section 3.

SECTION 16-9-370.

Taking money or reward to compound or conceal offense.

Any person who, knowing of the commission of an offense, takes any money or reward, upon an agreement or undertaking expressed or implied, to compound or conceal such offense or not to prosecute or give evidence shall:

(a) If such offense is a felony be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned not more than one year, or both;

(b) If such offense is a misdemeanor be deemed guilty of a misdemeanor and upon conviction be fined not more than one hundred dollars or imprisoned not more than three months, or both.

HISTORY: 1980 Act No. 511, Section 3.

SECTION 16-9-380.

Relationship between Article 4, common law, civil relief and other statutes.

This article codifies various common law crimes and supersedes them but no person shall be prosecuted or convicted for the commission of the crimes defined herein if a contempt proceeding is instituted against him in any court of this State on account of conduct defined as a crime herein nor shall injunctive or other civil relief against such conduct be denied upon the ground that the conduct constitutes a crime. If any other statute of this State more specifically describes and prohibits the conduct also prohibited in this article and provides penalties, that statute shall govern and no prosecution may be instituted under this article.

HISTORY: 1980 Act No. 511, Section 3.

ARTICLE 5

Aiding or Permitting Escape or Taking of Prisoners

SECTION 16-9-410.

Aiding escapes from prison; rescuing prisoners.

(A) It is unlawful for a person to:

(1) convey into a jail, correctional facility, or other like place of confinement any disguise, instrument, tool, weapon, or other thing adapted or useful to aid a prisoner in making his escape, with intent to facilitate the escape of a prisoner lawfully committed or detained; or

(2) aid or assist a prisoner by any means in his endeavor to escape, whether the escape is effected or attempted or not.

(B) It is unlawful for a person to forcibly rescue a prisoner held in custody.

(C) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years;

(2) misdemeanor and, upon conviction, must be imprisoned not more than two years or fined not more than five hundred dollars if the person whose escape or rescue was effected or intended was charged with a noncapital offense.

HISTORY: 1962 Code Section 16-231; 1952 Code Section 16-231; 1942 Code Section 1409; 1932 Code Section 1409; Cr. C. '22 Section 344; Cr. C. '12 Section 355; Cr. C. '02 Section 268; G. S. 2543; R. S. 232; 1824 (6) 244; 1993 Act No. 184, Section 167.

SECTION 16-9-420.

Aiding escape from custody of officers.

Whoever aids or assists a prisoner in escaping or attempting to escape from an officer or person who has the lawful custody of such prisoner shall be punished by imprisonment in the State Penitentiary, at hard labor, not exceeding two years or by fine not exceeding five hundred dollars.

HISTORY: 1962 Code Section 16-232; 1952 Code Section 16-232; 1942 Code Section 1410; 1932 Code Section 1410; Cr. C. '22 Section 345; Cr. C. '12 Section 356; Cr. C. '02 Section 269; G. S. 2544; R. S. 233; 1824 (6) 244.

SECTION 16-9-430.

Jailer or other officer wilfully suffering escapes.

If a jailer or other officer wilfully suffers a prisoner in his custody upon conviction or on any criminal charge to escape he shall suffer the like punishment and penalties as the prisoner suffered to escape was sentenced to or would be liable to suffer upon conviction of the crime or offense wherein he stood charged.

HISTORY: 1962 Code Section 16-233; 1952 Code Section 16-233; 1942 Code Section 1411; 1932 Code Section 1411; Cr. C. '22 Section 346; Cr. C. '12 Section 357; Cr. C. '02 Section 270; G. S. 2545; R. S. 234; 1824 (6) 244.

SECTION 16-9-440.

Officer permitting prisoner to be taken by a mob or other unlawful assemblage of persons.

If any prisoner lawfully in the charge, custody or control of any officer, State, county or municipal, shall be seized and taken from such officer through his negligence, permission or connivance by a mob or other unlawful assemblage of persons and at their hands suffering bodily violence or death, the officer shall be deemed guilty of a misdemeanor and, upon true bill found, shall be deposed from his office pending his trial and, upon conviction, shall forfeit his office and shall, unless pardoned by the Governor, be ineligible to hold any office of trust or profit within this State.

HISTORY: 1962 Code Section 16-234; 1952 Code Section 16-234; 1942 Code Section 1128; 1932 Code Section 1128; Cr. C. '22 Section 27; Cr. C. '12 Section 173; Cr. C. '02 Section 142; 1896 (22) 213; 1908 (25) 1019.

SECTION 16-9-450.

Prosecution of officers violating Section 16-9-440; fees and costs.

It shall be the duty of the prosecuting attorney within whose circuit or county any such offense as is described in Section 16-9-440 may be committed to forthwith institute a prosecution against such officer. The officer shall be tried in such county in the same circuit, other than the one in which the offense was committed, as the Attorney General may elect. The fees and mileage of all material witnesses, both for the State and the defense, shall be paid by the county treasurer of the county in which the case originated on a certificate issued by the clerk and signed by the presiding judge showing the amounts due the witnesses.

HISTORY: 1962 Code Section 16-235; 1952 Code Section 16-235; 1942 Code Section 1128; 1932 Code Section 1128; Cr. C. '22 Section 27; Cr. C. '12 Section 173; Cr. C. '02 Section 142; 1896 (22) 213; 1908 (25) 1019.

SECTION 16-9-460.

Unlawful entry into the United States; furthering illegal entry by or avoidance of detection of undocumented alien; penalties; exceptions.

(A) It is a felony for a person who has come to, entered, or remained in the United States in violation of law to allow themselves to be transported, moved, or attempted to be transported within the State or to solicit or conspire to be transported or moved within the State with intent to further the person's unlawful entry into the United States or avoiding apprehension or detection of the person's unlawful immigration status by state or federal authorities.

(B) It is a felony for a person knowingly or in reckless disregard of the fact that another person has come to, entered, or remained in the United States in violation of law to transport, move, or attempt to transport that person within the State or to solicit or conspire to transport or move that person within the State with intent to further that person's unlawful entry into the United States or avoiding apprehension or detection of that person's unlawful immigration status by state or federal authorities.

(C) It is a felony for a person who has come to, entered, or remained in the United States in violation of law to conceal, harbor, or shelter themselves from detection or to solicit or conspire to conceal, harbor, or shelter themselves from detection in any place, including a building or means of transportation, with intent to further that person's unlawful entry into the United States or avoiding apprehension or detection of the person's unlawful immigration status by state or federal authorities.

(D) It is a felony for a person knowingly or in reckless disregard of the fact that another person has come to, entered, or remained in the United States in violation of law to conceal, harbor, or shelter from detection or to solicit or conspire to conceal, harbor, or shelter from detection that person in any place, including a building or means of transportation, with intent to further that person's unlawful entry into the United States or avoiding apprehension or detection of that person's unlawful immigration status by state or federal authorities.

(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be punished by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed five years, or both.

(F) A person who is convicted of, pleads guilty to, or enters into a plea of nolo contendere to a violation of this section must not be permitted to seek or obtain any professional license offered by the State or any agency or political subdivision of the State.

(G) This section does not apply to programs, services, or assistance including soup kitchens, crisis counseling, and intervention; churches or other religious institutions that are recognized as 501(c)(3) organizations by the Internal Revenue Service; or short-term shelters specified by the United States Attorney General, in the United States Attorney General's sole discretion after consultation with appropriate federal agencies and departments, which:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

(iii) are necessary for the protection of life or safety.

Shelter provided for strictly humanitarian purposes or provided under the Violence Against Women Act is not a violation of this section, so long as the shelter is not provided in furtherance of or in an attempt to conceal a person's illegal presence in the United States.

(H) Providing health care treatment or services to a natural person who is in the United States unlawfully is not a violation of this section.

HISTORY: 2008 Act No. 280, Section 9, eff June 4, 2008; 2011 Act No. 69, Section 4, eff January 1, 2012.

Validity

For validity of this section, see U.S. v. South Carolina, 840 F.Supp.2d 898 (D.S.C. December 22, 2011).

Title 16 - Crimes and Offenses

CHAPTER 11

Offenses Against Property

ARTICLE 1

General Provisions

SECTION 16-11-10.

"Dwelling house" defined in case of burglary, arson and other criminal offenses.

With respect to the crimes of burglary and arson and to all criminal offenses which are constituted or aggravated by being committed in a dwelling house, any house, outhouse, apartment, building, erection, shed or box in which there sleeps a proprietor, tenant, watchman, clerk, laborer or person who lodges there with a view to the protection of property shall be deemed a dwelling house, and of such a dwelling house or of any other dwelling house all houses, outhouses, buildings, sheds and erections which are within two hundred yards of it and are appurtenant to it or to the same establishment of which it is an appurtenance shall be deemed parcels.

HISTORY: 1962 Code Section 16-301; 1952 Code Section 16-301; 1942 Code Section 1140; 1932 Code Section 1140; Cr. C. '22 Section 34; Cr. C. '12 Section 179; Cr. C. '02 Section 146; G. S. 2483; R. S. 143; 1866 (13) 405.

SECTION 16-11-20.

Making, mending or possessing tools or other implements capable of being used in crime.

It is unlawful for a person to make or mend, cause to be made or mended, or have in his possession any engine, machine, tool, false key, picklock, bit, nippers, nitroglycerine, dynamite cap, coil or fuse, steel wedge, drill, tap-pin, or other implement or thing adapted, designed, or commonly used for the commission of burglary, larceny, safecracking, or other crime, under circumstances evincing an intent to use, employ, or allow the same to be used or employed in the commission of a crime, or knowing that the same are intended to be so used.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

HISTORY: 1962 Code Section 16-302; 1952 Code Section 16-302; 1942 Code Section 1165; 1932 Code Section 1165; Cr. C. '22 Section 58; Cr. C. '12 Section 195; 1907 (25) 580; 1993 Act No. 184, Section 26.

SECTION 16-11-30.

Possession of master keys and nonowner key sets.

(A) As used in this section:

(1) "Master key" means a key which unlocks more than one locking device.

(2) "Nonowner key sets" means a set of keys designed to open locking devices in a group of products, machines, or vehicles of a particular manufacturer, which differ in configuration from the keys issued by the manufacturer at the time of sale for the locking devices.

(B) A person who has in his possession, actual or constructive, while engaged in the commission of a crime against the person or property of another, a master key or nonowner key set as defined in subsection (A), or if a master key is used in the commission of any such offense against the laws of this State, he is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

HISTORY: 1962 Code Section 16-303; 1968 (55) 2587; 1993 Act No. 184, Section 168.

ARTICLE 3

Arson and Other Offenses Involving Fire

SECTION 16-11-110.

Arson.

(A) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a building, structure, or any property specified in subsections (B) and (C), whether the property of the person or another, which results, either directly or indirectly, in death or serious bodily injury to a person is guilty of the felony of arson in the first degree and, upon conviction, must be imprisoned not less than thirty years.

(B) A person who wilfully and maliciously causes an explosion, sets fire to, burns, or causes to be burned or aids, counsels, or procures a burning that results in damage to a dwelling house, church or place of worship, public or private school facility, manufacturing plant or warehouse, building where business is conducted, institutional facility, or any structure designed for human occupancy including local and municipal buildings, whether the property of the person or another, is guilty of the felony of arson in the second degree and, upon conviction, must be imprisoned not less than three nor more than twenty-five years.

(C) A person commits a violation of the provisions of this subsection who wilfully and maliciously:

(1) causes an explosion, sets fire to, burns, or causes a burning which results in damage to a building or structure other than those specified in subsections (A) and (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property; or

(2) aids, counsels, or procures a burning that results in damage to a building or structure other than those specified in subsections (A) and (B), a railway car, a ship, boat, or other watercraft, an aircraft, an automobile or other motor vehicle, or personal property with intent to destroy or damage by explosion or fire, whether the property of the person or another.

A person who violates the provisions of this subsection is guilty of the felony of arson in the third degree and, upon conviction, must be imprisoned not more than fifteen years.

(D) For purposes of this section, "damage" means an application of fire or explosive that results in burning, charring, blistering, scorching, smoking, singeing, discoloring, or changing the fiber or composition of a building, structure, or any property specified in this section.

HISTORY: 1962 Code Section 16-311; 1952 Code Section 16-311; 1942 Code Section 1132; 1932 Code Section 1132; 1928 (35) 1226; 1982 Act No. 449, 1996 Act No. 356, Section 1; 1997 Act No. 113, Section 1; 2002 Act No. 224, Section 2, eff May 1, 2002; 2010 Act No. 273, Section 3, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 1, eff April 21, 2016.

Editor's Note

2002 Act No. 224, Section 5, provides as follows:

"This act takes effect upon approval by the Governor and applies to offenses committed on or after the effective date."

Effect of Amendment

2016 Act No. 154, Section 1, rewrote (A), (B), and (C).

SECTION 16-11-125.

Making false claim or statement in support of claim to obtain insurance benefits for fire or explosion loss.

Any person who wilfully and knowingly presents or causes to be presented a false or fraudulent claim, or any proof in support of such claim, for the payment of a fire loss or loss caused by an explosion, upon any contract of insurance or certificate of insurance which includes benefits for such a loss, or prepares, makes, or subscribes to a false or fraudulent account, certificate, affidavit, or proof of loss, or other documents or writing, with intent that such documents may be presented or used in support of such claim, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than five years or both in the discretion of the court.

The provisions of this section are supplemental to and not in lieu of existing law relating to falsification of documents and penalties therefor.

HISTORY: 1982 Act No. 401; 1989 Act No. 148, Section 24.

SECTION 16-11-130.

Burning personal property to defraud insurer.

Any person who (a) wilfully and with intent to injure or defraud an insurer sets fire to or burns or causes to be burned or (b) aids, counsels, or procures the burning of any goods, wares, merchandise, or other chattels or personal property of any kind, whether the property of himself or of another, which is at the time insured by any person against loss or damage by fire is guilty of a felony and, upon conviction, must be imprisoned for not less than one nor more than five years.

HISTORY: 1962 Code Section 16-313; 1952 Code 16-313; 1942 Code Section 1135; 1932 Code Section 1135; 1928 (35) 1226; 1989 Act No. 148, Section 25.

SECTION 16-11-140.

Burning of crops, fuel or lumber.

It is unlawful for a person to (a) wilfully and maliciously set fire to or burn or cause to be burned, or (b) aid, counsel, or procure the burning of any:

- (1) barracks, cock, crib, rick or stack of hay, corn, wheat, oats, barley, or other grain or vegetable product of any kind;
- (2) field of standing hay or grain of any kind;
- (3) pile of coal, wood, or other fuel;
- (4) pile of planks, boards, posts, rails, or other lumber.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

HISTORY: 1962 Code Section 16-314; 1952 Code Section 16-314; 1942 Code Section 1134; 1932 Code Section 1134; 1928 (35) 11993 Act No. 184, Section 91; 1997 Act No. 113, Section 2.

SECTION 16-11-150.

Burning lands of another without consent.

It shall be unlawful for any person without prior written consent of the landowner or his agent to intentionally set fire to lands of another, or to intentionally cause or allow fire to spread to lands of another, whereby any woods, fields, fences or marshes of any other person are burned. Any person violating the provisions of this section shall, upon conviction, be punished as follows: (a) For the first offense, by a fine of not more than one thousand dollars, or imprisonment for not more than one year, or both, (b) for a second or subsequent offense, by a fine of not more than five thousand dollars or imprisonment for not more than five years.

HISTORY: 1962 Code Section 16-315; 1967 (55) 265.

SECTION 16-11-160.

Carrying fire on lands of another without permit.

It shall be unlawful for any person to carry a lighted torch, chunk or coals of fire in or under any mill or wooden building or over and across any of the enclosed or unenclosed lands of another person at any time without the special permit of the owner of such lands, mill or wooden building, whether any damage result therefrom or not. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to imprisonment in the county jail for a term not to exceed thirty days or to a fine not to exceed one hundred dollars.

HISTORY: 1962 Code Section 16-316; 1952 Code Section 16-316; 1942 Code Section 1181; 1932 Code Section 1181; Cr. C. '22 Section 71; Cr. C. '12 Section 216; Cr. C. '02 Section 161; R. S. 158; 1891 (20) 1045.

SECTION 16-11-170.

Wilfully burning lands of another.

It is unlawful for a person to wilfully and maliciously set fire to or burn any grass, brush, or other combustible matter, causing any woods, fields, fences, or marshes of another person to be set on fire or cause the burning or fire to spread to or to be transmitted to the lands of another, or to aid or assist in such conduct.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years. A person convicted under this section is liable to any person who may have sustained damage.

HISTORY: 1962 Code Section 16-317; 1952 Code Section 16-317; 1942 Code Section 1208; 1932 Code Section 1208; Cr. C. '22 Section 96; Cr. C. '12 Section 215; Cr. C. '02 Section 160; G. S. 2497; R. S. 157; 1787 (5) 125; 1857 (12) 617; 1891 (20) 1195; 1919 (31) 59; 1940 (41) 1820; 1956 (49) 1609; 1960 (51) 1602; 1993 Act No. 184, Section 27.

SECTION 16-11-180.

Negligently allowing fire to spread to lands or property of another.

Any person who carelessly or negligently sets fire to or burns any grass, brush, leaves, or other combustible matter on any lands so as to cause or allow fire to spread or to be transmitted to the lands or property of another, or to burn or injure the lands or property of another, or who causes the burning to be done or who aids or assists in the burning, is guilty of a misdemeanor and, upon conviction, must be imprisoned for not less than five days nor more than thirty days or be fined not less than twenty-five dollars nor more than two hundred dollars. For a second or subsequent offense the sentence must be imprisonment for not less than thirty days nor more than one year, or a fine of not less than one hundred dollars nor more than five hundred dollars, or both, in the discretion of the court.

HISTORY: 1962 Code Section 16-318; 1952 Code Section 16-318; 1942 Code Section 1208-1; 1940 (41) 1820; 1958 (50) 1596; 1987 Act No. 113 Section 1.

SECTION 16-11-190.

Attempts to burn.

It is unlawful for a person to wilfully and maliciously attempt to set fire to, burn, or aid, counsel, or procure the burning of any of the buildings or property mentioned in Sections 16-11-110 to 16-11-140 or commit an act in furtherance of burning these buildings. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars.

HISTORY: 1962 Code Sections 16-319; 1952 Code Section 16-319; 1942 Code Section 1136; 1932 Code Section 1136; 1928 (35) 1226; 1982 Act No. 449, Section 2; 1993 Act No. 184, Section 169.

SECTION 16-11-200.

Placing or distributing combustible materials and the like in buildings and property as constituting attempt.

The placing or distributing of any inflammable, explosive or combustible materials or substance or any device in any building or property mentioned in Sections 16-11-110 to 16-11-140 in an arrangement or preparation with intent eventually wilfully and maliciously to set fire to or burn the same or to procure the setting fire to or burning of the same shall for the purposes of Section 16-11-190 constitute an attempt to burn such building or property.

HISTORY: 1962 Code Section 16-320; 1952 Code Section 16-320; 1942 Code Section 1137; 1932 Code Section 1137; 1928 (35) 1226.

ARTICLE 5

Burglary, Housebreaking, Robbery and the Like

SECTION 16-11-310.

Definitions.

For purposes of Sections 16-11-311 through 16-11-313:

(1) "Building" means any structure, vehicle, watercraft, or aircraft:

(a) Where any person lodges or lives; or

(b) Where people assemble for purposes of business, government, education, religion, entertainment, public transportation, or public use or where goods are stored. Where a building consists of two or more units separately occupied or secured, each unit is deemed both a separate building in itself and a part of the main building.

(2) "Dwelling" means its definition found in Section 16-11-10 and also means the living quarters of a building which is used or normally used for sleeping, living, or lodging by a person.

(3) "Enters a building without consent" means:

(a) To enter a building without the consent of the person in lawful possession; or

(b) To enter a building by using deception, artifice, trick, or misrepresentation to gain consent to enter from the person in lawful possession.

HISTORY: 1962 Code Section 16-331; 1952 Code Section 16-331; 1942 Code Section 1138; 1932 Code Section 1138; Cr. C. '22 Section 32; Cr. C. '12 Section 177; Cr. C. '02 Section 144; G. S. 2481; R. S. 141; 1883 (18) 290; 1985 Act No. 159, Section 1.

SECTION 16-11-311.

Burglary; first degree.

(A) A person is guilty of burglary in the first degree if the person enters a dwelling without consent and with intent to commit a crime in the dwelling, and either:

(1) when, in effecting entry or while in the dwelling or in immediate flight, he or another participant in the crime:

- (a) is armed with a deadly weapon or explosive; or
 - (b) causes physical injury to a person who is not a participant in the crime; or
 - (c) uses or threatens the use of a dangerous instrument; or
 - (d) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or
- (2) the burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or
- (3) the entering or remaining occurs in the nighttime.
- (B) Burglary in the first degree is a felony punishable by life imprisonment. For purposes of this section, "life" means until death. The court, in its discretion, may sentence the defendant to a term of not less than fifteen years.

HISTORY: 1985 Act No. 159, Section 2; 1995 Act No. 83, Section 17.

SECTION 16-11-312.

Burglary; second degree.

(A) A person is guilty of burglary in the second degree if the person enters a dwelling without consent and with intent to commit a crime therein.

(B) A person is guilty of burglary in the second degree if the person enters a building without consent and with intent to commit a crime therein, and either:

(1) When, in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:

- (a) Is armed with a deadly weapon or explosive; or
 - (b) Causes physical injury to any person who is not a participant in the crime; or
 - (c) Uses or threatens the use of a dangerous instrument; or
 - (d) Displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearm; or
- (2) The burglary is committed by a person with a prior record of two or more convictions for burglary or housebreaking or a combination of both; or
- (3) The entering or remaining occurs in the nighttime.

(C)(1) Burglary in the second degree pursuant to subsection (A) is a felony punishable by imprisonment for not more than ten years.

(2) Burglary in the second degree pursuant to subsection (B) is a felony punishable by imprisonment for not more than fifteen years, provided, that no person convicted of burglary in the second degree pursuant to subsection (B) shall be eligible for parole except upon service of not less than one-third of the term of the sentence.

HISTORY: 1985 Act No. 159, Section 2; 2010 Act No. 273, Section 11, eff June 2, 2010.

SECTION 16-11-313.

Burglary; third degree.

(A) A person is guilty of burglary in the third degree if the person enters a building without consent and with intent to commit a crime therein.

(B) Burglary in the third degree is a felony punishable by imprisonment for not more than five years for conviction on a first offense and for not more than ten years for conviction of a second offense according to the discretion of the Court.

HISTORY: 1985 Act No. 159, Section 2.

SECTION 16-11-325.

Common law robbery classified as felony; penalty.

The common law offense of robbery is a felony. Upon conviction, a person must be imprisoned not more than fifteen years.

HISTORY: 1993 Act No. 184, Section 9, eff January 1, 1994.

SECTION 16-11-330.

Robbery and attempted robbery while armed with deadly weapon.

(A) A person who commits robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned for a mandatory minimum term of not less than ten years or more than thirty years, no part of which may be suspended or probation granted. A person convicted under this subsection is not eligible for parole until the person has served at least seven years of the sentence.

(B) A person who commits attempted robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, is guilty of a felony and, upon conviction, must be imprisoned not more than twenty years.

HISTORY: 1962 Code Section 16-333; 1952 Code Section 16-333; 1942 Code Section 1140-1; 1941 (42) 86; 1966 (54) 2102; 1975 (59) 743; 1993 Act No. 184, Section 170.; 1995 Act No. 7, Part I Section 4; 1996 Act No. 362, Section 1; 1996 Act No. 441, Section 1.

SECTION 16-11-340.

Required placards in retail establishments as to consequences of conviction of armed robbery.

The South Carolina Department of Revenue, with funds already appropriated to the department, shall print and distribute to each business establishment in this State, to which has been issued a retail sales tax license, a cardboard placard not less than eight inches by eleven inches which shall bear the following inscription in letters not less than three-fourths inch high:

"BY ACT OF THE SOUTH CAROLINA GENERAL ASSEMBLY ANY PERSON CONVICTED OF ARMED ROBBERY SHALL SERVE A SENTENCE OF NO LESS THAN SEVEN YEARS AT HARD LABOR WITHOUT PAROLE."

Such placard shall be prominently displayed in all retail establishments to which they are issued.

HISTORY: 1975 (59) 743; 1993 Act No.181, Section 273.

SECTION 16-11-345.

Cardboard placards.

The cardboard placard described in Section 16-11-340 also shall be provided to operators of motor vehicles being used for the transportation of passengers for hire by the Department of Revenue. The size of the placard for this purpose shall be approximately two and one-half inches by five and one-half inches with appropriately sized letters. The placard shall be prominently displayed in the operator's vehicle.

HISTORY: 1994 Act No. 444, Section 2.

SECTION 16-11-350.

Train robbery by stopping train.

Any person or persons who (a) may stop, cause to be stopped, impede or cause to be impeded any locomotive engine or any car on any railroad in this State by force or threats or by intimidation of those in charge thereof or otherwise for the purpose of taking therefrom or causing to be delivered up to such persons or person anything of value to be appropriated to his or their own use or (b) may conspire together so to do shall be guilty of train robbery and, on conviction thereof, shall be punished by confinement in the Penitentiary not less than two years nor more than twenty years.

HISTORY: 1962 Code Section 16-334; 1952 Code Section 16-334; 1942 Code Section 1151; 1932 Code Section 1151; Cr. C. '22 Section 45; Cr. C. '12 Section 192; 1902 (23) 1095.

SECTION 16-11-360.

Robbery after entry upon train.

Any and all persons who may hereafter enter upon any locomotive engine or car on any railroad in this State and by threats, the exhibition of deadly weapons or the discharge of any pistol or gun on or near any such engine or car induce or compel any person on such engine or car to submit and deliver up or allow to be taken therefrom or from him or them anything of value shall be guilty of train robbery and, on conviction thereof, shall be punished by imprisonment in the Penitentiary not less than ten years nor more than twenty years.

HISTORY: 1962 Code Section 16-335; 1952 Code Section 16-335; 1942 Code Section 1152; 1932 Code Section 1152; Cr. C. '22 Section 46; Cr. C. '12 Section 193; 1902 (23) 1095.

SECTION 16-11-370.

Robbery of operators of motor vehicles for hire.

A person who, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, robs or attempts the robbery of a person engaged in the performance of his duties as an operator of a motor vehicle being used for the transportation of passengers for hire is guilty of a felony and, upon conviction, must be sentenced as provided by Section 16-11-330.

HISTORY: 1962 Code Section 16-335.1; 1962 (52) 2180; 1994 Act No. 444, Section 1.

SECTION 16-11-380.

Entering bank, depository or building and loan association with intent to steal; theft or solicitation of person using automated teller machine.

(A) It is unlawful for a person to enter a building or part of a building occupied as a bank, depository, or building and loan association with intent to steal money, securities for money, or property, either by force, intimidation, or threats.

(B) It is unlawful for a person to steal money, securities for money, or property, either by force, intimidation, or threats, from a person who is using or who has just finished using a bank night depository, an automated teller machine (ATM), or another automated banking device, as defined in Section 16-14-10, or in the vicinity of a bank depository, an ATM, or another automated banking device.

(C) It is unlawful for a person to beg, panhandle, or solicit money from, or otherwise harass, a person using, who has just finished using, or who is in the vicinity of a bank night depository, an ATM, or another automated banking device.

(D) A person who violates the provisions of:

(1) subsection (A) is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years;

(2) subsection (B) is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than twenty years, or both; and

(3) subsection (C) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(E) A separate location code, premise code, or designation for a bank night depository, an ATM, or other automated banking device offense must be added to the South Carolina Incident Based Reporting System. Law enforcement personnel are required to use this location code, premise code, or designation when completing incident reports for all criminal activity occurring at or in the vicinity of a bank night depository, an ATM, or another automated banking device in accordance with the provisions of this section.

(F) To the extent that this section applies to bank night depositories, ATMs, and other automated banking devices, it applies only to these devices which are not located in a building or structure and those to which banking customers have access when they are outside a building or structure. A building or structure does not include an enclosure erected solely for the purpose of containing an otherwise outdoor or detached ATM or automated banking device. However, the provisions of this section do apply to drive-through

banking terminals.

(G) As used in this section, "vicinity" means within the sight of a reasonable person.

HISTORY: 1962 Code Section 16-336; 1952 Code Section 16-336; 1942 Code Section 1141; 1932 Code Section 1141; Cr. C. '22 Section 35; Cr. C. '12 Section 180; 1908 (25) 1112; 1956 (49) 1743; 1993 Act No. 184, Section 171; 2007 Act No. 72, Section 2, eff June 13, 2007.

SECTION 16-11-390.

Safecracking.

It is unlawful for a person to use explosives, tools, or any other implement in or about a safe used for keeping money or other valuables with intent to commit larceny or any other crime.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

HISTORY: 1962 Code Section 16-337; 1952 Code Section 16-337; 1942 Code Section 1150; 1932 Code Section 1150; Cr. C. '22 Section 44; Cr. C. '12 Section 191; 1904 (14) 396; 1907 (25) 580; 1955 (49) 65; 1993 Act No. 184, Section 172.

ARTICLE 6

Protection of Persons and Property Act

SECTION 16-11-410.

Citation of article.

This article may be cited as the "Protection of Persons and Property Act".

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

SECTION 16-11-420.

Intent and findings of General Assembly.

(A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.

(B) The General Assembly finds that it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.

(C) The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed.

(D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.

(E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

SECTION 16-11-430.

Definitions.

As used in this article, the term:

(1) "Dwelling" means a building or conveyance of any kind, including an attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging there at night.

(2) "Great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

(3) "Residence" means a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest.

(4) "Vehicle" means a conveyance of any kind, whether or not motorized, which is designed to transport people or property.

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

SECTION 16-11-440.

Presumption of reasonable fear of imminent peril when using deadly force against another unlawfully entering residence, occupied vehicle or place of business.

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

(B) The presumption provided in subsection (A) does not apply if the person:

(1) against whom the deadly force is used has the right to be in or is a lawful resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder; or

(2) sought to be removed is a child or grandchild, or is otherwise in the lawful custody or under the lawful guardianship, of the person against whom the deadly force is used; or

(3) who uses deadly force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) against whom the deadly force is used is a law enforcement officer who enters or attempts to enter a dwelling, residence, or occupied vehicle in the performance of his official duties, and he identifies himself in accordance with applicable law or the person using force knows or reasonably should have known that the person entering or attempting to enter is a law enforcement officer.
(C) A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

(D) A person who unlawfully and by force enters or attempts to enter a person's dwelling, residence, or occupied vehicle is presumed to be doing so with the intent to commit an unlawful act involving force or a violent crime as defined in Section 16-1-60.

(E) A person who by force enters or attempts to enter a dwelling, residence, or occupied vehicle in violation of an order of protection, restraining order, or condition of bond is presumed to be doing so with the intent to commit an unlawful act regardless of whether the person is a resident of the dwelling, residence, or occupied vehicle including, but not limited to, an owner, lessee, or titleholder.

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

SECTION 16-11-450.

Immunity from criminal prosecution and civil actions; law enforcement officer exception; costs.

(A) A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force, unless the person against whom deadly force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using deadly force knows or reasonably should have known that the person is a law enforcement officer.

(B) A law enforcement agency may use standard procedures for investigating the use of deadly force as described in subsection (A), but the agency may not arrest the person for using deadly force unless probable cause exists that the deadly force used was unlawful.

(C) The court shall award reasonable attorneys' fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of a civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (A).

HISTORY: 2006 Act No. 379, Section 1, eff June 9, 2006.

ARTICLE 7

Trespasses and Unlawful Use of Property of Others

SECTION 16-11-510.

Malicious injury to animals and other personal property.

(A) It is unlawful for a person to wilfully and maliciously cut, shoot, maim, wound, or otherwise injure or destroy any horse, mule, cattle, hog, sheep, goat, or any other kind, class, article, or description of personal property, or the goods and chattels of another.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned, not more than thirty days, or both.

HISTORY: 1962 Code Section 16-381; 1952 Code Section 16-381; 1942 Code Section 1183; 1932 Code Section 1183; Cr. C. '22 Section 73; Cr. C. '12 Section 222; Cr. C. '02 Section 170; G. S. 2500; R. S. 165; 1712 (2) 478, 521; 1857 (12) 605; 1861 (12) 903; 1892 (21) 115; 1894 (21) 824; 1964 (53) 1724; 1981 Act No. 76, Section 1; 1993 Act No. 171, Section 3; 1993 Act No. 184, Section 104; 1998 Act No. 272, Section 1; 2010 Act No. 273, Section 16.A, eff June 2, 2010.

SECTION 16-11-520.

Malicious injury to tree, house, outside fence, or fixture; trespass upon real property.

(A) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure a tree, house, outside fence, or fixture of another or commit any other trespass upon real property of another.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the injury to the property or the property loss is worth ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the injury to the property or the property loss is worth more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the injury to the property or the property loss is worth two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 16-382; 1952 Code Section 16-382; 1942 Code Section 1184; 1932 Code Section 1184; Cr. C. '22 Section 74; Cr. C. '12 Section 223; Cr. C. '02 Section 171; G. S. 2501; R. S. 166; 1857 (12) 605; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824; 1935 (39) 262; 1964 (53) 1724; 1981 Act No. 76, Section 2; 1993 Act No. 171, Section 4; 1993 Act No. 184, Section 105;

1998 Act No. 272, Section 2; 2010 Act No. 273, Section 16.B, eff June 2, 2010.

SECTION 16-11-523.

Obtaining nonferrous metals unlawfully; disruption of communication or electrical service.

(A) For purposes of this section, "nonferrous metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

(B) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metals in any amount.

(C) A person who violates a provision of this section is guilty of a:

(1) misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is less than five thousand dollars; or

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is five thousand dollars or more.

(D)(1) A person who violates the provisions of this section and the violation results in great bodily injury to another person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years. For purposes of this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) A person who violates the provisions of this section and the violation results in the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) A person who violates the provisions of this section and the violation results in disruption of communication or electrical service to critical infrastructure or more than ten customers of the communication or electrical service is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(F) If a person is convicted of violating the provisions of this section and the person has been issued a permit pursuant to Section 16-17-680, the permit must be revoked.

(G)(1) A public or private owner of personal or real property is not civilly liable to a person who is injured during the theft or attempted theft, by the person or a third party, of nonferrous metals in any amount.

(2) A public or private owner of personal or real property is not civilly liable for a person's injuries caused by a dangerous condition created as a result of the theft or attempted theft of nonferrous metals in any amount, of the owner when the owner of personal or real property did not know and could not have reasonably known of the dangerous condition.

(3) This subsection does not create or impose a duty of care upon a owner of personal or real property that would not otherwise exist under common law.

HISTORY: 2008 Act No. 260, Section 2, eff June 4, 2008; 2009 Act No. 26, Section 1, eff June 2, 2009; 2010 Act No. 273, Section 16.C, eff June 2, 2010; 2011 Act No. 68, Section 1, eff August 17, 2011; 2012 Act No. 242, Section 1, eff December 15, 2012.

SECTION 16-11-525.

Commissioners deemed owners of Housing Authority property for certain purposes; exemption from liability.

For the sole purpose of determining whether or not any public housing authority property has been maliciously injured as the offense of malicious mischief is defined in Section 16-11-520, and as to whether or not there has been a trespass upon the property as this offense is defined under Section 16-11-600, in all prosecutions under these penal statutes and other statutes of a like nature, the members of the board of commissioners of each state, county, or municipal housing authority in this State, in their official capacity, are deemed to be the owners and possessors of all property of each particular housing authority under their jurisdiction. Nothing in this section may be construed to create personal liability for a commissioner for loss, injury, or damage to the person or property of any other person or entity who suffers injury while on or adjacent to housing authority property as a tenant, an invitee, or a trespasser.

HISTORY: 1994 Act No. 419, Section 1.

SECTION 16-11-530.

Malicious injury to real property; school trustees deemed owners of school property.

For the purpose of determining whether or not any school property has been maliciously injured as the offense of malicious mischief is defined in Section 16-11-520 and as to whether or not there has been a trespass upon such property as this offense is defined in Section 16-11-600 and for all prosecutions under these penal statutes and other statutes of a like nature, the trustees of the respective school districts in this State in their official capacity shall be deemed to be the owners and possessors of all school property.

HISTORY: 1962 Code Section 16-383; 1952 Code Section 16-383; 1942 Code Section 1184; 1932 Code Section 1184; Cr. C. '22 Section 74; Cr. C. '12 Section 223; Cr. C. '02 Section 171; G. S. 2501; R. S. 166; 1857 (12) 605; 1892 (21) 93; 1893 (21) 411; 1894 (21) 824; 1935 (39) 262.

SECTION 16-11-535.

Malicious injury to place of worship.

Whoever shall wilfully, unlawfully, and maliciously vandalize, deface, damage, or destroy or attempt to vandalize, deface, damage, or destroy any place, structure, or building of worship or aid, agree with, employ, or conspire with any person to do or cause to be

done any of the acts mentioned above is guilty of a felony and, upon conviction, must be imprisoned not less than six months nor more than ten years or fined not more than ten thousand dollars, or both.

HISTORY: 1986 Act No. 485; 1996 Act No. 356, Section 2.

SECTION 16-11-560.

Burning or cutting untenanted or unfinished buildings.

It is unlawful for a person to maliciously, unlawfully, and wilfully burn or cause to be burned, cut or cause to be cut, or destroyed any untenanted or unfinished house or building or any frame of timber of another person made and prepared for or towards the making of a house, so that the house is not suitable for the purposes for which it was prepared.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 16-384; 1952 Code Section 16-384; 1942 Code Section 1182; 1932 Code Section 1182; Cr. C. '22 Section 72; Cr. C. '12 Section 217; Cr. C. '02 Section 162; G. S. 2845; R. S. 159; 1712 (2) 478; 1887 (19) 794; 1911 (27) 129; 1993 Act No. 184, Section 173.

SECTION 16-11-570.

Injury or destruction of buildings or crops by tenant.

It is unlawful for a tenant to wilfully and maliciously cut, deface, mutilate, burn, destroy, or otherwise injure a dwelling house, outhouse, erection, building, or crops in his possession.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 16-385; 1952 Code Section 16-385; 1942 Code Section 1182; 1932 Code Section 1182; Cr. C. '22 Section 72; Cr. C. '12 Section 217; Cr. C. '02 Section 162; G. S. 2845; R. S. 159; 1712 (2) 478; 1887 (19) 794; 1911 (27) 129; 1993 Act No. 184, Section 174.

SECTION 16-11-580.

Cutting, removing, or transporting forest products without consent of landowner; fraudulently acquiring forest products; penalties.

(A) It is unlawful for a person to knowingly and wilfully:

- (1) cut, destroy, or remove forest products without the consent of the landowner;
- (2) aid, hire, or counsel another person to cut, destroy, or remove forest products without the consent of the landowner;
- (3) obtain or acquire forest products under false pretenses or with fraudulent intent; or
- (4) transport forest products if the person knows that the forest products have been cut, removed, obtained, or acquired from the property of a landowner in violation of the provisions of this subsection.

(B) If the value of the forest products is one thousand dollars or less, a person who violates the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction:

- (1) for a first offense, must be fined not more than fifteen hundred dollars or imprisoned for not more than thirty days, or both; and
- (2) for a second or subsequent offense, must be fined not less than two thousand dollars and not more than five thousand dollars or imprisoned for not more than sixty days, or both.

(C) If the value of the forest products is more than one thousand dollars but less than five thousand dollars, a person who violates the provisions of subsection (A):

- (1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not less than five thousand dollars and not more than ten thousand dollars or imprisoned for not more than five years, or both; and
- (2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years.

(D) If the value of the forest products is five thousand dollars or more, a person who violates the provisions of subsection (A):

- (1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years, or both; and
- (2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than ten thousand dollars and not more than twenty thousand dollars or imprisoned for not more than ten years.

(E) As used in this section, "forest products" include, but are not limited to, timber, trees, logs, lumber, or pine straw or any other products in the forest, whether merchantable or nonmerchantable, and which are located on any land in this State, whether publicly or privately owned.

HISTORY: 1962 Code Section 16-385.1; 1960 (51) 1706; 1963 (53) 37; 2004 Act No. 273, Section 1, eff July 16, 2004 and applicable to offenses committed on or after that date; 2012 Act No. 225, Section 1, eff July 1, 2012.

SECTION 16-11-590.

Destruction of sea oat or Venus's flytrap plants.

It shall be unlawful for any person to cut, collect, break or otherwise destroy sea oat plants, Venus's-flytrap plants or any part on public property or on private property without the owner's consent. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars or imprisoned not more than thirty days nor less than five days. Each violation shall constitute a separate offense.

HISTORY: 1962 Code Section 16-385.2; 1961 (52) 427; 1980 Act No. 417.

SECTION 16-11-600.

Notice of trespassing; purple paint.

(A) Every entry upon the lands of another, after notice from the owner or tenant has been posted or given prohibiting such entry, is a misdemeanor and must be punished by a fine of not more than one hundred dollars or by imprisonment not more than thirty days.

(B) The owner or tenant of any lands may accomplish the posting of notice as follows:

(1) by posting a notice in four conspicuous places on the borders of such land prohibiting entry thereon; or

(2) by marking boundaries with a clearly visible purple-painted marking, consisting of one vertical line not less than eight inches in length and two inches in width, and the bottom of the mark not less than three nor more than six feet from the ground or normal water surface. These marks must be affixed to immovable, permanent objects that are not more than one hundred yards apart and readily visible to any person approaching the property.

(C) When any owner or tenant of any lands shall post a notice as provided in this section, a proof of the posting is deemed and taken as notice conclusive against the person making entry for the purpose of trespassing.

HISTORY: 1962 Code Section 16-386; 1952 Code Section 16-386; 1942 Code Section 1190; 1932 Code Section 1190; Cr. C. '22 Section 81; Cr. C. '12 Section 241; Cr. C. '02 Section 186; G. S. 2507; R. S. 176; 1866 (13) 406; 1883 (18) 43; 1898 (22) 811; 1954 (48) 1705; 2022 Act No. 219 (H.3291), Section 1, eff May 23, 2022.

Effect of Amendment

2022 Act No. 219, Section 1, rewrote the section, allowing for a different method of the posting of notice of trespassing involving clearly visible purple-painted boundaries.

SECTION 16-11-610.

Entry on another's lands for various purposes without permission.

Any person entering upon the lands of another for the purpose of hunting, fishing, trapping, netting; for gathering fruit, wild flowers, cultivated flowers, shrubbery, straw, turf, vegetables or herbs; or for cutting timber on such land, without the consent of the owner or manager, shall be deemed guilty of a misdemeanor and upon conviction shall, for a first offense, be fined not more than two hundred dollars or imprisoned for not more than thirty days, for a second offense, be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for not more than thirty days and, for a third or subsequent offense, be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than six months or both. A first or second offense prosecution resulting in a conviction shall be reported by the magistrate or city recorder hearing the case to the communications and records division of the South Carolina Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency may inquire into whether or not a defendant has a prior record. Only those offenses which occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute prior offenses within the meaning of this section.

HISTORY: 1962 Code Section 16-387; 1952 Code Section 16-387; 1942 Code Section 1191; 1932 Code Section 1191; Cr. C. '22 Section 82; Cr. C. '12 Section 242; 1905 (24) 906; 1927 (35) 377; 1979 Act No. 62 Section 1.

SECTION 16-11-615.

Payment of treble damages; discharge from further penalty.

In all criminal prosecutions for violation of the provisions of Sections 16-11-520, 16-11-580, and 16-11-610, relating to cutting or destroying timber, the defendant may plead the payment of not to exceed exactly three times the fair market value of the timber as determined by a registered forester and upon the plea being legally established and the payment of all costs accrued at the time of the plea he must be discharged from further penalty. If it is necessary to institute civil action to recover the fair market value of the timber, the State, in case of state lands, and the owner, in case of private lands, shall receive damages of not to exceed exactly three times the fair market value of the timber established by a registered forester if judgment is in favor of the State or the owner.

HISTORY: 1985 Act No. 33.

SECTION 16-11-617.

Entry on another's land for purpose of cultivating marijuana.

It is unlawful for a person to enter on the land of another for the purpose of cultivating or attempting to cultivate marijuana. The provisions of this section are cumulative to other provisions of law. To constitute a violation of this section, a minimum of twenty-five marijuana plants must be cultivated. A person violating the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years and fined not more than five thousand dollars.

HISTORY: 1986 Act No. 486; 1993 Act No. 184, Section 28.

SECTION 16-11-620.

Entering premises after warning or refusing to leave on request; jurisdiction and enforcement.

Any person who, without legal cause or good excuse, enters into the dwelling house, place of business, or on the premises of another person after having been warned not to do so or any person who, having entered into the dwelling house, place of business, or on the premises of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession or his agent or representative shall, on conviction, be fined not more than two hundred dollars or be imprisoned for not more than thirty days.

All municipal courts of this State as well as those of magistrates may try and determine criminal cases involving violations of this section occurring within the respective limits of such municipalities and magisterial districts. All peace officers of the State and its subdivisions shall enforce the provisions hereof within their respective jurisdictions.

The provisions of this section shall be construed as being in addition to, and not as superseding, any other statutes of the State relating to trespass or entry on lands of another.

HISTORY: 1962 Code Section 16-388; 1960 (51) 1729; 1981 Act No. 76, Section 3; 1996 Act No. 279, Section 1.

SECTION 16-11-625.

Public library trespass; warning; appeal; penalties.

(A)(1) A person who enters a public library, without legal cause or good excuse, after having been warned not to do so by the library director, the branch manager, or the acting branch manager of the library in consultation with the library director is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or be imprisoned not more than thirty days.

(2) A copy of the warning provided for by subsection (A)(1) must be given to the person in writing, in the presence of a law enforcement officer, and must state:

(a) the alleged criminal law violation or the alleged violation of the library's code of conduct promulgated by the library's board of trustees under the authority provided by Section 4-9-37(b);

(b) the duration of the prohibition to return; and

(c) the procedure by which the person may appeal the warning to the library board of trustees. The person receiving notice of trespass wishing to appeal the notice must submit a request for a hearing to the board within five business days of receiving the notice. The board of trustees of the library must then provide a hearing within ten business days of the request for an appeal.

(B) A violation of the provisions of this section is triable in the appropriate municipal or magistrates court with jurisdiction over the offense. Any law enforcement officer of this State or a subdivision of this State may enforce the provisions of this section within their respective jurisdictions.

(C) The provisions of this section must be construed as in addition to, and not as superseding, another statute relating to trespass or unlawful entry on lands of another.

HISTORY: 2014 Act No. 296 (S.813), Section 1, eff August 27, 2014.

SECTION 16-11-630.

Refusing to leave certain public premises during hours when they are regularly closed.

Any person who, during those hours of the day or night when the premises owned or occupied by a state, county or municipal agency are regularly closed to the public, shall refuse or fail, without justifiable cause, to leave those premises upon being requested to do so by a law enforcement officer or guard, watchman or custodian responsible for the security or care of the premises, shall be deemed guilty of a misdemeanor and upon conviction, be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 16-388.1; 1968 (56) 657.

SECTION 16-11-640.

Unlawful entry into enclosed places.

It shall be unlawful for any person not an occupant, owner or invitee to enter any private property enclosed by walls or fences with closed gates between the hours of six P.M. and six A.M. The provisions of this section shall not apply to any justifiable emergency entry or to premises which are not posted with clearly visible signs prohibiting trespass upon the enclosed premises. The provisions of this section are supplemental to existing law relating to trespass and punishment therefor. Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 16-388.2; 1974 (58) 2636.

SECTION 16-11-650.

Removing, destroying or leaving down fences; penalties; magistrate court jurisdiction; easement holder's rights.

(A) A person, other than the owner or a person acting under the authority of the owner, who wilfully and knowingly removes, destroys, or leaves down any portion of a fence in this State intended to enclose animals of any kind or crops or uncultivated lands or who wilfully and knowingly leaves open or removes a gate or leaves down bars or other structure intended for the same purpose is guilty of a misdemeanor and must be punished by a fine of one thousand dollars or imprisonment for thirty days, or both.

(B) The magistrates court is vested with jurisdiction to hear and dispose of these cases.

(C) Nothing in this section shall affect an easement holder's right and ability to maintain such easement and rights of way consistent with the provisions of the document granting such easement.

HISTORY: 1962 Code Section 16-389; 1952 Code Section 16-389; 1942 Code Section 1222; 1932 Code Section 1222; Cr. C. '22 Section 110; Cr. C. '12 Section 229; Cr. C. '02 Section 176; G. S. 1190; R. S. 171; 1881 (17) 593; 1903 (24) 111; 1921 (32) 200; 2009 Act No. 56, Section 1, eff upon approval (became law without the Governor's signature on June 3, 2009).

SECTION 16-11-660.

Traveling outside of road on cultivated lands.

It shall be a misdemeanor for any person wilfully to walk, drive or ride or to allow his team to travel outside of the road on the cultivated lands of another, punishable as provided in Section 16-11-650; provided, that in case any person charged with this misdemeanor be brought before or reported to a magistrate he may discharge himself from any further proceedings therein by paying such fine within the above limits as the magistrate may impose.

HISTORY: 1962 Code Section 16-390; 1952 Code Section 16-390; 1942 Code Section 1224; 1932 Code Section 1224; Cr. C. '22 Section 112; Cr. C. '12 Section 232; Cr. C. '02 Section 178; G. S. 1192; R. S. 173; 1881 (17) 593.

SECTION 16-11-670.

Pleading satisfaction in prosecutions under Sections 16-11-650 and 16-11-660.

In all criminal prosecutions for violation of the provisions of Sections 16-11-650 and 16-11-660 the defendant may plead, as a matter of defense, the full satisfaction of all reasonable demands of the person aggrieved by such violation, and upon such plea

being legally established and upon payment of all costs accrued up to the time of such plea he shall be discharged from further penalty.

HISTORY: 1962 Code Section 16-391; 1952 Code Section 16-391; 1942 Code Section 1225; 1932 Code Section 1225; Cr. C. '22 Section 113; Cr. C. '12 Section 233; Cr. C. '02 Section 179; G. S. 1193; R. S. 173; 1881 (17) 594.

SECTION 16-11-680.

Destruction or removal of geodetic control or property corner monuments.

(A) As used in this section:

(1) "Geodetic control monuments" means those land surveying monuments which are established by federal, state, and local governments, and private entities, the position of which monuments on the earth's surface has been fixed by high-order surveying and computation for use by the land surveyors. Such monuments may be in the form of, but are not limited to, metal, disks set in concrete, rock, or some other fixed permanent object, the horizontal and vertical positions of which have been published by the agency which established the monument and made available to the public as well as to land surveyors and engineers for public use.

(2) "Property corner monuments" means those land surveying monuments which are established by a licensed professional land surveyor to identify property corners or property lines, the location and description of which are made a part of any recorded or unrecorded plat or any instrument pertaining to real property filed in the register of deeds office or other public office of any county of this State. These surveying monuments may be any permanent or semipermanent object or any live or dead tree material including, but not limited to:

(a) iron or steel pipes, rebars, spikes, nails, scribed marks in concrete, or metal rods;

(b) concrete markers, including highway right of way markers;

(c) stone or rock, whether natural or erected;

(d) trees, stumps, stakes, and marks, including those marks made on trees, concrete, or metal;

(e) and such other monuments as may be described in plats, instruments of record, and federal, state, and local law.

(B)(1) It is unlawful for a person to maliciously or fraudulently move, alter, destroy, or remove any certain geodetic control monuments or property corner monuments. Proof that a geodetic control device or property corner monument was unintentionally removed, altered, destroyed, or otherwise tampered with is prima facie evidence of noncriminal intent of the acting party. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, shall be fined not exceeding one hundred dollars or imprisoned not exceeding thirty days, and may be required by the court to make restitution. For the purpose of this section, "restitution" means payment for specific damages and economic losses and expenses sustained by a crime victim resulting from an offender's criminal conduct. Restitution orders do not limit any civil claims a crime victim may file. If the amount of restitution exceeds the magistrates court's limitation on ordering restitution as provided in Section 22-3-550, the court of general sessions has concurrent jurisdiction with the magistrates court and the case may be transferred to the court of general sessions.

(2) The provisions of this subsection do not apply to the authorized removal, alteration, destruction, or movement of geodetic control devices or property corner monuments.

HISTORY: 1962 Code Section 16-392; 1952 Code Section 16-392; 1942 Code Section 1166; 1932 Code Section 1166; Cr. C. '22 Section 59; Cr. C. '12 Section 197; 1902 (23) 1094; 2024 Act No. 171 (H.3748), Section 1, eff May 20, 2024.

Effect of Amendment

2024 Act No. 171, Section 1, rewrote the section.

SECTION 16-11-690.

Failure to return boat, flat or tool used for mining phosphate.

Any person being entrusted with any boat, flat or tools for gathering phosphate rock by the owner thereof for the purpose of mining or gathering phosphate rock who shall fail to return the same to the owner within two days after being required by such owner so to do shall be guilty of a misdemeanor and, upon conviction thereof before a court of competent jurisdiction, shall be fined in the sum of not more than fifty dollars or imprisoned not more than thirty days, in the discretion of the court. It shall be a complete defense to any indictment or prosecution instituted under this section if the defendant shall make it appear that his failure to return the property was due to his inability so to return the same, such inability not being the result of the defendant's act, or that the agreed time in which such property was to be returned had not expired at the time of his failure to return the same.

HISTORY: 1962 Code Section 16-393; 1952 Code Section 16-393; 1942 Code Section 1205; 1932 Code Section 1205; Cr. C. '22 Section 93; Cr. C. '12 Section 254; Cr. C. '02 Section 195; 1900 (23) 445.

SECTION 16-11-700.

Dumping litter on private or public property prohibited; exceptions; responsibility for removal; penalties.

(A) A person, from a vehicle or otherwise, may not dump, throw, drop, deposit, discard, or otherwise dispose of litter or other solid waste, as defined by Section 44-96-40(2), (6), (32), (33), (43), (46), (73), and (74), and including cigarette butts and cigarette component litter, upon waters or public or private property in the State for which he is not the legal owner or a person otherwise granted permission by the legal owner including, but not limited to, a highway, park, beach, campground, forest land, recreational area, trailer park, road, street, or alley except:

(1) on property designated by the State for the disposal of litter and other solid waste and the person is authorized to use the property for that purpose; or

(2) into a litter receptacle in a manner that the litter is prevented from being carried away or deposited by the elements upon a part of the private or public property or waters.

(B) Responsibility for the removal of litter from property or receptacles is upon the person convicted pursuant to this section of

littering the property or receptacles. If there is no conviction for littering, the responsibility is upon the owner of the property.

(C) A person who violates the provisions of this section in an amount not more than fifteen pounds, including cigarette butts and cigarette components, is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars and not more than one hundred dollars or imprisoned for not more than thirty days. In addition to the fine or term of imprisonment, the court also must impose eight hours of litter-gathering labor or other form of community service.

(D) The fine for a deposit of a collection of litter or garbage in an amount not more than fifteen pounds in an area or facility not intended for public deposit of litter or garbage is not less than fifty dollars and not more than one hundred and fifty dollars. The provisions of this subsection apply to a deposit of litter or solid waste, as defined by Section 44-96-40(2), (6), (32), (33), (43), (46), (73), and (74), including cigarette butts and cigarette components, in an area or facility not intended for public deposit of litter or garbage. This subsection does not prohibit a private property owner from depositing litter or garbage as a property enhancement if the depositing does not violate applicable local or state health and safety regulations. In addition to a fine and for each offense pursuant to the provisions of this subsection, the court also shall impose a minimum of sixteen hours of litter-gathering labor or other form of community service.

(1) The court, instead of payment of the monetary fine imposed for a violation of this section, may direct the substitution of additional litter-gathering labor or other form of community service.

(2) In addition to other punishment authorized by this section, in the discretion of the court in which conviction is obtained, the person may be directed by the judge to pick up and remove from any public place or any private property, with prior permission of the legal owner of the property upon which it is established by competent evidence that the person has deposited litter, all litter deposited on the place or property by any person before the date of execution of sentence.

(E) A person who violates the provisions of this section in an amount exceeding fifteen pounds, but not exceeding five hundred pounds on any public or private property, any portion of the road right of way, fresh-water lake, river, canal or stream, or tidal or coastal waters of the State must be charged with illegal dumping of litter and is guilty of a misdemeanor and, upon conviction, must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete sixteen hours of litter-gathering labor or perform other community service. For a second conviction, the person must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete twenty-four hours of litter-gathering labor or other community service. For a third or subsequent conviction, the person must be fined not less than two hundred dollars nor more than five hundred dollars or imprisoned for not more than thirty days. In addition, the court shall require the violator to complete thirty-two hours of litter-gathering labor or other community service.

(F)(1) A person who violates the provisions of this section in an amount exceeding five hundred pounds is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars, or imprisoned not more than one year, or both. In addition, the court may order the violator to:

(a) remove or render harmless the litter that he dumped in violation of this subsection;

(b) repair or restore property damaged by, or pay damages for damage arising out of, his dumping of litter in violation of this subsection; or

(c) perform community service relating to the removal of litter dumped in violation of this subsection or relating to the restoration of an area polluted by litter dumped in violation of this subsection.

(2) A court may enjoin a violation of this subsection.

(3) A motor vehicle, vessel, aircraft, container, crane, winch, or machine involved in the disposal of more than five hundred pounds of litter in violation of this subsection is declared contraband and is subject to seizure and summary forfeiture to the State.

(4) If a person sustains damages in connection with a violation of this subsection that gives rise to a felony against the person or his property, a court, in a civil action for those damages, shall order the wrongdoer to pay the injured party threefold the actual damages or two hundred dollars, whichever amount is greater. In addition, the court shall order the wrongdoer to pay the injured party's court costs and attorney's fees.

(5) A fine imposed pursuant to this subsection must not be suspended, in whole or in part.

(G)(1) When the penalty for a violation of this section includes litter-gathering labor in addition to a fine or imprisonment, the litter-gathering portion of the penalty is mandatory and must not be suspended; however, the court, upon the request of a person convicted of violating this section, may direct that the person pay an additional monetary penalty instead of the litter-gathering portion of the penalty that must be equal to the amount of fifteen dollars an hour of litter-gathering labor. Probation must not be granted instead of the litter-gathering requirement, except for a person's physical or other incapacities.

(2) Funds collected pursuant to this subsection instead of the mandatory litter-gathering labor must be remitted to the county or municipality where the littering violation took place. The money collected may be used for the litter-gathering supervision.

(H) A prior violation within the meaning of this section means only a violation of this section which occurred within a period of five years including and immediately preceding the date of the last violation.

(I) Magistrates and municipal courts have jurisdiction to try violations of subsections (A), (B), (C), (D), (E), and (F).

(J)(1) This section shall not apply to the discarding of deceased fish, game, or wildlife, or the parts or remains thereof, taken as a result of legal hunting or fishing pursuant to Title 50. The exception provided for by this subsection does not apply to deceased animals, animal parts, or remains thereof that are deposited or discarded onto the private lands or waters of another without the owner's permission.

(2) For the purposes of subsections (E) and (F), illegal dumping is defined as disposing of more than fifteen pounds of any collection

of solid waste, litter, or other materials defined in subsection (A), including discarded, deceased animals or deceased animal parts which create a hazard to the public health and welfare, but not defined as a careless, scattered littering of smaller items.

(K)(1) Nothing in this section shall prohibit the authority of a local government to enforce ordinances relating to the upkeep of property pursuant to Section 4-9-25 and Section 5-7-80.

(2) If a conflict occurs between this section and the Solid Waste Policy and Management Act as contained in Chapter 96, Title 44, the latter controls.

(L) The Department of Public Safety shall maintain statistical information regarding citations issued pursuant to this section.

(M) Nothing in this section shall be construed as granting any cause of action against the State, any political subdivision, or any employee thereof acting in their official capacity to an individual performing community service under this section who is completing litter pickup without direct oversight, including any claim under Workers' Compensation. Routine follow up to ensure completion of litter pickup by a county, municipality, or state employee is not considered oversight.

HISTORY: 1962 Code Section 16-396; 1952 Code Section 33-551; 1949 (46) 466; 1953 (48) 160; 1957 (50) 269; 1959 (51) 140; 1966 (54) 2290; 1967 (55) 209, 478; 1971 (57) 853; 1972 (57) 2563; 1973 (58) 205; 1978 Act No. 496 Section 7; 1987 Act No. 135 Section 1; 1988 Act No. 530, Sections 1, 3; 1991 Act No. 63, Section 2; 1992 Act No. 307, Section 1; 1993 Act No. 184, Section 92; 1994 Act No. 288, Section 1; 1994 Act No. 497, Part II, Section 36U; 1999 Act No. 100, Part II, Section 106; 2000 Act No. 387, Part II, Section 54B; 2000 Act No. 387, Part II, Section 92A; 2004 Act No. 306, Section 1, eff September 8, 2004; 2018 Act No. 214 (H.4458), Section 1, eff May 18, 2018.

Effect of Amendment

2018 Act No. 214, Section 1, rewrote the section, restructuring the offenses to include cigarette butts, cigarette component litter, and deceased animals in the purview of the statute and restructuring penalties.

SECTION 16-11-710.

Acceptance of cash bond in lieu of immediate court appearance in litter control prosecutions.

When any person is charged with a violation of 16-11-700 or any county ordinance relating to litter control, any officer authorized to enforce such law or ordinance may accept a cash bond in lieu of requiring an immediate court appearance. Such bond shall not exceed the maximum fine provided for a conviction of the offense charged and may be forfeited to the court by the enforcement officer if the person charged fails to appear in court.

HISTORY: 1962 Code Section 16-396.1; 1975 (59) 317.

SECTION 16-11-720.

Dumping trash in or along shoreline of Lake Greenwood; penalties.

(1) It shall be unlawful for any person to dump, leave or throw any rubbish, trash, garbage, cans, bottles, containers, paper, oil, grease or other similar substances or dead animals into the waters or along the shoreline of Lake Greenwood.

(2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 16-396.1; 1971 (57) 490.

SECTION 16-11-725.

Rummaging through or stealing household garbage for purposes of committing identity theft; penalty; exception for officers of the law.

(A) It is unlawful for a person to rummage through or steal another person's household garbage or litter, as defined in Section 44-67-30(4), for the purpose of committing financial identity fraud or identity fraud or identity theft as defined in Sections 16-13-510 and 37-20-110.

(B)(1) A person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars for the first violation and one thousand dollars for each subsequent violation.

(2) A person who knowingly and wilfully violates the provisions of this section is guilty of a Class F felony and, upon conviction, must be imprisoned not more than five years and fined not more than one thousand dollars, or both.

(C) A conviction pursuant to the provisions of this section and the possession of identifying information as defined in Section 16-13-510 is prima facie evidence of financial identity fraud, identity fraud, or identity theft pursuant to Sections 16-13-510 and 37-20-110.

(D) This section does not prohibit a duly constituted officer of the law from performing his official duties in ferreting out offenders or suspected offenders against violating the laws of this State or a county or municipality for the purpose of apprehending the suspected violator. The provisions of this section must not be construed to give an officer any additional rights or powers upon private property but must be construed as preserving only his previous powers.

HISTORY: 2008 Act No. 190, Section 5, eff December 31, 2008.

Editor's Note

Section 44-67-30(4), referenced in (A), was repealed by 2015 Act No. 8.

SECTION 16-11-730.

Malicious injury to or interference with microwave radio or television facilities; unauthorized use of facilities.

Any person who shall (1) wilfully or maliciously break, injure or otherwise destroy or damage any of the posts, wires, towers or other materials or fixtures employed in the construction or use of any line of a television coaxial cable, or a microwave radio system or a community antenna television system or (2) wilfully or maliciously interfere with such structure so erected or (3) in any way attempt to lead from its uses or make use of the electrical signal or any portion thereof properly belonging to or in use or in readiness

to be made use of for the purposes of using said electrical signal from any television coaxial cable company or microwave system or a community antenna television system or owner of such property shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or by imprisonment for not more than one year, or both, in the discretion of the court.

HISTORY: 1962 Code Section 16-397; 1964 (53) 1742.

SECTION 16-11-740.

Wilful and malicious injury to telegraph, telephone, or electric utility system.

(A) For purposes of this section only, "electric utility system" means all plants, facilities, assets, and equipment owned, leased, or operated for the generation, transmission, distribution, or storage of electricity, regardless of generation source, and all natural gas facilities, including natural gas pipeline infrastructure.

(B)(1) It is unlawful for a person, without the consent of the owner, to wilfully and maliciously:

(a) destroy, damage, or in any way injure a telegraph, telephone, electric utility system, satellite dish, or cable television system, including poles, cables, wires, fixtures, antennas, amplifiers, or other apparatus, equipment, or appliances;

(b) obstruct, impede, or impair their services or transmissions; or

(c) aid, employ, or conspire with a person to do or cause to be done any of the acts mentioned in this subsection.

(2) A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction:

(a) if the amount of the damage or loss is less than ten thousand dollars, must be fined in the discretion of the court or imprisoned not more than ten years, or both;

(b) if the amount of the damage or loss is ten thousand dollars or more but less than twenty-five thousand dollars, must be fined in the discretion of the court or imprisoned not more than fifteen years, or both;

(c) if the amount of the damage or loss is twenty-five thousand dollars or more, must be fined in the discretion of the court or imprisoned not more than twenty years, or both.

(3) A person who violates the provisions of this subsection is guilty of a felony if the destruction or damage results in the death or bodily injury of a person, or an imminent danger to the life, health, or safety of a person, and, upon conviction, must be fined in the discretion of the court or imprisoned for not more than twenty-five years, or both.

(4) Evidence of the amount of damages or loss shall be calculated to include the cost of the repair or replacement of equipment, buildings, or structures damaged, the estimated lost revenue caused by the destructive acts, and any related damages that can reasonably be associated with the interruption of service to affected, dedicated utility customers.

(C)(1) It is unlawful for a person, without consent of the owner, to wilfully and maliciously by means of or use of a firearm or destructive device as defined by Section 16-23-710, to:

(a) destroy, damage, or in any way injure:

(i) an electric utility system; or

(ii) a gasoline, natural gas, or propane utility system, including poles, cables, wires, pipelines, storage containers, fixtures, or other apparatus, equipment, or appliances; or

(iii) a telegraph, telephone, satellite dish, or cable television system, including poles, cables, wires, fixtures, antennas, amplifiers, or other apparatus, equipment, or appliances;

(b) obstruct, impede, or impair their services or transmissions; or

(c) aid, employ, or conspire with a person to do or cause to be done any of the acts mentioned in subitems (a) and (b).

(2) A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty-five years and may be fined in the discretion of the court.

(D) Any person whose property or person is injured by reason of a violation of this section shall have a right of action on account of such injury done against the person who committed the violation and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation of this section. If damages are assessed in such case the plaintiff shall be entitled to recover damages fixed by the verdict, together with costs, including attorneys' fees and, in the discretion of the court, punitive damages. The rights and remedies provided by this subsection are in addition to any other rights and remedies provided by law. For purposes of this subsection, "damages" includes actual and consequential damages.

HISTORY: 1962 Code Section 16-399; 1969 (56) 651; 1989 Act No. 21, Section 1; 1993 Act No. 184, Section 29; 2023 Act No. 76 (S.330), Section 1, eff June 19, 2023.

Effect of Amendment

2023 Act No. 76, Section 1, rewrote the section.

SECTION 16-11-750.

Unlawful injury or interference with electric lines.

It shall be unlawful for any person within this State, wilfully and wantonly and without the consent of the owner, (a) to take down, remove, injure, obstruct, displace or destroy any line erected or constructed for the transmission of electrical current or any poles, towers, wires, conduits, cables, insulators or support upon which wires or cables may be suspended or any part of any such line or appurtenances or apparatus connected therewith, (b) to sever any wire or cable thereof or in any manner interrupt the transmission of electrical current over and along any such line, (c) to take down, remove, injure or destroy any house, shop, building or other structure or machinery connected with or necessary to the use of any line erected or constructed for the transmission of electrical current or (d) to wantonly or wilfully cause injury to any of the property mentioned in this section by means of fire. Any person violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more

than five hundred dollars or imprisoned not longer than one year, or both fined and imprisoned, in the discretion of the court. But nothing herein contained shall operate to prevent any person from removing any such wires or apparatus affixed to his private property without his consent.

HISTORY: 1962 Code Section 24-453; 1952 Code Section 24-453; 1942 Code Section 1202; 1932 Code Section 1202; Cr. C. '22 Section 91; Cr. C. '12 Section 252; 1902 (23) 1102; 1904 (24) 443; 1908 (25) 1078.

SECTION 16-11-755.

Operation of certain motor vehicles on utility rights of way unlawful; penalties.

(1) It shall be unlawful for any person other than the landowner or someone who specifically acts with his permission, or an employee or agent of the utility which owns the utility right-of-way concerned to operate a mini-bike, motor-bike, motorcycle, jeep, dune buggy, automobile, truck or other power driven vehicle on the land which constitutes the utility right-of-way if the utility, after obtaining permission of the landowner in writing, posts signs at conspicuous places on such right-of-way which read substantially as follows:

"NO TRESPASSING

It is unlawful to operate a mini-bike, motor-bike, motorcycle, jeep, dune buggy, automobile, or truck upon this right-of-way.

Violators will be subject to a fine of two hundred dollars."

(2) The prohibition of trespass as provided for in this section does not contradict or in any manner diminish the property rights of the owner of the land subject to the easement or of the utility's rights in its easement.

(3) Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred dollars for each offense.

HISTORY: 1979 Act No. 86 Section 1.

SECTION 16-11-760.

Parking on private property without permission; removal of vehicles; lien for towing and storage; sale of vehicles; penalty for violation.

(A) It is unlawful for a person to park a vehicle, as defined in Section 56-5-5630, on the private property of another without the owner's consent. If the property is for commercial use, the owner must post a notice in a conspicuous place on the borders of the property near each entrance prohibiting parking. Proof of the posting is considered notice conclusive against the person making entry.

(B) A vehicle found parked on private property may be towed and stored at the expense of the registered owner or lienholder, subject to the limitations on allowed storage charges set forth in Section 29-15-10, and charges for towing, storing, preserving the vehicle, and expenses incurred if the owner and lienholder are notified pursuant to Section 29-15-10 constitute a lien against the vehicle, provided that the towing company makes notification to the law enforcement agency pursuant to Section 56-5-2525.

(C) If the vehicle is not claimed by the owner, lienholder, or his agent, the vehicle must be sold pursuant to Section 29-15-10 by a magistrate in the county in which the vehicle was towed or stored.

(D) A person violating the provisions of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not more than thirty days. This punishment is in addition to the other remedies authorized in this section.

HISTORY: 1962 Code Section 46-807; 1958 (50) 1670; 1966 (54) 2075; 1987 Act No. 185 Section 1; 2003 Act No. 71, Section 2, eff June 25, 2003; 2004 Act No. 269, Section 10, eff July 6, 2004; 2022 Act No. 233 (H.3729), Section 1, eff June 17, 2022.

Effect of Amendment

2022 Act No. 233, Section 1, in (B), inserted "subject to the limitations on allowed storage charges set forth in Section 29-15-10,".

SECTION 16-11-770.

Illegal graffiti vandalism; penalty; removal or restitution.

(A) As used in this section, "illegal graffiti vandalism" means an inscription, writing, drawing, marking, or design that is painted, sprayed, etched, scratched, or otherwise placed on structures, buildings, dwellings, statues, monuments, fences, vehicles, or other similar materials that are on public or private property and that are publicly viewable, without the consent of the owner, manager, or agent in charge of the property.

(B) It is unlawful for a person to engage in the offense of illegal graffiti vandalism and, upon conviction, for a:

(1) first offense, is guilty of a misdemeanor and must be fined not more than one thousand dollars or imprisoned not more than thirty days;

(2) second offense, within ten years, is guilty of a misdemeanor and must be fined not more than two thousand five hundred dollars or imprisoned not more than one year; and

(3) third or subsequent offense within ten years of a first offense, is guilty of a misdemeanor and must be fined not more than three thousand dollars or imprisoned not more than three years.

(C) In addition to the penalties provided in subsection (B), a person convicted of the offense of illegal graffiti vandalism also may be ordered by the court to remove the illegal graffiti, pay the cost of the removal of the graffiti, or make further restitution in the discretion of the court.

HISTORY: 2007 Act No. 82, Section 9, eff June 12, 2007; 2018 Act No. 204 (S.959), Section 1, eff May 17, 2018.

Effect of Amendment

2018 Act No. 204, Section 1, in (B), in (1), substituted "not more than thirty days" for "not less than thirty days nor more than ninety days".

SECTION 16-11-780.

Prohibition on entering certain lands to discover, uncover, move, remove, or attempt to remove archaeological resource; definitions; penalty; exception.

(A) As used in this section:

(1) "Archaeological resource" means all artifacts, relics, burial objects, or material remains of past human life or activities that are at least one hundred years old and possess either archaeological or commercial value, including pieces of pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, rock paintings, rock carving, intaglios, graves, or human skeletal materials.

(2) "Archaeological value" means the value of the data associated with the archaeological resource. This value may be appraised in terms of the costs of the retrieval of the scientific information that would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(3) "Commercial value" means the fair market value of the archaeological resource. When a violation has resulted in damage to the archaeological resource, the fair market value may be determined using the condition of the archaeological resource prior to the violation, to the extent its prior condition can be ascertained.

(4) "Cost of restoration and repair" means the sum of the costs incurred for emergency restoration or repairs to an archaeological resource, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

(a) reconstruction of the archaeological resource;

(b) stabilization of the archaeological resource;

(c) ground contour reconstruction and surface stabilization;

(d) physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

(e) examination and analysis of the archaeological resource, including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining resources that cannot be otherwise conserved; or

(f) preparation of reports relating to any of the activities described in this section.

(5) "Posted lands" means lands where the State has complied with the notice or warning requirement which must either be posted or given to an offender pursuant to Section 16-11-600.

(B) The court may call upon the Office of the State Archaeologist to provide evidence to assist in determining, calculating, or computing archaeological value, commercial value, or the cost of restoration and repair of an archaeological resource.

(C) It is unlawful for a person to wilfully, knowingly, or maliciously enter upon the lands of another or the posted lands of the State and disturb or excavate a prehistoric or historic site for the purpose of discovering, uncovering, moving, removing, or attempting to remove an archaeological resource. Each unlawful entry and act of disturbance or excavation of a prehistoric or historic site constitutes a separate and distinct offense.

(D) For a first offense, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined, imprisoned, or both, pursuant to the jurisdiction of magistrates as provided in Section 22-3-550.

(E) For a second offense for violating this section on the same property as the first offense or on another posted property, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars or more than three thousand dollars or imprisoned not more than three years, or both.

(F) For a third or subsequent offense for violating this section on the same property as the first offense or on another posted property, a person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(G) For the purposes of subsections (E) and (F) of this section, a second, third, or subsequent offense on the same property as the first offense or on another posted property must include no offense that occurs more than ten years after conviction for the first offense.

(H) All equipment and conveyances including, but not limited to, trailers, motor vehicles, and watergoing vessels that were used in connection with felony violations of this section are subject to forfeiture to the State in the same manner as equipment and conveyances are subject to forfeiture pursuant to Section 44-53-520, if the offender either owns the equipment or conveyance or is a resident of the equipment or conveyance owner's household.

(1) All equipment and conveyances subject to confiscation and forfeiture under this section may be confiscated by any law enforcement officer as provided in this section. The confiscating officer shall deliver the confiscated property immediately to the county or municipality where the offense occurred. The county or municipality shall notify the registered owner of the confiscated property by certified mail within seventy-two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the court. The confiscation hearing must be held within ten days from the date of receipt of the request. The confiscated property must be returned to the registered owner if the registered owner shows by a preponderance of the evidence that he did not know the confiscated property was used in the commission of the crime, that he did not give permission for the confiscated property to be used in the commission of the crime, and that the confiscated property had not been used for a previous violation of this section on the posted land where this offense occurred or other posted land.

(2) The county or municipality in possession of the confiscated property shall provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(3) Forfeiture of property is subordinate in priority to all valid liens and encumbrances.

(4) A person whose property is subject to forfeiture under this section is entitled to a jury trial if requested.

(I) The landowner, in the case of private lands, or the State, in the case of state lands, may bring a civil action for a violation of this section to recover the greater of the archaeological resource's archaeological value or commercial value, and the cost of restoration and repair of the site where the archaeological resource was located, plus attorney's fees and court costs.

(J) Nothing contained in this section shall limit or interfere with a landowner's lawful use of his property or with the state's ability to conduct archaeological investigations or excavations on either state lands or private lands with the consent of the landowner.

(K) Nothing contained in this section shall limit or interfere with:

(1) a landowner's lawful use of his property;

(2) the lawful acts of a landowner's employee, agent, or independent contractor acting in the scope of and in the course of his employment, agreement, or contract;

(3) the lawful acts of a utility worker acting in the scope of and in the course of his employment; or

(4) the state's ability to conduct archaeological investigations or excavations on either state lands or private lands with the consent of the landowner.

HISTORY: 2010 Act No. 255, Section 1, eff June 11, 2010.

ARTICLE 8

Theft of Cable Television Service Act

SECTION 16-11-810.

Short title.

This article may be cited as the Theft of Cable Television Service Act.

HISTORY: 1984 Act No. 407.

SECTION 16-11-815.

Definitions.

As used in this article, "cable television service" includes (1) services provided by or through the facilities of any cable television system or closed circuit coaxial cable communication system, and (2) any transmission service used in connection with any cable television system or similar closed circuit coaxial cable communication system.

HISTORY: 1984 Act No. 407.

SECTION 16-11-820.

Use of service without authorization or payment; presumption arising from connection of device to cable or closed circuit system.

It is unlawful for any person knowingly to obtain or use cable television service without the authorization of, or payment to, the operator of the service. It is permissible to infer that the existence of any connection, wire, conductor, or other device whatsoever, between facilities of a cable television system or closed circuit coaxial cable communication system and the premises occupied by the person which makes possible the use of cable television service by any person without that use being specifically authorized by, or compensation paid to, the operator of cable television service indicates that the occupant of the premises has violated this section. If any person pays the amount charged for service provided by the operator of the cable television system, whether or not the amount billed is in conformity with the established charges for the service, the person is not guilty of any offense hereunder by reason of the use of the service.

HISTORY: 1984 Act No. 407; 1987 Act No. 95 Section 2.

SECTION 16-11-825.

Unauthorized connection or use of device to cable television system.

It is unlawful for any person to make or use a connection not authorized by the operator of a cable television service, whether physical, electrical, mechanical, electronic, induction, or otherwise, or to attach any unauthorized device, or permit the attachment of any unauthorized connection or device to any cable, wire, or other component of a cable television system or service or to a television set connected into the system or service, for the purpose of permitting the reception and viewing of signals which are intended to be received and viewed only upon payment to the operator of the cable television system of the lawful charge therefor.

HISTORY: 1984 Act No. 407.

SECTION 16-11-830.

Aiding or abetting another person in obtaining cable service without payment.

It is unlawful for any person to assist, instruct, aid or abet, or attempt to assist, instruct, aid or abet any other person in obtaining any cable television service without payment of the lawful charge therefor.

HISTORY: 1984 Act No. 407.

SECTION 16-11-835.

Sale, lease, or advertising of equipment for avoidance of cable service charge.

It is unlawful for any person, firm, or corporation to advertise, promote the sale of, sell, rent, install, or use any instrument, apparatus, equipment, or device, or plans or instructions for making or assembling the same, designed or adapted to avoid the lawful charge for any cable television service.

HISTORY: 1984 Act No. 407.

SECTION 16-11-840.

Unauthorized device designed to decode or descramble cable television signal.

It is unlawful for any person, without the express authorization of a franchised or other duly licensed cable television system,

knowingly and wilfully to manufacture, import into this State, distribute, sell, offer to sell, possess for sale, advertise for sale, or install any device, or any plan or kit for a device or for a printed circuit, designed in whole or in part to decode, descramble, or otherwise make intelligible any encoded, scrambled, or other nonstandard signal carried by that cable television system. For the purposes of this section, "encoded, scrambled, or other nonstandard signal" includes, but is not limited to, any type of signal not intended to produce an intelligible program or service without the aid of a decoder, descrambler, filter, trap, or similar device.

HISTORY: 1984 Act No. 407.

SECTION 16-11-845.

Use, sale, or installation of converter for unauthorized reception of intelligible signals.

It is unlawful for any person (a) to use a converter or similar device for the reception of intelligible signals without the authorization of the operator of the cable television system, (b) to sell a converter or similar device to any other person with knowledge that the person intends to use it for the reception of intelligible signals without the authorization of the operator of the cable television system or, (c) to install a converter or similar device for any other person with knowledge that the person intends to use it for the reception of intelligible signals without the authorization of the operator of the cable television system. This section does not prohibit the manufacture, distribution, or sale of any television receiver in which a converter has been incorporated by the manufacturer.

HISTORY: 1984 Act No. 407.

SECTION 16-11-850.

Receipt of signals from air by use of satellite dish or antenna.

Nothing in this article makes it unlawful to receive or capture signals from the air by use of a satellite dish, antenna, or otherwise.

HISTORY: 1984 Act No. 407.

SECTION 16-11-855.

Penalties.

Any person who violates any section of this article is guilty of a misdemeanor and upon conviction for a first offense must be fined not more than two hundred dollars or imprisoned for not more than thirty days and for a second and subsequent offense fined not more than one thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1984 Act No. 407.

ARTICLE 9

Bootleg and Counterfeit Records, Tapes, and Recordings

SECTION 16-11-910.

Prohibitions relative to sound recordings; application of section.

(A) It is unlawful for a person to:

(1) knowingly and wilfully transfer or cause to be transferred, for commercial advantage or private financial gain, without the consent of the owner, any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, the article on which such sounds are transferred;

(2) advertise, offer for sale or resale, or sell or resell, or cause the sale or resale, or rent or cause the rental of, or possess for any of these purposes any article described in item (1) with the knowledge that the sounds on it have been transferred without the consent of the owner;

(3) offer or make available for a fee, rental, or other form of compensation, directly or indirectly, any equipment or machinery with the knowledge that it will be used by another to reproduce, without the consent of the owner, a phonograph record, disc, wire, tape, film, or other article on which sounds have been transferred. The provisions of this item do not apply to reproduction in the home for private use and with no purpose of otherwise capitalizing commercially on the reproduction; or

(4) transport for commercial advantage or private financial gain within this State or cause to be transported within this State an article with the knowledge that the sounds on it have been transferred without the consent of the owner.

A person who violates this section, upon conviction, must be punished as provided for in Section 16-11-920.

(B) As used in this section:

(1) "Person" means an individual, partnership, corporation, company, association, any communications media including, but not limited to, radio or television, broadcasters or licensees, newspapers, magazines, or other publications, or media which offer facilities for the purposes stated in this chapter, or other legal entity.

(2) "Owner" means the person who owns the original fixed sounds embodied in the master phonograph record, master disc, master tape, master film, or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films, or other articles on which sound is or can be recorded and from which the transferred recorded sounds are directly or indirectly derived.

(3) "Fixed" means embodied in a tangible medium of expression when its embodiment in an article, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

(4) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original. This section neither enlarges nor diminishes the right of parties in private litigation nor does it apply to the transfer by a radio or television broadcaster of any sounds (other than from the sound track of a motion picture) intended for, or in connection with,

broadcast transmission or related uses or for archival purposes. An owner of a record, disc, wire, tape, film, or other article or device which is transferred unlawfully or used in violation of this section has a cause of action in the circuit court of this State against the party committing the violation for all damages resulting therefrom, including actual, compensatory, incidental, and punitive.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1.

SECTION 16-11-911.

Definitions; unlawful recording of motion pictures.

(A) As used in this section:

(1) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

(2) "Audiovisual recording device" means any device, camera, or audio or video recorder with the capability of recording, transferring, or transmitting sounds or images of a motion picture in part or in whole, including any device now existing or later developed.

(3) "Person" means an individual, partnership, corporation, company, association, or other legal entity.

(4) "Motion picture theater" means a movie theater, screening room, or other venue used primarily for the exhibition of a motion picture but does not include the lobby or other common areas, a personal residence, or retail establishment.

(5) "Theater owner" means the owner, operator, or lessee of a motion picture theater and includes an employee or agent of the owner, operator, or lessee.

(B) It shall be unlawful for any person to knowingly and wilfully operate an audiovisual recording device in a motion picture theater, with intent to record a motion picture, without written consent from the theater owner.

(C) In any action brought by reason of having been delayed by a theater employee or agent on or near the premises of a theater establishment for the purpose of investigation concerning the unlawful operation of an audiovisual recording device, it shall be a defense to such action if:

(1) the person was delayed in a reasonable manner and for a reasonable time to permit such investigation; and

(2) reasonable cause existed to believe that the person delayed had committed the crime of unlawful operation of a recording device.

(D) This section does not prevent any lawfully authorized investigative agency, law enforcement agency, protective services agency, or intelligence-gathering agency of the local, state, or federal government from operating an audiovisual recording device in a motion picture theater where a motion picture is being exhibited as part of a lawfully authorized investigative, protective, law enforcement, or intelligence-gathering activity.

HISTORY: 2005 Act No. 64, Section 1, eff May 23, 2005.

SECTION 16-11-915.

Prohibitions relative to live performances; persons considered proper witnesses; application of section.

(A) It is unlawful for a person to:

(1) advertise or offer for sale or resale, or sell or resell, or cause the sale or resale, or rent or cause the rental of, or transport or cause to be transported, or possess for any of these purposes for commercial advantage or private financial gain any article containing a live performance with the knowledge that the live performance has been fixed without the consent of the owner of the live performance; or

(2) record or fix or cause to be recorded or fixed on an article with the intent to sell for commercial advantage or private financial gain, the live performance with the knowledge that the live performance has been recorded or fixed without the consent of the owner of the live performance. The provisions of this item (2) shall not apply to reproduction in the home for private use and with no purpose of otherwise capitalizing commercially on the reproduction.

A person who violates this section, upon conviction, must be punished as provided for in Section 16-11-920.

(B) As used in this section:

(1) "Person" means an individual, partnership, corporation, company, association, or other legal entity.

(2) "Owner", in the absence of a written agreement or operation of law to the contrary, is presumed to be the performer of the live performance.

(3) "Fixed" means embodied in a tangible medium of expression when its embodiment in an article, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration.

(4) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or a copy or reproduction which duplicates in whole or in part, the original.

(5) "Live performance" means the recitation, rendering, or playing of a series of images or musical, spoken, or other sounds in any audible sequence.

(C) For the purposes of this section, a person who is authorized to maintain custody and control over business records which reflect whether or not the owner consented to having the live performance recorded or fixed is a proper witness in any proceeding regarding the issue of consent.

(D) A witness called pursuant to this section is subject to all rules of evidence relating to the competency of a witness to testify and the relevance and admissibility of the testimony offered.

(E) This section neither enlarges nor diminishes the rights and remedies of parties in private litigation nor does it apply to the

transfer by a radio or television broadcaster of any such sounds, other than from the sound track of a motion picture, intended for, or in connection with, broadcast transmission or related uses or for archival purposes.

HISTORY: 1989 Act No. 92, Section 1.

SECTION 16-11-920.

Penalties.

(A) A person who violates the provisions of Section 16-11-911 is guilty of a misdemeanor and, upon conviction:

- (1) for a first offense, must be fined not more than five thousand dollars or imprisoned not more than one year, or both;
- (2) for a second offense, must be fined not more than ten thousand dollars or imprisoned not more than two years, or both;
- (3) for a third and each subsequent offense, must be fined not more than fifteen thousand dollars or imprisoned not more than three years, or both.

(B) A person who violates the provisions of Section 16-11-910 or 16-11-915 is guilty of a felony and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than five years, or both, if the offense:

- (1) involves at least one thousand unauthorized articles embodying sound or sixty-five unauthorized audio visual articles during any one hundred eighty-day period; or
- (2) is a second or subsequent conviction under Section 16-11-910 or 16-11-915.

(C) A person who violates the provisions of Section 16-11-910 or 16-11-915 is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than two years, or both, if the offense involved:

- (1) more than one hundred but less than one thousand unauthorized articles embodying sound during any one hundred eighty-day period; or
- (2) more than ten but less than sixty-five unauthorized audiovisual articles during any one hundred eighty-day period.

(D) A person who violates the provisions of Section 16-11-910 or 16-11-915 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars for a first offense and not more than ten thousand dollars for a second or subsequent offense if the offense or both offenses involve not more than:

- (1) twenty-five unauthorized articles embodying sound during any one hundred eighty-day period; or
- (2) ten unauthorized audiovisual articles during any one hundred eighty-day period.

(E) A person who violates any other provision of Section 16-11-910 or 16-11-915 is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both.

(F) If a person is convicted of a violation of Section 16-11-910, 16-11-911, or 16-11-915, the court shall order the forfeiture and destruction or other disposition of all:

- (1) infringing articles;
- (2) implements, devices, and equipment used or intended to be used in the manufacture of the infringing articles.

These penalties are not exclusive but are in addition to other penalties provided by law.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1; 1993 Act No. 184, Section 93; 2005 Act No. 64, Section 2, eff May 23, 2005.

SECTION 16-11-930.

Illegal distribution of recordings without name and address of manufacturer and designation of featured artist.

It is unlawful for a person to manufacture or knowingly sell, distribute, circulate, or cause to be sold, distributed, or circulated, advertise, resell or offer for sale or resale, or cause the sale or resale, or rent or cause the rental, or transport or cause to be transported, or possess for any of these purposes for commercial advantage or private financial gain, a phonograph record, tape, album of phonograph records or tapes, or any other article without the actual name and street address of the manufacturer, and the name of the actual performer or group prominently disclosed on the outside cover, box, or jacket containing the record, tape, album of records or tapes, or any other article. A person who violates this section, upon conviction, must be punished as provided for in Section 16-11-940. A law enforcement officer in this State, when charging a person with a violation of this section, if possible at the time of arrest, shall confiscate any records, tapes, albums, or other articles and, upon conviction of the person, the records, tapes, albums, or other articles must be destroyed.

As used in this section:

- (1) "Person" means an individual, partnership, corporation, association, or other legal entity.
- (2) "Manufacturer" means a person who actually transfers or causes the transfer of any sound or images recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded or assembles and transfers any product containing such transferred sounds or images as a component of it.
- (3) "Article" means the tangible medium upon which sounds or images are recorded or otherwise stored and includes any original phonograph record, disc, tape, audio or video cassette, wire, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1.

SECTION 16-11-940.

Penalties for violations of Section 16-11-930.

(A) A person who violates the provisions of Section 16-11-930 is guilty of a felony and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than five years, or both, if the offense involves at least one thousand unauthorized articles embodying sound or at least sixty-five unauthorized audio-visual articles, or is a second or subsequent conviction under Section 16-11-930.

(B) A person violating the provisions of Section 16-11-930 is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty thousand dollars or imprisoned not more than two years, or both, if the offense involves more than one hundred but less than one thousand unauthorized articles embodying sound or more than ten but less than sixty-five unauthorized audio-visual articles.

(C) A person violating the provisions of Section 16-11-930 is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars for a first offense and not more than ten thousand dollars for a second or subsequent offense if the offense or both offenses involve not more than twenty-five unauthorized articles embodying sound or not more than ten unauthorized audio-visual articles.

(D) A person violating the provisions of Section 16-11-930 is guilty of a misdemeanor and, upon conviction, must be fined not more than twenty-five thousand dollars or imprisoned not more than one year, or both, in any other case.

(E) If a person is convicted of a violation of Section 16-11-930, the court shall order the forfeiture and destruction or other disposition of all:

(1) infringing articles;

(2) implements, devices, and equipment used or intended to be used in the manufacture of the infringing articles.

The penalties provided in this section are not exclusive and are in addition to any other penalties provided by law.

(F) Each violation of Section 16-11-930 constitutes a separate offense.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1; 1993 Act No. 184, Section 94.

SECTION 16-11-950.

Exceptions.

The provisions of this article do not apply to sounds or calls of wild birds or animals.

HISTORY: 1975 (59) 592; 1989 Act No. 92, Section 1.

Title 16 - Crimes and Offenses

CHAPTER 13

Forgery, Larceny, Embezzlement, False Pretenses and Cheats

ARTICLE 1

Miscellaneous Offenses

SECTION 16-13-10.

Forgery.

(A) It is unlawful for a person to:

- (1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;
- (2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing;
- (3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or
- (4) willingly act or assist in any of the premises, with an intention to defraud any person.

(B) A person who violates the provisions of this section is guilty of a:

- (1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ten thousand dollars or more;
- (2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ten thousand dollars.

(C) If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 16-351; 1952 Code Section 16-351; 1942 Code Section 1211; 1932 Code Section 1211; Cr. C. '22 Section 99; Cr. C. '12 Section 528; Cr. C. '02 Section 373; G. S. 2527; R. S. 295; 1736-7 (3) 470-1 Sections 3-7; 1783 (4) 543; 1801 (5) 397; 1845 (11) 341; 1930 (36) 1203; 1993 Act No. 184, Section 106; 1995 Act No. 7, Part I Section 5; 2010 Act No. 273, Section 16.D, eff June 2, 2010.

SECTION 16-13-15.

Falsifying or altering transcript or diploma; fraudulent use of falsified or altered transcript or diploma; penalty.

(A) It is unlawful for any person to falsify or alter a transcript, a diploma, or the high school equivalency diploma known as the GED from any high school, college, university, or technical college of this State, from the South Carolina Department of Education, or from any other transcript or diploma issuing entity.

(B) It is also unlawful for any person to use in this State a falsified or altered transcript, diploma, or high school equivalency diploma known as the GED from the South Carolina Department of Education, or from any in-state or out-of-state high school, college, university, or technical school, or from any other transcript or diploma issuing entity with the intent to defraud or mislead another person.

(C) Any person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1982 Act No. 295; 2002 Act No. 219, Section 1, eff April 22, 2002.

SECTION 16-13-30.

Petit larceny; grand larceny.

(A) Simple larceny of any article of goods, choses in action, bank bills, bills receivable, chattels, or other article of personalty of which by law larceny may be committed, or of any fixture, part, or product of the soil severed from the soil by an unlawful act, or has a value of two thousand dollars or less, is petit larceny, a misdemeanor, triable in the magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.

(B) Larceny of goods, chattels, instruments, or other personalty valued in excess of two thousand dollars is grand larceny. Upon conviction, the person is guilty of a felony and must be fined in the discretion of the court or imprisoned not more than:

- (1) five years if the value of the personalty is more than two thousand dollars but less than ten thousand dollars;
- (2) ten years if the value of the personalty is ten thousand dollars or more.

HISTORY: 1962 Code Section 16-353; 1952 Code Section 16-353; 1942 Code Section 1160; 1932 Code Section 1160; Cr. C. '22 Section 53; Cr. C. '12 Section 203; Cr. C. '02 Section 164; G. S. 2498; R. S. 160; 1866 (13) 407; 1887 (19) 820; 1964 (53) 1725; 1981 Act No. 76, Section 4; 1993 Act No. 171, Section 5; 1993 Act No. 184, Section 107; 2010 Act No. 273, Section 16.E, eff June 2, 2010.

SECTION 16-13-35.

Presumed value of credit card subject to larceny.

Notwithstanding any other provision of law, in any criminal prosecution where a credit card currently in force is the subject of a larceny, the value of the same shall be prima facie presumed to be greater than fifty dollars.

As used in this section "credit card" shall mean an identification card, credit number, credit device or other credit document issued to a person by a business organization which permits such person to purchase or obtain goods, property or services on the credit of such organization.

HISTORY: 1978 Act No. 526.

SECTION 16-13-40.

Stealing of bonds and the like.

(A) It is unlawful for a person to steal or take by robbery a bond, warrant, bill, or promissory note for the payment or securing the payment of money belonging to another.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the instrument stolen or taken has a value of two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the instrument stolen or taken is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the instrument stolen or taken has a value of ten thousand dollars or more.

HISTORY: 1962 Code Section 16-354; 1952 Code Section 16-354; 1942 Code Section 1142; 1932 Code Section 1142; Cr. C. '22 Section 36; Cr. C. '12 Section 181; Cr. C. '02 Section 147; G. S. 2486; R. S. 144; 1737 (3) 470; 1993 Act No. 184, Section 108; 2010 Act No. 273, Section 16.F, eff June 2, 2010.

SECTION 16-13-50.

Stealing livestock; confiscation of motor vehicle or other chattel.

(A) A person convicted of the larceny of a horse, mule, cow, hog, or any other livestock is guilty of a:

(1) felony and, upon conviction, must be imprisoned not more than ten years or fined not more than twenty-five hundred dollars, or both, if the value of the livestock is ten thousand dollars or more;

(2) felony and, upon conviction, must be imprisoned not more than five years or fined not more than five hundred dollars, or both, if the value of the livestock is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the livestock is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

(B) A motor vehicle or other chattel used by or found in possession of a person engaged in the commission of a crime under this section is subject to confiscation and must be confiscated and sold under the provisions of Section 27-21-10.

HISTORY: 1962 Code Section 16-355; 1952 Code Section 16-355; 1942 Code Section 1144; 1932 Code Section 1144; Cr. C. '22 Section 38; Cr. C. '12 Section 183; Cr. C. '02 Section 149; G. S. 2489; R. S. 146; 1878 (16) 632; 1929 (36) 101; 1954 (48) 1705; 1964 (53) 1722; 1971 (57) 478; 1993 Act No. 171, Section 6; 1993 Act No. 184, Section 109; 2010 Act No. 273, Section 16.G, eff June 2, 2010.

SECTION 16-13-60.

Stealing dogs.

(1) It shall be unlawful for any person to steal a dog in which any other person has a right of property.

(2) Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars or imprisoned for a term not to exceed six months, or both, in the discretion of the court.

HISTORY: 1962 Code Section 16-355.1; 1972 (57) 2354.

SECTION 16-13-65.

Aquaculture operations; stealing or damaging products or facilities.

(A) All wildlife including finfish, shellfish, crustacean, and plant species held and cultivated by bonafide aquaculture operations remain the private property of the culturist until sold, traded, or bartered.

(B) It is unlawful for a person to steal or attempt to steal or otherwise take without prior authorization any cultured wildlife including finfish, shellfish, crustacean, or plants from a bonafide aquaculture operation, posted as such, in this State.

(C) It is unlawful for a person to transfer, damage, vandalize, poison, or attempt to transfer, damage, vandalize, or poison the product or facilities of a bonafide aquaculture operation, posted as such, in this State. No person may cast or cause to be cast poison, impurities, or other substances which are injurious to aquaculture species into the waters or water supply of a bonafide aquaculture operation, posted as such, in this State. No person may attempt to impair or impede an aquaculturist or his employees while in pursuit of lawful activities associated with aquaculture.

Nothing in this section precludes the enforcement of or the applicability of a statute contained in Title 50.

HISTORY: 1989 Act No. 121, Section 1.

SECTION 16-13-66.

Penalties for violating Section 16-13-65.

(A) A person violating the provision of Section 16-13-65 is guilty of a misdemeanor and, upon conviction:

(1) for the first offense, must be fined an amount not to exceed one thousand dollars or imprisoned for a term not to exceed one year, or both, and shall pay restitution to the culturist an amount determined by the court. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, an offense punishable under this item may be tried in magistrates or municipal court.

(2) for a second offense, must be fined an amount not to exceed two thousand dollars or imprisoned for a term not less than two months and thirty days community service nor more than one year, or both, and shall pay restitution to the culturist an amount

determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(3) for a third or subsequent offense, must be fined an amount not to exceed five thousand dollars or imprisoned for a term not less than six months nor more than two years, or both, and shall pay restitution to the culturist an amount determined by the court. Furthermore, all equipment, including, but not limited to, vehicles, fishing devices, coolers, and nets must be seized and forfeited to the court.

(B) If the value of such property stolen or damaged is less than two hundred dollars, the case shall be tried in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and the punishment shall be a fine of not more than one thousand dollars or imprisonment for not more than thirty days, or both.

HISTORY: 1989 Act No. 121, Section 2; 2010 Act No. 273, Section 16.H, eff June 2, 2010.

SECTION 16-13-70.

Stealing of vessels and equipment; payment of damages.

(A) It is unlawful for a person to steal, take away, or let loose any boat, piragua, or canoe; or steal or take away any grappling, painter, rope, sail, or oar from any landing or place where the owner or person in whose service or employ the thing stolen, taken away, or let loose was last attached or laid, except boats or canoes let loose from another boat, canoe, or vessel.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days.

(C) In addition to the punishment specified in this section, the person must make good to the person injured all damages sustained and, if the matter be a trespass only, the person committing the offense shall make good to the person injured all damages that accrued.

HISTORY: 1962 Code Section 16-356; 1952 Code Section 16-356; 1942 Code Section 1143; 1932 Code Section 1143; Cr. C. '22 Section 37; Cr. C. '12 Section 182; Cr. C. '02 Section 148; G. S. 2488; R. S. 145; 1695 (2) 105; 1897 (22) 422; 1963 (53) 551; 1993 Act No. 184, Section 110; 2010 Act No. 273, Section 16.I, eff June 2, 2010.

SECTION 16-13-80.

Larceny of bicycles.

The larceny of a bicycle is a misdemeanor and, upon conviction, the person must be punishable at the discretion of the court. When the value of the bicycle is less than two thousand dollars, the case is triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 16-357; 1952 Code Section 16-357; 1942 Code Section 1145; 1932 Code Section 1145; Cr. C. '22 Section 39; Cr. C. '12 Section 184; Cr. C. '02 Section 150; 1901 (23) 749; 1919 (31) 215; 1931 (37) 343; 1964 (53) 1720; 1981 Act No. 76, Section 5; 1993 Act No. 171, Section 7; 2010 Act No. 273, Section 16.J, eff June 2, 2010.

SECTION 16-13-100.

Stealing crude turpentine.

Whoever shall steal any crude turpentine of the value of five dollars, whether dipped or scraped from the trees or not or whether barreled or not, from any place whatsoever shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not more than one hundred dollars or imprisonment not exceeding thirty days.

HISTORY: 1962 Code Section 16-359; 1952 Code Section 16-359; 1942 Code Section 1207; 1932 Code Section 1207; Cr. C. '22 Section 95; Cr. C. '12 Section 257; Cr. C. '02 Section 197; R. S. 184; 1893 (21) 506.

SECTION 16-13-105.

Definitions; shoplifting and similar offenses.

When used in Sections 16-13-110, 16-13-120 and 16-13-140 the terms listed below shall have the following meanings:

(1) "Conceal" means to hide merchandise on the person or among the belongings of a person so that, although there may be some notice of its presence, it is not visible through ordinary observation.

(2) "Full retail value" means the merchant's stated or advertised price of merchandise.

(3) "Merchandise" means any goods, chattels, foodstuffs or wares of any type and description, regardless of value.

(4) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee or independent contractor of the owner or operator.

(5) "Store or other retail mercantile establishment" means a place where merchandise is displayed, held, stored or sold or offered to the public for sale.

HISTORY: 1978 Act No. 507 Section 1.

SECTION 16-13-110.

Shoplifting.

(A) A person is guilty of shoplifting if he:

(1) takes possession of, carries away, transfers from one person to another or from one area of a store or other retail mercantile establishment to another area, or causes to be carried away or transferred any merchandise displayed, held, stored, or offered for sale by any store or other retail mercantile establishment with the intention of depriving the merchant of the possession, use, or benefit of the merchandise without paying the full retail value;

(2) alters, transfers, or removes any label, price tag marking, indicia of value, or any other markings which aid in determining value affixed to any merchandise displayed, held, stored, or offered for sale in a store or other retail mercantile establishment and attempts to purchase the merchandise personally or in consort with another at less than the full retail value with the intention of depriving the merchant of the full retail value of the merchandise;

(3) transfers any merchandise displayed, held, stored, or offered for sale by any store or other retail mercantile establishment from the container in which it is displayed to any other container with intent to deprive the merchant of the full retail value.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than thirty days if the value of the shoplifted merchandise is two thousand dollars or less;

(2) felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both, if the value of the shoplifted merchandise is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be imprisoned not more than ten years if the value of the shoplifted merchandise is ten thousand dollars or more.

HISTORY: 1962 Code Section 16-359.1; 1956 (49) 1770; 1978 Act No. 507 Section 2; 1985 Act No. 67; 1993 Act No. 171, Section 8; 1993 Act No. 184, Section 111; 2010 Act No. 273, Section 16.K, eff June 2, 2010.

SECTION 16-13-111.

Reports of shoplifting convictions.

A first offense shoplifting prosecution or second offense resulting in a conviction shall be reported by the magistrate or city recorder hearing the case to the Communications and Records Division of the South Carolina Law Enforcement Division which shall keep a record of such conviction so that any law enforcement agency can inquire into whether or not a defendant has a prior record.

HISTORY: 1978 Act No. 507 Section 3.

SECTION 16-13-120.

Shoplifting; presumptions from concealment of unpurchased goods.

It is permissible to infer that any person wilfully concealing unpurchased goods or merchandise of any store or other mercantile establishment either on the premises or outside the premises of the store has concealed the article with the intention of converting it to his own use without paying the purchase price thereof within the meaning of Section 16-13-110. It is also permissible to infer that the finding of the unpurchased goods or merchandise concealed upon the person or among the belongings of the person is evidence of wilful concealment. If the person conceals or causes to be concealed the unpurchased goods or merchandise upon the person or among the belongings of another, it is also permissible to infer that the person so concealing such goods wilfully concealed them with the intention of converting them to his own use without paying the purchase price thereof within the meaning of Section 16-13-110.

HISTORY: 1962 Code Section 16-359.2; 1956 (49) 1770; 1987 Act No. 95 Section 3.

SECTION 16-13-130.

Sections 16-13-110 and 16-13-120 cumulative.

The offense created by Section 16-13-110 and the inferences provided in Section 16-13-120 are not exclusive and are in addition to previously existing offenses and those rights and presumptions as were heretofore provided by law.

HISTORY: 1962 Code Section 16-359.3; 1956 (49) 1770; 1987 Act No. 95 Section 4.

SECTION 16-13-131.

Product code creation to fraudulently obtain goods or merchandise for less than the actual sales price; penalties.

(A) It is unlawful for a person to create or conspire with another person to create a product code for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.

(B) It is unlawful for a person to commit or conspire with another person to commit larceny against a merchant by affixing a product code created for the purpose of fraudulently obtaining goods or merchandise from a merchant at less than its actual sale price.

(C) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

HISTORY: 2013 Act No. 82, Section 1, eff June 13, 2013.

SECTION 16-13-135.

Retail theft; penalties.

(A) As used in this section:

(1) "Retail property" means a new article, product, commodity, item, or component intended to be sold in retail commerce.

(2) "Retail property fence" means a person or business that buys retail property knowing or believing that the retail property is stolen.

(3) "Theft" means to take possession of, carry away, transfer, or cause to be carried away the retail property of another with the intent to steal the retail property.

(4) "Value" means the retail value of an item as offered for sale to the public by the affected retail establishment and includes all applicable taxes.

(B) It is unlawful for a person to:

(1) commit theft of retail property from a retail establishment, with a value exceeding two thousand dollars aggregated over a ninety-day period, with the intent to sell the retail property for monetary or other gain, and sell, barter, take, or cause the retail property to be placed in the control of a retail property fence or other person in exchange for consideration;

(2) conspire with another person to commit theft of retail property from a retail establishment, with a value exceeding two thousand dollars aggregated over a ninety-day period, with the intent to:

(a) sell, barter, or exchange the retail property for monetary or other gain; or

(b) place the retail property in the control of a retail property fence or other person in exchange for consideration; or

(3) receive, possess, or sell retail property that has been taken or stolen in violation of item (1) or (2) while knowing or having reasonable grounds to believe the property is stolen. A person is guilty of this offense whether or not anyone is convicted of the property theft.

(C) Acts committed in different counties that have been aggregated in one count may be indicted and prosecuted in any one of the counties in which the acts occurred. In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur within one city, county, or local jurisdiction.

(D) Property, funds, and interest a person has acquired or maintained in violation of this section are subject to forfeiture pursuant to the procedures for forfeiture as provided in Section 44-53-530.

(E) A person who violates this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than three years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than twenty years, or both.

HISTORY: 2013 Act No. 82, Section 2, eff June 13, 2013.

SECTION 16-13-140.

Defense to action for delay to investigate ownership of merchandise.

In any action brought by reason of having been delayed by a merchant or merchant's employee or agent on or near the premises of a mercantile establishment for the purpose of investigation concerning the ownership of any merchandise, it shall be a defense to such action if: (1) The person was delayed in a reasonable manner and for a reasonable time to permit such investigation, and (2) reasonable cause existed to believe that the person delayed had committed the crime of shoplifting.

HISTORY: 1962 Code Section 16-359.4; 1965 (54) 537.

SECTION 16-13-150.

Purse snatching.

It is unlawful for a person to snatch suddenly and carry away from another a purse or other thing of value with intent to deprive the owner or person lawfully in possession of the article in circumstances not constituting grand larceny or robbery.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

HISTORY: 1962 Code Section 16-359.5; 1965 (54) 266; 1993 Act No. 184, Section 175.

SECTION 16-13-160.

Breaking into motor vehicles or tanks, pumps and other containers where fuel or lubricants are stored.

(A) It is unlawful for a person to:

(1) break or attempt to break into a motor vehicle or its compartment with the intent to steal it or anything of value from it, or attached or annexed to it, or used in connection with it or in the perpetration of any criminal offense; or

(2) break or attempt to break any tank, pump, or other vessel where kerosene, gasoline, or lubricating oil is stored or kept with intent to steal any such product.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than one thousand dollars, or both.

HISTORY: 1962 Code Section 16-360; 1952 Code Section 16-360; 1942 Code Section 1154-1; 1935 (39) 478; 1936 (39) 1342; 1993 Act No. 184, Section 30.

SECTION 16-13-165.

Unlawful actions involving counterfeit or nonfunctional airbags; penalties; definitions.

(A) It is unlawful for a person to:

(1) knowingly and intentionally import, manufacture, sell, offer for sale, install, or reinstall in a motor vehicle, a counterfeit airbag, a nonfunctional airbag, or an object that the person knows was not designed to comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208), as amended, for the make, model, and year of the motor vehicle;

(2) knowingly and intentionally sell, offer for sale, install, or reinstall in any motor vehicle a device that causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag;

(3) knowingly and intentionally sell, lease, trade, or transfer a motor vehicle if the person knows that a counterfeit airbag, a

nonfunctional airbag, or an object that the person knows was not designed to comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208), as amended, for the make, model, and year of the motor vehicle has been installed as part of the motor vehicle's inflatable restraint system.

(B)(1) A person who violates the provisions of this section by knowingly and intentionally installing or reinstalling an airbag that is counterfeit, nonfunctional, does not comply with the federal regulations described in subsection (A), or installs or reinstalls a device that causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag is:

(a) for a first offense, guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned for not more than one year, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(2) A person who violates the provisions of this section by knowingly and intentionally importing, manufacturing, selling, or offering to sell, an airbag that is counterfeit, nonfunctional, does not comply with the federal regulations described in subsection (A), or a device that causes a motor vehicle's diagnostic system to inaccurately indicate that the motor vehicle is equipped with a properly functioning airbag is:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

(3) A person who violates the provisions of this section by knowingly and intentionally selling, leasing, trading, or transferring a motor vehicle when the person knows that the motor vehicle contains an airbag that is counterfeit, nonfunctional, or does not comply with the federal regulations described in subsection (A), is:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

(4) A person whose violation of subsection (B)(2) or (B)(3) results in great bodily harm or death is:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than twenty-five thousand dollars or imprisoned for not more than ten years, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than one hundred thousand dollars or imprisoned for not more than twenty years, or both.

(5) Persons other than individuals who violate the provisions of subsection (A) are:

(a) for a first offense, guilty of a felony and, upon conviction, must be fined not more than one million dollars or imprisoned subject to the discretion of the judge, or both;

(b) for a second or subsequent offense, guilty of a felony and, upon conviction, must be fined not more than ten million dollars or imprisoned subject to the discretion of the judge, or both.

(C) For purposes of this section:

(1) "Airbag" means an inflatable restraint system, or portion of an inflatable restraint system including, but not limited to, the cushion material, cover, sensors, controllers, inflators, and wiring that (a) operates in the event of a crash, and (b) is designed in accordance with federal motor vehicle safety standards for the make, model, and year of the motor vehicle in which it is or will be installed.

(2) "Counterfeit airbag" means an airbag that bears without authorization a mark identical or substantially similar to the genuine mark of the manufacturer of a motor vehicle or a supplier of parts to the manufacturer of a motor vehicle.

(3) "Nonfunctional airbag" means a replacement airbag that has been previously deployed or damaged or that has an electrical fault that is detected by the vehicle diagnostic system after the installation procedure is completed. A nonfunctional airbag also includes any object, including a counterfeit or repaired airbag, airbag component, or other component intended to deceive a vehicle owner or operator into believing that it is a functional airbag.

(4) "Person" or "persons" means an individual, a group of individuals, whether incorporated or not, a corporation, a company, an association, an organization, a partnership, or any other form of legal entity.

HISTORY: 2016 Act No. 271 (S.1015), Section 1, eff June 9, 2016.

SECTION 16-13-170.

Entering house or vessel without breaking with intent to steal; attempt to enter.

It is unlawful for a person to:

(1) enter, without breaking, or attempt to enter a house or vessel, with intent to steal or commit any other crime; or

(2) conceal himself in a house or vessel, with intent to commit a crime.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

HISTORY: 1962 Code Section 16-361; 1952 Code Section 16-361; 1942 Code Section 1154; 1932 Code Section 1154; Cr. C. '22 Section 48; Cr. C. '12 Section 198; 1905 (24) 849; 1993 Act No. 184, Section 31.

SECTION 16-13-175.

Confiscation and forfeiture of motor vehicle used in larceny; hearing.

(A) In addition to the penalties for larceny of property, the motor vehicle used in the commission of the larceny may be confiscated and forfeited to the jurisdiction where the larceny occurred if the offender is the registered owner of the motor vehicle and the offender used the motor vehicle during the commission of the offense.

(B) A motor vehicle subject to confiscation and forfeiture under this section may be confiscated by any law enforcement officer upon a warrant issued by any court having jurisdiction or upon probable cause to believe that the motor vehicle was used pursuant to subsection (A). The confiscating officer shall deliver the motor vehicle immediately to the county or municipality where the larceny occurred. The county or municipality shall notify the registered owner of the motor vehicle by certified mail within seventy-two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the presiding judge of the judicial circuit or his designated hearing officer. The confiscation hearing must be held within ten days from the date of receipt of the request. The motor vehicle must remain confiscated unless the registered owner can show by a preponderance of the evidence that the confiscation and forfeiture would cause an undue hardship on his family. The county or municipality in possession of the motor vehicle shall provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(C) Upon the conviction of the person owning and using the motor vehicle in the larceny of property, or upon his plea of guilty or nolo contendere to this offense, the county or municipality where the larceny occurred may initiate an action in the circuit court of the county in which the motor vehicle was seized to accomplish forfeiture by giving notice to registered owners of record, lienholders of record, and other persons claiming an interest in the motor vehicle subject to forfeiture and by giving these persons an opportunity to appear and show why the motor vehicle should not be forfeited and disposed of as provided for by this section. Failure of a person claiming an interest in the motor vehicle to appear at this proceeding after having been given notice constitutes a waiver of the claim. However, the failure to appear does not alter or affect the claim of a lienholder of record. The court, after hearing, may order that the motor vehicle be forfeited to the county or municipality and sold as provided in this section or returned to the registered owner. The court may order a motor vehicle returned to the registered owner if it is shown by a preponderance of the evidence that forfeiture of the motor vehicle would cause an undue hardship on the registered owner's family. Forfeiture of a motor vehicle is subordinate in priority to all valid liens and encumbrances. Under this subsection, a person is entitled to a jury trial if requested.

(D) If the person fails to file an appeal within ten days after the conviction, the forfeited motor vehicle is considered abandoned and must be disposed of as provided by Section 56-5-5640. However, if the fair market value of the motor vehicle is less than five hundred dollars, it must be sold as scrap to the highest bidder after first receiving at least two bids.

(E) All costs relating to the confiscation and forfeiture of a motor vehicle under this section, including expenses for court costs and storage of the motor vehicle, must be paid from the proceeds of the sale of the motor vehicle.

HISTORY: 1995 Act No. 56, Section 1.

SECTION 16-13-177.

Timber theft; forfeiture of property.

(A) In addition to the penalties provided by law, when an offense in violation of Section 16-11-580, 16-13-30, 16-13-230, or 16-13-240 involves timber theft valued in excess of five thousand dollars, all motor vehicles, conveyances, tractors, trailers, watercraft, vessels, tools, and equipment of any kind, used or positioned for use, in acquiring, cutting, harvesting, manufacturing, producing, processing, delivering, importing, or exporting timber or timber products that are known by the owner to be used in the commission of the offense may be confiscated and forfeited to the jurisdiction where the offense occurred if the offender is the owner or registered owner of the property and the offender or someone under his direction or control knowingly used the property during the commission of the offense.

(B) Property subject to forfeiture under this section may be seized or confiscated by any law enforcement officer incident to a lawful arrest or a warrant issued for the purpose by a court of competent jurisdiction pursuant to subsection (A). The confiscating officer must deliver the property immediately to the county or municipality where the offense occurred. The county or municipality must notify the registered owner of the property by certified mail within seventy-two hours of the confiscation. Upon notice, the registered owner has ten days to request a hearing before the presiding judge of the judicial circuit or his designated hearing officer. The forfeiture hearing must be held within ten days from the date of receipt of the request. The property confiscated must be returned to the registered owner unless the Forestry Commission, a county, or a municipality can show by a preponderance of the evidence that the property seized was knowingly used in the commission of the crime. In the event the commission, a county, or municipality is unable to make such a showing, all property seized under this section must be returned to the owner upon proof of ownership and the posting of a bond in a sufficient amount not to exceed ten thousand dollars. The county or municipality in possession of the property must provide notice by certified mail of the confiscation to all lienholders of record within ten days of the confiscation.

(C) Upon conviction of a person owning and using the seized property or upon his plea of nolo contendere to an offense subjecting the property to forfeiture, the county or municipality where the offense occurred or the Forestry Commission may initiate an action in the circuit court of the county in which the property was seized to accomplish forfeiture by giving notice to registered owners of record, lienholders of record, and other persons claiming an interest in the property subject to forfeiture and by giving these persons notice and an opportunity to appear and show cause why the property should not be forfeited and disposed of as provided in this section. Failure of a person claiming an interest in the property to appear at this proceeding after having been given notice constitutes a waiver of the claim. However, the failure to appear does not affect the claim of a lienholder of record. The court, after

hearing, may order the property forfeited to the county or municipality and sold as provided in this section or returned to the owner or registered owner. Forfeiture of property is subordinate in priority to all valid liens and encumbrances. A person whose property is subject to forfeiture under this section is entitled to a jury trial if requested.

(D) When property is forfeited under this section, the judge must order the property sold at public auction by the seizing agency as provided by law. Notwithstanding any other provision of law, proceeds from the sale may be used by the agency for payment of all proper expenses of the proceeding for the forfeiture and sale of the property, including the expenses of the seizure, maintenance, and custody and other costs incurred by the implementation of this section. The net proceeds of any sale pursuant to this section shall be distributed to the victim of the offense in an amount to be determined by the presiding judge and any remaining proceeds shall be disbursed to the South Carolina Commission on Forestry to be used exclusively for timber theft enforcement, prevention, and awareness.

HISTORY: 2002 Act No. 288, Section 1, eff May 28, 2002.

SECTION 16-13-180.

Receiving stolen goods, chattels, or other property; receiving or possessing property represented by law enforcement as stolen; penalties.

(A) It is unlawful for a person to buy, receive, or possess stolen goods, chattels, or other property if the person knows or has reason to believe the goods, chattels, or property is stolen. A person is guilty of this offense whether or not anyone is convicted of the property theft.

(B) It is unlawful for a person to knowingly receive or possess property from an agent of a law enforcement agency that was represented to the person by the same or other agent of the law enforcement agency as stolen. For purposes of this section, the person receiving or possessing the property need not know the person is receiving or has received the property from an agent of a law enforcement agency, and the property need not be actually stolen.

(C) A person who violates this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days;

(2) misdemeanor and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than three years, if the value of the property is more than two thousand dollars but less than ten thousand dollars; or

(3) felony and, upon conviction, must be fined not less than two thousand dollars or imprisoned not more than ten years, if the value of the property is ten thousand dollars or more.

(D) For purposes of this section, the receipt of multiple items in a single transaction or event constitutes a single offense.

(E) For purposes of this section, multiple offenses occurring within a ninety-day period may be aggregated into a single count with the aggregated value used to determine whether the violation is a misdemeanor or felony as provided in subsection (C).

HISTORY: 1962 Code Section 16-362; 1952 Code Section 16-362; 1942 Code Section 1161; 1932 Code Section 1161; Cr. C. '22 Section 54; Cr. C. '12 Section 204; Cr. C. '02 Section 165; G. S. 25, 26a; R. S. 161; 1712 (2) 543; 1760 (4) 309; 1887 (19) 814; 1964 (53) 1721; 1981 Act No. 76, Section 6; 1988 Act No. 640; 1993 Act No. 171, Section 9; 1993 Act No. 184, Section 112; 2010 Act No. 273, Section 16.L, eff June 2, 2010; 2013 Act No. 82, Section 7, eff June 13, 2013.

SECTION 16-13-181.

Action for damages resulting from violation of Section 16-13-180.

Any person who has been injured or suffered damages because of a violation of Section 16-13-180 may bring an action in the circuit court against the person convicted of the violation for three times the amount of damages suffered, if any, plus costs of the action and reasonable attorney fees.

HISTORY: 1980 Act No. 489.

SECTION 16-13-185.

Failure to pay for gasoline; penalties.

(A) No person shall drive a motor vehicle so as to cause it to leave the premises of an establishment at which gasoline offered for retail sale was dispensed into the fuel tank of the motor vehicle unless due payment or authorized charge for the gasoline so dispensed has been made.

(B) A person who intentionally violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both, and, at the discretion of the sentencing judge, the person's driver's license may be suspended for a period not to exceed thirty days for a first offense and for a period not to exceed ninety days for a second or subsequent offense.

HISTORY: 2000 Act No. 223, Section 1.

SECTION 16-13-210.

Embezzlement of public funds.

(A) It is unlawful for an officer or other person charged with the safekeeping, transfer, and disbursement of public funds to embezzle these funds.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of the embezzlement and imprisoned not more than ten years if the amount of the embezzled funds is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court to be proportioned to the amount of embezzlement and

imprisoned not more than five years if the amount of the embezzled funds is less than ten thousand dollars.

(C) The person convicted of a felony is disqualified from holding any office of honor or emolument in this State; but the General Assembly, by a two-thirds vote, may remove this disability upon payment in full of the principal and interest of the sum embezzled.

HISTORY: 1962 Code Section 16-363; 1952 Code Section 16-363; 1942 Code Section 1510; 1932 Code Section 1510; Cr. C. '22 Section 459; Cr. C. '12 Section 534; Cr. C. '02 Section 378; 1898 (22) 810; 1934 (38) 1197; 1993 Act No. 184, Section 113; 1995 Act No. 7, Part I Section 6; 2010 Act No. 273, Section 16.M, eff June 2, 2010.

Validity

For the validity of (C) of this section, see *Pinckney v. Peeler*, 862 S.E.2d 906 (S.C. 2021).

SECTION 16-13-220.

Embezzlement of public funds; presumption on proof of failure to account for receipts.

In trials under Section 16-13-210, upon production of evidence tending to prove that any such officer or other person has received public funds and failed to account for the funds as required by law, it is permissible to infer that the funds received and unaccounted for have been fraudulently appropriated by the officer or person.

HISTORY: 1962 Code Section 16-364; 1952 Code Section 16-364; 1942 Code Section 1510; 1932 Code Section 1510; Cr. C. '22 Section 459; Cr. C. '12 Section 534; Cr. C. '02 Section 378; 1898 (22) 810; 1934 (38) 1197; 1987 Act No. 95 Section 5.

SECTION 16-13-230.

Breach of trust with fraudulent intent.

(A) A person committing a breach of trust with a fraudulent intention or a person who hires or counsels another person to commit a breach of trust with a fraudulent intention is guilty of larceny.

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the amount is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years if the amount is ten thousand dollars or more.

HISTORY: 1962 Code Section 16-365; 1952 Code Section 16-365; 1942 Code Section 1149; 1932 Code Section 1149; Cr. C. '22 Section 43; Cr. C. '12 Section 188; Cr. C. '02 Section 154; G. S. 2493; R. S. 150; 1866 (13) 406; 1993 Act No. 171, Section 10; 1993 Act No. 184, Section 114; 2010 Act No. 273, Section 16.N, eff June 2, 2010.

SECTION 16-13-240.

Obtaining signature or property by false pretenses.

A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 16-366; 1952 Code Section 16-366; 1942 Code Section 1171; 1932 Code Section 1171; Cr. C. '22 Section 64; Cr. C. '12 Section 220; Cr. C. '02 Section 168; G. S. 2499; R. S. 162; 1876 (26) 39; 1893 (21) 507; 1894 (21) 824; 1960 (51) 1598; 1981 Act No. 76, Section 7; 1993 Act No. 171, Section 11; 1993 Act No. 184, Section 115; 2010 Act No. 273, Section 16.O, eff June 2, 2010.

SECTION 16-13-250.

Effect when obtaining signature or property by false pretenses amounts to larceny.

If upon the trial of any person indicted for a misdemeanor under the provisions of Section 16-13-240 it shall be proved that he obtained the property in such a manner as to amount in law to larceny he shall not, by reason thereof, be entitled to be acquitted of such misdemeanor. No person tried for such misdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts.

HISTORY: 1962 Code Section 16-367; 1952 Code Section 16-367; 1942 Code Section 1171; 1932 Code Section 1171; Cr. C. '22 Section 64; Cr. C. '12 Section 220; Cr. C. '02 Section 168; G. S. 2499; R. S. 162; 1876 (26) 39; 1893 (21) 507; 1894 (21) 824.

SECTION 16-13-260.

Obtaining property under false tokens or letters.

A person who falsely and deceitfully obtains or gets into his hands or possession any money, goods, chattels, jewels, or other things of another person by color and means of any false token or counterfeit letter made in another person's name is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 16-368; 1952 Code Section 16-368; 1942 Code Section 1170; 1932 Code Section 1170; Cr. C. '22 Section 63; Cr. C. '12 Section 219; Cr. C. '02 Section 167; 1712 (2) 476; 1894 (21) 824; 1964 (53) 1723; 1993 Act No. 171, Section 12; 1993 Act No. 184, Section 116; 2010 Act No. 273, Section 16.P, eff June 2, 2010.

SECTION 16-13-290.

Securing property by fraudulent impersonation of officer.

It is unlawful for a person, with intent to defraud either the State, a county, or municipal government or any person, to act as an officer and demand, obtain, or receive from a person or an officer of the State, county, or municipal government any money, paper, document, or other valuable things. A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the property or thing obtained has a value of more than four hundred dollars.

(2) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days if the property or thing obtained has a value of four hundred dollars or less.

HISTORY: 1962 Code Section 16-369; 1952 Code Section 16-369; 1942 Code Section 1173; 1932 Code Section 1173; Cr. C. '22 Section 66; 1920 (31) 753; 1993 Act No. 184, Section 32; 2010 Act No. 273, Section 16.Q, eff June 2, 2010.

SECTION 16-13-300.

Fraudulent removal or secreting of personal property attached or levied on.

Whoever, with intent to defraud, removes or secretes personal property which has been attached or levied on by the sheriff or any other officer authorized by law to make such attachment or levy shall be guilty of a misdemeanor and, upon conviction, shall be punished by imprisonment in the county jail for a period not less than sixty days nor more than one year or by fine of not less than one hundred dollars nor more than two hundred dollars.

HISTORY: 1962 Code Section 16-370; 1952 Code Section 16-370; 1942 Code Section 1279; 1932 Code Section 1279; Cr. C. '22 Section 174; Cr. C. '12 Section 452; Cr. C. '02 Section 339; G. S. 2516; R. S. 278; 1873 (15) 448; 1879 (17) 2.

SECTION 16-13-310.

Taking official records without authority.

Any person who shall take any record from the office of the clerk of the court, judge of probate or master in equity without the consent of the officer having control of such record shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of fifty dollars for the first offense and for the second and any subsequent offense by a fine of one hundred dollars.

HISTORY: 1962 Code Section 16-371; 1952 Code Section 16-371; 1942 Code Section 1526; 1932 Code Section 1526; Cr. C. '22 Section 473; Cr. C. '12 Section 547; Cr. C. '02 Section 390; G. S. 2557; R. S. 307; 1882 (17) 871; 1885 (19) 415.

SECTION 16-13-320.

Swindling.

Whoever shall (a) inveigle or entice by any arts or devices any person to play at cards, dice or any other game or bear a share or part in the stakes, wagers or adventures or bet on the sides or hands of such as do or shall play as aforesaid, (b) sell, barter or expose to sale any kind of property which has been before sold, bartered or exchanged by the person so selling, bartering or exchanging or by anyone for the benefit or advantage of the person so selling, bartering or exchanging in any house or other place within this State or be a party thereto or (c) overreach, cheat or defraud by any other cunning, swindling arts and devices, so that the ignorant and unwary, who are deluded thereby, lose their money or other property, shall, on conviction thereof in any court of competent jurisdiction, be guilty of a misdemeanor and shall be fined at the discretion of the court and, besides, shall refund to the party aggrieved double the sum he was so defrauded of.

And if the same be not immediately paid, with costs, every such person shall be committed to the common jail or house of correction, if there be any, of the county in which such person shall be convicted, there to continue for any time not exceeding six months, unless such fine, with costs, be sooner paid and discharged.

HISTORY: 1962 Code Section 16-566; 1952 Code Section 16-566; 1942 Code Section 1746; 1932 Code Section 1746; Cr. C. '22 Section 728; Cr. C. '12 Section 713; Cr. C. '02 Section 515; G. S. 2508; R. S. 400; 1791 (5) 177.

SECTION 16-13-330.

Stealing or damaging works of literature or objects of art.

Any person who shall steal or unlawfully take or wilfully or maliciously write upon, cut, tear, deface, disfigure, soil, obliterate, break or destroy, or who shall sell or buy or receive, knowing it to have been stolen, any book, pamphlet, document, newspaper, periodical, map, chart, picture, portrait, engraving, statue, coin, medal, equipment, specimen, recording, film or other work of literature or object of art belonging to or in the care of a library, gallery, museum, collection, exhibition or belonging to or in the care of any department or office of the State or local government, or belonging to or in the care of a library, gallery, museum, collection or exhibition which belongs to any incorporated college or university or which belongs to any institution devoted to educational, scientific, literary, artistic, historical or charitable purposes shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 16-372; 1958 (50) 1929.

SECTION 16-13-331.

Unauthorized removal or concealment of library property prohibited; penalty.

Whoever, without authority, with the intention of depriving the library or archive of the ownership of such property, wilfully conceals a book or other library or archive property, while still on the premises of such library or archive, or wilfully or without authority removes any book or other property from any library or archive or collection shall be deemed guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, shall be punished in accordance with the following: by a fine of not more than six hundred dollars or imprisonment for not more than six months; provided, however, that if the value of the library or archive property is less than one hundred dollars, the punishment shall be a fine of not more than two hundred dollars or imprisonment for not more than thirty days. Proof of the wilful concealment of any book or other library or archive property while still on the premises of such library or archive shall be prima facie evidence of intent to commit larceny thereof.

HISTORY: 1980 Act No. 334; 2010 Act No. 273, Section 16.R, eff June 2, 2010.

SECTION 16-13-332.

Library personnel exempt from liability for arrest of persons suspected of concealment or removal of library property.

A library or agent or employee of the library causing the arrest of any person pursuant to the provisions of Section 16-13-331 shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest, or assault and battery of the person so arrested, unless excessive or unreasonable force is used; whether such arrest takes place on the premises by such agent or employee; provided that, in causing the arrest of such person, the library or agent or employee of the library had at the time of such arrest probable cause to believe that the person committed willful concealment of books or other library property.

HISTORY: 1980 Act No. 334.

SECTION 16-13-340.

Failure to return books, newspapers, magazines and the like borrowed from library and other institutions.

Whoever borrows from any county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition any book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article belonging to or in the care of such library, gallery, museum, collection or exhibition under any agreement to return it and thereafter fails to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article shall be given written notice, mailed to his last known address or delivered in person, to return such book, newspaper, magazine, manuscript, pamphlet, publication, recording, film or other article within fifteen days, and in the event that such person shall thereafter wilfully and knowingly fail to return such borrowed article within fifteen days, such person shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days, provided the notice required by this section shall bear upon its face a copy of this section.

HISTORY: 1962 Code Section 16-373; 1958 (50) 1929.

SECTION 16-13-350.

Posting copies of Sections 16-13-330 to 16-13-370.

Every county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition or any such institution belonging to any incorporated college or library or belonging to any incorporated institution devoted to educational, scientific, literary, artistic, historical or charitable purposes whose books, newspapers, magazines, manuscripts, pamphlets, publications, recordings, films or other articles are covered by or protected by Sections 16-13-330 and 16-13-340, shall post and display in at least two public places within such institution or library a copy of Sections 16-13-330 to 16-13-370 so that they may be read by anyone going into, visiting or belonging to such institution and borrowing books or other documents from such institution.

HISTORY: 1962 Code Section 16-374; 1958 (50) 1929.

SECTION 16-13-360.

Disposition of fines collected under Sections 16-13-330 and 16-13-340.

Any and all fines collected pursuant to the terms of Sections 16-13-330 and 16-13-340 shall be paid into the fund of the county library or municipal, school, college or other institutional library or gallery, museum, collection or exhibition injured by the act of the person so fined.

HISTORY: 1962 Code Section 16-375; 1958 (50) 1929.

SECTION 16-13-370.

Cumulative effect of Sections 16-13-330 to 16-13-360.

The provisions of Sections 16-13-330 to 16-13-360 are not intended as a substitute for or a replacement of any penalties now provided by law, but shall be considered accumulative and in addition thereto.

HISTORY: 1962 Code Section 16-376; 1958 (50) 1929.

SECTION 16-13-380.

Theft of electric current.

Any person who (a) has no contract, agreement, license, or permission with or from any person authorized to manufacture, sell, or use electricity for the purpose of light, heat, or power or with or from any authorized agent of the person for the use of electrical current belonging to or produced or furnished by the person and (b) wilfully withdraws or causes to be withdrawn in any manner and appropriate for his own use or for the use of any other person the current from the wires of the person authorized to manufacture, sell, or use electricity is guilty of a misdemeanor and, upon conviction for a first offense, must be punished by a fine

not exceeding five hundred dollars or by imprisonment not exceeding thirty days. For a second or subsequent offense, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both. Any person who shall aid, abet, or assist the person in the withdrawing and appropriating of the current from the wires to or for the use of the other person or to or for the use of any other person is guilty of a misdemeanor and, upon conviction, must be punished in like manner.

HISTORY: 1962 Code Section 24-451; 1952 Code Section 24-451; 1942 Code Section 1155; 1932 Code Section 1155; Cr. C. '22 Section 49; Cr. C. '12 Section 199; 1904 (24) 409; 1929 (36) 50; 1996 Act No. 369, Section 1.

SECTION 16-13-385.

Altering, tampering with or bypassing electric, gas or water meters; penalties.

(A) It is unlawful for an unauthorized person to alter, tamper with, or bypass a meter which has been installed for the purpose of measuring the use of electricity, gas, or water.

A meter found in a condition which would cause electricity, gas, or water to be diverted from the recording apparatus of the meter or to cause the meter to inaccurately measure the use of electricity, gas, or water or the attachment to a meter or distribution wire of any device, mechanism, or wire which would permit the use of unmetered electricity, gas, or water or would cause a meter to inaccurately measure the use is prima facie evidence that the person in whose name the meter was installed or the person for whose benefit electricity, gas, or water was diverted caused the electricity, gas, or water to be diverted from going through the meter or the meter to inaccurately measure the use of the electricity, gas, or water.

(B) A person who violates the provisions of this section for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than three years, or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than five years, or both.

(C) A person who violates the provisions of this section for profit or income on behalf of a person in whose name the meter was installed or a person for whose benefit electricity, gas, or water was diverted for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(D) A person who violates the provisions of this section and the violation results in property damage in excess of five thousand dollars or results in the risk of great bodily injury or death from fire, explosion, or electrocution for a:

(1) first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) second offense, is guilty of misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years or both; and

(3) third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(E) A person who violates the provisions of this section and the violation results in:

(1) great bodily injury to another person is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned not more than fifteen years, or both. For purposes of this item, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ; and

(2) the death of another person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(F) This section does not apply to licensed and certified contractors while performing usual and ordinary service in accordance with recognized standards.

(G) A person who violates the provisions of this section for the purpose of growing or manufacturing controlled substances listed, or to be listed, in the schedules in Sections 44-53-190, 44-53-210, 44-53-230, 44-53-250, and 44-53-270 is guilty of a felony and, upon conviction, must be fined not more than fifteen thousand dollars or imprisoned for not more than ten years, or both.

HISTORY: 1962 Code 16-400; 1976 Act No. 650; 1993 Act No. 184, Section 176; 1995 Act No. 7, Part I Section 7; 2013 Act No. 23, Section 1, eff May 3, 2013.

SECTION 16-13-390.

Cheating producers of electricity.

Any person who (a) has a contract, agreement, license or permission, oral or written, with or from any person authorized to manufacture, sell or use electricity for the purpose of light, heat or power or with or from any authorized agent of such person for the use of the electrical current belonging to or produced or furnished by any such person, for certain specified purposes and (b) shall wilfully and intentionally withdraw or cause to be withdrawn, in any manner, and appropriate to his own use or to the use of any other person electrical current for purposes other than those specified shall be guilty of a misdemeanor, and, upon conviction

thereof, shall be punished as provided in Section 16-13-380. And any such person to whom such electrical current is furnished from or by means of a meter who shall wilfully and with intention to cheat and defraud any person, alter or interfere with such meter or by any contrivance whatsoever withdraw or take off electrical current in any manner except through such meter shall be guilty of a misdemeanor and be punished as provided in Section 16-13-380.

HISTORY: 1962 Code Section 24-452; 1952 Code Section 24-452; 1942 Code Section 1158; 1932 Code Section 1158; Cr. C. '22 Section 52; Cr. C. '12 Section 202; 1904 (24) 410.

SECTION 16-13-400.

Avoiding or attempting to avoid payment of telecommunications services.

Any person who knowingly avoids or attempts to avoid, or causes another to avoid, the lawful charges or payments, in whole or in part, for any telecommunications service or for the transmission of a message, signal, or other telecommunication over telephone or telegraph facilities:

(1) By charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the lawful holder thereof;

(2) By charging such service to a nonexistent telephone number or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled credit card number;

(3) By use of a code, prearranged scheme, or other similar stratagem or device whereby such person, in effect, sends or receives information;

(4) By rearranging, tampering with, or making connection with any facilities or equipment of a telephone company, whether physically, inductively, acoustically, or otherwise; or

(5) By the use of any other fraudulent means, method, trick or device; is guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than one thousand dollars or imprisoned not more than one year, or both.

HISTORY: 1962 Code Section 16-565.1; 1961 (52) 569; 1965 (54) 680.

SECTION 16-13-410.

Making or possessing device, plans or instructions which can be used to violate Section 16-13-400.

(1) Any person who knowingly makes or possesses any device or any plans or instructions for making the same which can be used to violate the provisions of Section 16-13-400 or to conceal from any supplier of telecommunication service the existence, origin or destination of any telecommunication shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(2) Any magistrate may issue a warrant to search for and seize any such device upon application supported by oath of the complainant which shall set forth the facts upon which the application is based, specifically designating the place and the object of the search or seizure. Any such device seized under warrant or as an incident to a lawful arrest shall after conviction of the owner or possessor thereof be destroyed by the sheriff of the county in which such person was convicted.

HISTORY: 1962 Code Section 16-565.2; 1965 (54) 682.

SECTION 16-13-420.

Failure to return leased or rented property; fraudulent appropriation of leased or rented property.

(A) A person having any property in his possession or under his control by virtue of a lease or rental agreement is guilty of larceny if he:

(1) wilfully and fraudulently fails to return the property within seventy-two hours after the lease or rental agreement has expired;

(2) fraudulently secretes or appropriates the property to any use or purpose not within the due and lawful execution of the lease or rental agreement.

The provisions of this section do not apply to lease-purchase agreements or conditional sales type contracts.

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the rented or leased item is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the rented or leased item is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the rented or leased item is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 46-150.87:1; 1964 (53) 1880; 1970 (56) 2498; 1993 Act No. 171, Section 13; 1993 Act No. 184, Section 117; 2000 Act No. 409, Section 1; 2010 Act No. 273, Section 16.S, eff June 2, 2010.

SECTION 16-13-430.

Fraudulent acquisition or use of food stamps.

(A) It is unlawful for a person to:

(1) obtain, attempt to obtain, aid, abet, or assist any person to obtain, by means of a false statement or representation, false impersonation, fictitious transfer, conveyance, or other fraudulent device, food stamps or coupons to which an applicant is not entitled or a greater amount of food stamps or coupons than that which an applicant is justly entitled; or

(2) to acquire, possess, use, or transfer food stamps or coupons except as authorized by law and the rules and regulations of the United States Department of Agriculture relating to these matters.

(B) It is unlawful for a person to acquire or transfer food stamps or coupons except in exchange for food or food products for human

consumption, which do not include alcoholic beverages, tobacco, beer, or wine.

(C) A person who violates the provisions of this section is guilty of a:

(1) felony if the amount of food stamps fraudulently acquired or used is of a value of ten thousand dollars or more. Upon conviction, the person must be fined not more than five thousand dollars or imprisoned not more than ten years, or both;

(2) felony if the amount of food stamps fraudulently acquired or used is of a value of more than two thousand dollars but less than ten thousand dollars. Upon conviction, the person must be fined not more than five hundred dollars or imprisoned not more than five years, or both;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the amount of food stamps fraudulently acquired or used is of a value of two thousand dollars or less.

Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both.

(D) A mercantile establishment which allows purchases of prohibited items in exchange for food stamps or coupons or currency of the United States must be disqualified from participation in the food stamp program for a period not to exceed two years and fined not more than five thousand dollars, or both.

HISTORY: 1976 Act No. 548; 1993 Act No. 184, Section 119; 2010 Act No. 273, Section 16.T, eff June 2, 2010.

SECTION 16-13-437.

False statement or representation as to income to public housing agency to obtain or retain public housing or with respect to determining rent; misdemeanor; penalties; restitution.

It is unlawful for a person knowingly to make a false statement or representation with respect to the person's individual or family income to a public housing agency in obtaining or retaining public housing or with respect to the determination of rent due from the person for public housing. For purposes of this section public housing includes private housing provided through a housing program managed by a public housing agency. For purposes of this section, public housing agency means an agency of state, regional, county, or municipal government, including housing authorities, which administer state or federal housing programs. A person violating this provision is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than two years or fined not more than one thousand dollars and the person convicted must be ordered to pay restitution to the public housing agency.

HISTORY: 1994 Act No. 458, Section 1.

SECTION 16-13-440.

Fraudulent refunds from businesses; use of false or fictitious driver's licenses or identification cards; penalties.

(A) It is unlawful for a person to give a false or fictitious name or address, or to give the name or address of another person without that person's approval, for the purpose of obtaining or attempting to obtain a refund from a business establishment for merchandise.

A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

(B) It is unlawful for a person to obtain or attempt to obtain a refund in the form of cash, check, credit on a credit card, merchant gift card, or credit in any other form from a merchant using a motor vehicle driver's license not issued to the person, a motor vehicle driver's license containing false information, an altered motor vehicle driver's license, an identification card containing false information, an altered identification card, or an identification card not issued to the person. A person who violates the provisions of this subsection:

(1) when the value is less than two thousand dollars, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both;

(2) when the value is two thousand dollars or more, is guilty of a felony and, upon conviction, must be fined not more than five thousand five hundred dollars or imprisoned for not more than five years, or both; or

(3) regardless of the value involved, if the person has two or more prior convictions for a violation of this subsection, is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

HISTORY: 1982 Act No. 375, Sections 1, 2; 2013 Act No. 82, Section 3, eff June 13, 2013.

SECTION 16-13-450.

Unlawful issuance, sale, or offer to sell identification card or document purporting to contain age or date of birth.

(1) It is unlawful for any person to sell or issue, or to offer to sell or issue, in this State any identification card or document purporting to contain the age or date of birth of the person in whose name it was issued unless:

(a) Prior to selling or issuing an identification card or document, the person has first obtained from the applicant and retains for a period of three years from the date of sale:

1. an authenticated or certified copy of proof of age as provided in subsection (2) of this section;

2. a notarized affidavit from the applicant attesting to the applicant's age and that the evidence of age required by subitem 1 of item (a) of this subsection is for the applicant.

(b) Prior to offering to sell identification cards in this State, the person has included in any offer for sale of identification cards or documents that the cards or documents may not be sold without the applicant first submitting the documents required by item (a) of this section.

(c) The identification card or document contains the business name and street address of the person selling or issuing the identification card or document.

(2) For purposes of this section acceptable evidence of age is:

1. a duly attested copy of the person's birth certificate;

2. a duly attested transcript of a certificate of baptism showing the date of birth and place of baptism, accompanied by an affidavit

sworn to by the parent;

3. an insurance policy on the person's life which has been in force for at least two years;

4. a passport or certificate of arrival in the United States showing the person's age;

5. a transcript of record of age shown in the person's school record at least four years prior to application, stating date of birth; or

6. if none of the evidences in subitems 1 through 5 may be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or licensed practicing physician, which certificate shall state that the health officer or physician has examined the person and believes that the age as stated in the affidavit is substantially correct.

(3) For purposes of this section, the term "offer to sell" includes every inducement, solicitation, attempt, printed or media advertisement to encourage a person to purchase an identification card.

(4) Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be fined not less than five hundred dollars nor more than two thousand five hundred dollars or imprisoned for not more than six months, or both.

HISTORY: 1986 Act No. 526, Section 1.

SECTION 16-13-451.

Unlawful submission of documentation required under Section 16-13-450.

It is unlawful for any person to submit documentation as required by subitem 1 of item (a) of subsection (1) of Section 16-13-450, which contains false information. Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1986 Act No. 526, Section 1.

SECTION 16-13-452.

Law enforcement or intelligence activities not subject to Sections 16-13-450 and 16-13-451.

Sections 16-13-450 and 16-13-451 do not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement or intelligence agency of the United States, a state, or a political subdivision of a state.

HISTORY: 1986 Act No. 526, Section 1.

SECTION 16-13-460.

Church to separate and use money only for cemetery maintenance when so designated; penalties.

Any church which receives money specifically designated for the maintenance of a cemetery on its property shall account for the money separately, and it may be used only for the maintenance of the cemetery. Any person or member of the church governing board who knowingly approves or permits the use of the fund for any other purpose is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1987 Act No. 115 Section 1.

SECTION 16-13-470.

Defrauding drug and alcohol screening tests; penalty.

(A) It is unlawful for a person to:

(1) sell, give away, distribute, or market urine in this State or transport urine into this State with the intent of using the urine to defraud a drug or alcohol screening test;

(2) attempt to foil or defeat a drug or alcohol screening test by the substitution or spiking of a sample or the advertisement of a sample substitution or other spiking device or measure;

(3) adulterate a urine or other bodily fluid sample with the intent to defraud a drug or alcohol screening test;

(4) possess adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test; or

(5) sell adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defrauding a drug or alcohol screening test.

Intent is presumed if a heating element or any other device used to thwart a drug-screening test accompanies the sale, giving, distribution, or marketing of urine or if instructions which provide a method for thwarting a drug-screening test accompany the sale, giving, distribution, or marketing of urine.

(B) A person who violates a provision of subsection (A):

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than three years, or both; and

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than five years, or both.

HISTORY: 1999 Act No. 65, Section 1.

SECTION 16-13-480.

Providing false identifications for use by unlawful aliens; penalty.

Unless otherwise provided by law, it is unlawful for a person to make, issue, or sell, or offer to make, issue, or sell, a false, fictitious, fraudulent, or counterfeit picture identification that is for use by an alien who is unlawfully present in the United States. A person who violates this section is guilty of a felony, and, upon conviction, must be fined twenty-five thousand dollars or imprisoned for not more than five years, or both.

HISTORY: 2011 Act No. 69, Section 15, eff January 1, 2012.

ARTICLE 2

Personal Financial Security Act

SECTION 16-13-500.

Citation of article.

This article may be cited as the "Personal Financial Security Act".

HISTORY: 2000 Act No. 305, Section 1.

SECTION 16-13-510.

Financial identity fraud or identity fraud; penalty.

(A) It is unlawful for a person to commit the offense of financial identity fraud or identity fraud.

(B) A person is guilty of financial identity fraud when the person, without the authorization or permission of another individual, and with the intent of unlawfully:

(1) appropriating the financial resources of the other individual to the person's own use or the use of a third party;

(2) devising a scheme or artifice to defraud; or

(3) obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises obtains or records identifying information which would assist in accessing the financial records of the other individual or accesses or attempts to access the financial resources of the other individual through the use of identifying information as defined in subsection (D).

(C) A person is guilty of identity fraud when the person uses identifying information, as defined in subsection (D), of another individual for the purpose of obtaining employment or avoiding identification by a law enforcement officer, criminal justice agency, or another governmental agency, including, but not limited to, law enforcement, detention, and correctional agencies or facilities.

(D) "Personal identifying information" includes, but is not limited to:

(1) social security numbers;

(2) driver's license numbers or state identification card numbers issued instead of a driver's license;

(3) checking account numbers;

(4) savings account numbers;

(5) credit card numbers;

(6) debit card numbers;

(7) personal identification (PIN) numbers;

(8) electronic identification numbers;

(9) digital signatures;

(10) dates of birth;

(11) current or former names, including first and last names, middle and last names, or first, middle, and last names, but only when the names are used in combination with, and linked to, other identifying information provided in this section;

(12) current or former addresses, but only when the addresses are used in combination with, and linked to, other identifying information provided in this section; or

(13) other numbers, passwords, or information which may be used to access a person's financial resources, numbers, or information issued by a governmental or regulatory entity that uniquely will identify an individual or an individual's financial resources.

(E) "Financial resources" includes:

(1) existing money and financial wealth contained in a checking account, savings account, line of credit, or otherwise;

(2) a pension plan, retirement fund, annuity, or other fund which makes payments monthly or periodically to the recipient; and

(3) the establishment of a line of credit or an amount of debt whether by loan, credit card, or otherwise for the purpose of obtaining goods, services, or money.

(F) A person who violates this section is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The court may order restitution to the victim pursuant to the provisions of Section 17-25-322.

(G) Venue for the prosecution of offenses pursuant to this section is in the county in which:

(1) the victim resided at the time the information was obtained or used; or

(2) the information is obtained or used.

(H) In a prosecution for a violation of this section, the State is not required to establish and it is not a defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.

HISTORY: 2000 Act No. 305, Section 1; 2006 Act No. 350, Section 2, eff June 12, 2006; 2008 Act No. 190, Section 8, eff December 31, 2008; 2013 Act No. 15, Section 1, eff April 23, 2013.

SECTION 16-13-512.

Printing credit and debit card numbers on sales receipts; exceptions; penalties.

(A) Except as provided in this section, a person, firm, partnership, association, corporation, limited liability company, or any other entity which accepts credit cards or debit cards for the transaction of business must not print on a receipt provided to the cardholder at the point of sale:

(1) more than five digits of the credit card or debit card account number; and

(2) the expiration date of the credit card or debit card.

(B) This section does not apply to transactions in which the sole means of recording the cardholder's credit card or debit card account number is by handwriting or by an imprint or copy of the credit card or debit card.

(C)(1) A person that violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred fifty dollars for the first violation and one thousand dollars for each subsequent violation.

(2) A person that knowingly and wilfully violates the provisions of this section is guilty of a Class F felony and, upon conviction, must be imprisoned not more than five years and fined not more than one thousand dollars, or both.

(D) This section, in compliance with Public Law 108-159, Section 113 of Title 1, is effective:

(1) three years after its enactment as to a cash register or other machine or device that electronically prints receipts for credit card or debit card transactions and that is in use before January 1, 2005; or

(2) one year after its enactment for those machines and devices first put into use on or after January 1, 2005.

HISTORY: 2008 Act No. 190, Section 6, eff December 31, 2008.

SECTION 16-13-520.

Venue.

In a criminal proceeding brought pursuant to this article, the crime is considered to have been committed in a county in which a part of the financial identity fraud took place, regardless of whether the defendant was ever actually in that county.

HISTORY: 2000 Act No. 305, Section 1.

SECTION 16-13-525.

Financial identity fraud enabling unlawfully present alien to live or work in United States; penalties.

(A) In addition to the penalties provided for in this chapter, a person who is convicted of, pleads guilty to, or enters into a plea of nolo contendere to financial identity fraud or identity fraud involving the false, fictitious, or fraudulent creation or use of documents that enable an alien who is unlawfully present in the United States to live or work in the United States, or to receive benefits administered by an agency or political subdivision of this State, must disgorge any benefit received or make restitution to the agency or political subdivision that administered the benefit or entitlement program, or both. A criminal charge pursuant to this chapter shall not preempt or preclude additional appropriate civil or criminal charges or penalties.

(B) A person who suffers an ascertainable loss of money or property, real or personal, as a result of a conviction or plea to a violation of financial identity fraud or identity fraud involving a matter described in subsection (A), may bring an action individually, or in a representative capacity, to recover actual damages against any person convicted of the violation. If a court finds that a violation has been established, the court shall award three times the actual damages sustained and may provide such other relief as it considers necessary or proper. Upon the finding by the court of a violation, the court shall award to the person bringing this action pursuant to this section reasonable attorney's fees and costs.

(C) A person convicted of a violation of this subsection is jointly and severally liable for a loss suffered by a person or an agency or political subdivision of the State.

(D)(1) It is unlawful for a person to display, cause or permit to be displayed, or have in his possession a false, fictitious, fraudulent, or counterfeit identity document including, but not limited to, a driver's license or social security card for the purpose of offering proof of United States citizenship or classification by the United States as an alien lawfully admitted for temporary or permanent residence under federal immigration law.

(2) A person who violates the provisions of this section:

(a) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days; and

(b) for a second offense or subsequent offenses, is guilty of a felony and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than five years.

(E) A violation of the provisions of this section is considered a separate criminal offense and does not preclude prosecution for perjury pursuant to Section 16-9-10 in addition to prosecution pursuant to the provisions of this section.

(F) In enforcing the terms of this section, no state officer shall attempt to make an independent judgment of an alien's immigration status. State officials must verify any alien's status with the federal government in accordance with 8 USC Section 1373(c).

HISTORY: 2008 Act No. 280, Section 10, eff June 4, 2008.

SECTION 16-13-530.

Exceptions from application of article.

Nothing in this article may be construed to apply to:

(1) the lawful acquisition and use of credit or other information in the course of a bona fide consumer or commercial transaction or in connection with an account by any financial institution or entity defined in or required to comply with the Federal Fair Credit Reporting Act, 15 U.S.C.A. Section 1681, or the Federal Gramm-Leach-Bliley Financial Modernization Act, 113 Stat. 1338;

(2) the lawful, good faith exercise of a security interest or a right to offset exercised by a creditor, agency, or financial institution; or

(3) the lawful, good faith compliance by a party when required by a warrant, levy, attachment, court order, or other judicial or administrative order, decree, or directive.

HISTORY: 2000 Act No. 305, Section 1.

Title 16 - Crimes and Offenses

CHAPTER 14

Financial Transaction Card Crime Act

SECTION 16-14-10.

Definitions.

The following words and phrases as used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Automated banking device" means any machine which when properly activated by a financial transaction card or personal identification code may be used for any of the purposes for which a financial transaction card may be used.
- (2) "Cardholder" means the person or organization named on the face of a financial transaction card to whom or for whose benefit the financial transaction card is issued by an issuer.
- (3) "Expired financial transaction card" means a financial transaction card which is no longer valid because the term shown on it has elapsed.
- (4) "Financial transaction card" or "FTC" means any instrument or device whether known as a credit card, credit plate, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder;
 - (a) in obtaining money, goods, services, or anything else of value on credit;
 - (b) in certifying or guaranteeing to a person or business the availability to the cardholder of funds on deposit that are equal to or greater than the amount necessary to honor a draft or check payable to the order of such person or business;
 - (c) in providing the cardholder access to a demand deposit account or time deposit account for the purpose of:
 1. making deposits of money or checks therein;
 2. withdrawing funds in the form of money, money orders, or traveler's checks therefrom;
 3. transferring funds from any demand deposit account or time deposit account to any other demand deposit account or time deposit account;
 4. transferring funds from any demand deposit account or time deposit account to any credit card accounts, overdraft privilege accounts, loan accounts, or any other credit accounts in full or partial satisfaction of any outstanding balance owed existing therein;
 5. for the purchase of goods, services or anything else of value;
 6. obtaining information pertaining to any demand deposit account or time deposit account.
- (5) "issuer" means the business organization or financial institution or its duly authorized agent which issues a financial transaction card.
- (6) "Personal identification code" means a numeric or alphabetical code assigned to the cardholder of a financial transaction card by the issuer to permit authorized electronic use of that FTC.
- (7) "Presenting" means those actions taken by a cardholder or any person to introduce a financial transaction card into an automated banking device, including utilization of a personal identification code, or merely displaying or showing a financial transaction card to the issuer, or to any person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud.
- (8) "Receives" or "receiving" means acquiring possession or control or accepting a financial transaction card as security for a loan.
- (9) "Revoked financial transaction card" means a financial transaction card which is no longer valid because permission to use it has been suspended or terminated by the issuer.
- (10) "Acquirer" means a business organization, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for money, goods, services, or anything else of value.

HISTORY: 1980 Act No. 427, Section 1; 1991 Act No. 126, Section 1.

SECTION 16-14-20.

Financial transaction card or number theft.

A person is guilty of financial transaction card theft when he:

- (1) takes, obtains, or withholds a financial transaction card or number from the person, possession, custody, or control of another without the cardholder's consent and with the intent to use it; or who, with knowledge that it has been so taken, obtained, or withheld, receives the financial transaction card or number with intent to use it, sell it, or transfer it to a person other than the issuer or the cardholder;
- (2) receives a financial transaction card or number that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it, sell it, or transfer it to a person other than the issuer or the cardholder;
- (3) is not the issuer, and sells a financial transaction card or number or buys a financial transaction card or number from a person other than the issuer;
- (4) is not the issuer, and during any twelve-month period, receives financial transaction cards or numbers issued in the names of two or more persons which he has reason to know were taken or retained under circumstances which constitute a violation of item (3) of this section and Section 16-14-60(A)(3).

A person who commits financial transaction card or number theft is guilty of a felony and, upon conviction, must be sentenced as provided in Section 16-14-100(B).

HISTORY: 1980 Act No. 427, Section 1; 1995 Act No. 7, Part I Section 9; 2001 Act No. 81, Section 5.

SECTION 16-14-30.

Possession of two or more cards issued to other persons prima facie evidence of violation.

When a person has in his possession or under his control financial transaction cards issued in the names of two or more other persons other than members of his immediate family, such possession shall be prima facie evidence that such financial transaction cards have been obtained in violation of Section 16-14-20(a).

HISTORY: 1980 Act No. 427, Section 1.

SECTION 16-14-40.

Financial transaction card forgery.

(a) A person is guilty of financial transaction card forgery when:

(1) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely makes or falsely embosses a purported financial transaction card or utters such a financial transaction card;

(2) With intent to defraud a purported issuer, a person or organization providing money, goods, services or anything else of value, or any other person, he falsely encodes, duplicates or alters existing encoded information on a financial transaction card or utters such a financial transaction card;

(3) He, not being the cardholder or a person authorized by him with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a financial transaction card.

(b) A person falsely makes a financial transaction card when he makes or draws, in whole or in part, a device or instrument which purports to be the financial transaction card of a named issuer but which is not such a financial transaction card because the issuer did not authorize the making or drawing, or alters a financial transaction card which was validly issued.

(c) A person falsely embosses a financial transaction card when, without authorization of the named issuer, he completes a financial transaction card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder.

(d) A person falsely encodes a financial transaction card when, without authorization of the purported issuer, he records magnetically, electronically, electro-magnetically or by other means, information on a financial transaction card which will permit acceptance of that card by any automated banking device.

(e) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.

HISTORY: 1980 Act No. 427, Section 1; 1993 Act No. 184, Sections 95, 96; 1995 Act No. 7, Part I Section 10.

SECTION 16-14-50.

Possession of two or more cards falsely made or embossed prima facie evidence of violation.

(a) When a person, other than the purported issuer, possesses two or more financial transaction cards which are falsely made or falsely embossed, such possession shall be prima facie evidence that such cards were obtained in violation of Section 16-14-40(a)(1) or Section 16-14-40(a)(2).

(b) When a person, other than the cardholder or a person authorized by him possesses two or more financial transaction cards which are signed, such possession shall be prima facie evidence that such cards were obtained in violation of Section 16-14-40(a)(3).

HISTORY: 1980 Act No. 427, Section 1.

SECTION 16-14-60.

Financial transaction card fraud.

(a) A person is guilty of financial transaction card fraud when, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, he:

(1) uses for the purpose of obtaining money, goods, services, or anything else of value a financial transaction card obtained or retained, or which was received with knowledge that it was obtained or retained, in violation of Section 16-14-20 or 16-14-40 or a financial transaction card which he knows is forged, altered, expired, revoked, or was obtained as a result of a fraudulent application in violation of Section 16-14-40(c);

(2) obtains money, goods, services, or anything else of value by:

a. representing without the consent of the specified cardholder that he has permission to use it;

b. presenting the financial transaction card without the authorization or permission of the cardholder;

c. representing that he is the holder of a card and the card has not in fact been issued;

d. using a financial transaction card to knowingly and wilfully exceed:

(i) the actual balance of a demand deposit account or time deposit account;

(ii) an authorized credit line in an amount which exceeds the authorized credit line by five hundred dollars or fifty percent of the authorized credit line, whichever is greater, if the cardholder has not paid to the issuer of the financial transaction card the total amount of the excess over the authorized credit line within ten days after notice to the cardholder by certified mail to the last known address that the credit line has been exceeded. Failure to pay the amount in excess of the authorized credit line after the notice is prima facie evidence of an intent to defraud;

(3) obtains control over a financial transaction card as security for debt;

(4) deposits into his account or any account, by means of an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other document not his lawful or legal property;

(5) receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check,

draft, money order, or any other document having been deposited into an account by means of an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document deposited was false, fictitious, forged, altered, or counterfeit or that the above deposited item was not his lawful or legal property.

A person who violates the provisions of this subsection except subsection (a)(2)d. is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, if the value of all money, goods, services, and other things of value furnished in violation of this section or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed five hundred dollars in any six-month period. If the value exceeds five hundred dollars in a six-month period, a person is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars or more than five thousand dollars or imprisoned not more than five years, or both.

A person who violates the provisions of subsection (a)(2)d. is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(b) A person who is authorized by an issuer to furnish money, goods, services, or anything else of value upon presentation of a financial transaction card by the cardholder, or any agent or employee of such person is guilty of a financial transaction card fraud when, with intent to defraud the issuer or the cardholder, he:

(1) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card obtained or retained in violation of Section 16-14-20, or a financial transaction card which he knows is forged, expired, or revoked;

(2) fails to furnish money, goods, services, or anything else of value which he represents in writing to the issuer that he has furnished.

A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, if the value of all money, goods, services, and other things of value furnished in violation of this section or if the difference between the value actually furnished and the value represented to the issuer to have been furnished in violation of this section, does not exceed five hundred dollars in any six-month period. If the value exceeds five hundred dollars in a six-month period, a person is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.

(c) A person is guilty of financial transaction card fraud when, upon application for a financial transaction card to an issuer, he knowingly makes or causes to be made a false statement or report relative to his name, occupation, financial condition, assets, or liabilities; or wilfully and substantially overvalues any assets, or wilfully omits or substantially undervalues any indebtedness for the purpose of influencing the issuer to issue a financial transaction card. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(d) A cardholder is guilty of financial transaction card fraud when he wilfully, knowingly, and with an intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person, submits, verbally or in writing, to the issuer or any other person, any false notice or report of the theft, loss, disappearance, or nonreceipt of his financial transaction card. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(e) In any prosecution for violation of Section 16-14-60, the State is not required to establish and it is no defense that some of the acts constituting the crime did not occur in this State or within one city, county, or local jurisdiction.

(f) For purposes of this section, revocation is construed to include either notice given in person or notice given in writing to the person to whom the financial transaction card or personal identification code was issued. Notice of revocation is immediate when notice is given in person. The sending of a notice in writing by registered or certified mail in the United States mail, duly stamped and addressed to the person at his last address known to the issuer, is prima facie evidence that the notice was duly received after seven days from the date of the deposit in the mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice is presumed to have been received ten days after mailing by registered or certified mail.

(g)(1) A person who is authorized by an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card or a credit card account number by a cardholder, or any employee of that person, who presents to the issuer or acquirer, for payment, a credit card transaction record of a sale, which sale was not made by that person or employee, violates this subsection and is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.

(2) A person without the acquirer's express authorization, employs, or solicits authorized merchants, or any agent or employee of the merchant, to remit to an issuer or acquirer, for payment, a financial transaction card record of a sale, which sale was not made by the merchant, his agent, or employee, is guilty of a felony and, upon conviction, is punishable as provided in Section 16-14-100(b).

HISTORY: 1980 Act No. 427, Section 1; 1991 Act No. 126, Section 2; 1993 Act No. 184, Section 97; 1995 Act No. 7, Part I Section 11.

SECTION 16-14-70.

Criminal possession of financial transaction card forgery devices.

(A) A person is guilty of criminal possession of financial transaction card forgery devices when:

(1) he is a person other than the cardholder and possesses two or more incomplete financial transaction cards, with intent to complete them without the consent of the issuer;

(2) he possesses, with knowledge of its character, machinery, plates, or any other contrivance designed to reproduce instruments

purporting to be financial transaction cards of an issuer who has not consented to the preparation of such financial transaction cards.
(B) A financial transaction card is incomplete if part of the matter other than the signature of the cardholder, which an issuer requires to appear on the financial transaction card before it can be used by a cardholder, has not yet been stamped, embossed, imprinted, encoded, or written upon it.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.

HISTORY: 1980 Act No. 427, Section 1; 1993 Act No. 184, Section 98; 1995 Act No. 7, Part I Section 12.

SECTION 16-14-80.

Criminally receiving goods and services fraudulently obtained.

(A) It is unlawful for a person to receive money, goods, and services, or anything else of value fraudulently obtained in violation of Section 16-14-60(a) and with the knowledge or belief that the same were obtained in violation of Section 16-14-60(a).

(B) A person who violates the provisions of this section is guilty of a:

(1) misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, must be sentenced pursuant to Section 16-14-100(a) if the value of the money, goods, services, and anything else of value, is one thousand dollars or less in any six-month period;

(2) felony and, upon conviction, must be sentenced pursuant to Section 16-14-100(b) if the value of the money, goods, services, or anything of value is more than one thousand dollars in any six-month period.

HISTORY: 1980 Act No. 427, Section 1; 1993 Act No. 184, Section 177; 2010 Act No. 273, Section 16.U, eff June 2, 2010.

SECTION 16-14-90.

Presumption of knowledge that transportation ticket obtained at discount was fraudulently acquired.

It is permissible to infer that a person who obtains at a discount price a ticket issued by an airline, railroad, steamship, or other transportation company from other than an authorized agent of the company which was acquired in violation of Section 16-14-60(a) without reasonable inquiry to ascertain that the person from whom it was obtained had a legal right to possess knew that the ticket was acquired under circumstances constituting a violation of Section 16-14-60(a).

HISTORY: 1980 Act No. 427, Section 1; 1987 Act No. 95 Section 6.

SECTION 16-14-100.

Penalties for violation of Financial Transaction Card Crime Act.

(a) A crime punishable under this subsection is a misdemeanor under the jurisdiction of the magistrates or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and, upon conviction, the person must be fined not more than two thousand dollars or imprisoned not more than one year, or both.

(b) A crime punishable under this subsection is a felony and, upon conviction, the person must be fined not less than three thousand dollars nor more than five thousand dollars or imprisoned not more than five years, or both.

HISTORY: 1980 Act No. 427, Section 1; 1993 Act No. 184, Section 178; 2010 Act No. 273, Section 16.V, eff June 2, 2010.

Title 16 - Crimes and Offenses

CHAPTER 15

Offenses Against Morality and Decency

ARTICLE 1

Miscellaneous Offenses

SECTION 16-15-10.

Bigamy.

Any person who is married who shall marry another person shall, unless:

(1) His or her husband or wife has remained continually for seven years beyond the sea or continually absented himself or herself from such person for the space of seven years together, such person not knowing his or her wife or husband to be living within that time;

(2) He or she was married before the age of consent;

(3) His or her wife or husband is under sentence of imprisonment for life; or

(4) His or her marriage has been annulled or he or she has been divorced by decree of a competent tribunal having jurisdiction both of the cause and the parties;

On conviction, be punished by imprisonment in the Penitentiary for not more than five years nor less than six months or by imprisonment in the jail for six months and by a fine of not less than five hundred dollars.

HISTORY: 1962 Code Section 16-401; 1952 Code Section 16-401; 1942 Code Section 1434; 1932 Code Section 1434; Cr. C. '22 Section 374; Cr. C. '12 Section 381; Cr. C. '02 Section 289; G. S. 2587; R. S. 250; 1712 (2) 508; 1874 (15) 603.

SECTION 16-15-20.

Incest.

Any persons who shall have carnal intercourse with each other within the following degrees of relationship, to wit:

(1) A man with his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister or mother's sister; or

(2) A woman with her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother or mother's brother;

Shall be guilty of incest and shall be punished by a fine of not less than five hundred dollars or imprisonment not less than one year in the Penitentiary, or both such fine and imprisonment.

HISTORY: 1962 Code Section 16-402; 1952 Code Section 16-402; 1942 Code Section 1440; 1932 Code Section 1440; Cr. C. '22 Section 381; Cr. C. '12 Section 388; Cr. C. '02 Section 295; R. S. 258; 1884 (19) 801.

SECTION 16-15-50.

Seduction under promise of marriage.

A male over the age of sixteen years who by means of deception and promise of marriage seduces an unmarried woman in this State is guilty of a misdemeanor and, upon conviction, must be fined at the discretion of the court or imprisoned not more than one year. There must not be a conviction under this section on the uncorroborated testimony of the woman upon whom the seduction is charged, and no conviction if at trial it is proved that the woman was at the time of the alleged offense lewd and unchaste. If the defendant in any action brought under this section contracts marriage with the woman, either before or after the conviction, further proceedings of this section are stayed.

HISTORY: 1962 Code Section 16-405; 1952 Code Section 16-405; 1942 Code Section 1441; 1932 Code Section 1441; Cr. C. '22 Section 382; Cr. C. '12 Section 389; 1905 (24) 937; 1993 Act No. 184, Section 179.

SECTION 16-15-60.

Adultery or fornication.

Any man or woman who shall be guilty of the crime of adultery or fornication shall be liable to indictment and, on conviction, shall be severally punished by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than six months nor more than one year or by both fine and imprisonment, at the discretion of the court.

HISTORY: 1962 Code Section 16-406; 1952 Code Section 16-406; 1942 Code Section 1435; 1932 Code Section 1435; Cr. C. '22 Section 375; Cr. C. '12 Section 382; Cr. C. '02 Section 290; G. S. 2588; R. S. 251; 1880 (17) 328.

SECTION 16-15-70.

"Adultery" defined.

"Adultery" is the living together and carnal intercourse with each other or habitual carnal intercourse with each other without living together of a man and woman when either is lawfully married to some other person.

HISTORY: 1962 Code Section 16-407; 1952 Code Section 16-407; 1942 Code Section 1436; 1932 Code Section 1436; Cr. C. '22 Section 376; Cr. C. '12 Section 383; Cr. C. '02 Section 291; G. S. 2589; R. S. 252; 1880 (17) 328.

SECTION 16-15-80.

"Fornication" defined.

"Fornication" is the living together and carnal intercourse with each other or habitual carnal intercourse with each other without living together of a man and woman, both being unmarried.

HISTORY: 1962 Code Section 16-408; 1952 Code Section 16-408; 1942 Code Section 1437; 1932 Code Section 1437; Cr. C. '22

Section 277; Cr. C. '12 Section 384; Cr. C. '02 Section 292; G. S. 2590; R. S. 253; 1880 (17) 328.

SECTION 16-15-90.

Prostitution; lewdness, assignation and prostitution generally.

It shall be unlawful to:

- (1) Engage in prostitution;
- (2) Aid or abet prostitution knowingly;
- (3) Procure or solicit for the purpose of prostitution;
- (4) Expose indecently the private person for the purpose of prostitution or other indecency;
- (5) Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution;
- (6) Keep or set up a house of ill fame, brothel or bawdyhouse;
- (7) Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building;
- (8) Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, trailer, place, structure or building;
- (9) Direct, take or transport, offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure or building or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;
- (10) Lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or
- (11) Aid, abet, or participate knowingly in the doing of any of the acts herein prohibited.

HISTORY: 1962 Code Section 16-409; 1952 Code Section 16-409; 1942 (42) 1734.

SECTION 16-15-100.

Prostitution; further unlawful acts.

It shall further be unlawful to:

- (1) Procure a female inmate for a house of prostitution;
- (2) Cause, induce, persuade or encourage by promise, threat, violence or by any scheme or device a female to become a prostitute or to remain an inmate of a house of prostitution;
- (3) Induce, persuade or encourage a female to come into or leave this State for the purpose of prostitution or to become an inmate in a house of prostitution;
- (4) Receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure any female to become a prostitute or an inmate in a house of prostitution;
- (5) Accept or receive knowingly any money or other thing of value without consideration from a prostitute; or
- (6) Aid, abet or participate knowingly in the doing of any of the acts herein prohibited.

HISTORY: 1962 Code Section 16-410; 1952 Code Section 16-410; 1942 (42) 1734.

SECTION 16-15-110.

Prostitution; violations.

Any person violating any provision of Sections 16-15-90 and 16-15-100 must, upon conviction, be punished as follows:

- (1) for the first offense, a fine not exceeding two hundred dollars or confinement in prison for a period of not more than thirty days;
- (2) for the second offense, a fine not exceeding one thousand dollars or imprisonment for not exceeding six months, or both;
- (3) for the third or any subsequent offense, a fine not exceeding three thousand dollars or imprisonment for not less than one year, or both.

HISTORY: 1962 Code Section 16-411; 1952 Code Section 16-411; 1942 (42) 1734; 1979 Act No. 74; 1986 Act No. 534.

SECTION 16-15-120.

Buggery.

Whoever shall commit the abominable crime of buggery, whether with mankind or with beast, shall, on conviction, be guilty of felony and shall be imprisoned in the Penitentiary for five years or shall pay a fine of not less than five hundred dollars, or both, at the discretion of the court.

HISTORY: 1962 Code Section 16-412; 1952 Code Section 16-412; 1942 Code Section 1439; 1932 Code Section 1439; Cr. C. '22 Section 380; Cr. C. '12 Section 387; Cr. C. '02 Section 294; G. S. 2591; R. S. 254; 25 H. 8, c. 1 (2) 465.

SECTION 16-15-130.

Indecent exposure; breastfeeding.

- (A)(1) It is unlawful for a person to wilfully, maliciously, and indecently expose his person in a public place, on property of others, or to the view of any person on a street or highway.
- (2) This subsection does not apply to a woman who breastfeeds her own child in a public place, on property of others, to the view of any person on a street or highway, or any other place where a woman and her child are authorized to be.
- (B) A person who violates the provisions of subsection (A)(1) is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 16-413; 1952 Code Section 16-413; 1942 Code Section 1442; 1932 Code Section 1442; Cr. C. '22 Section 383; Cr. C. '12 Section 390; 1906 (25) 84; 1965 (54) 577; 1993 Act No. 184, Section 180; 2006 Act No. 269, Section 2, eff

May 2, 2006.

SECTION 16-15-250.

Communicating obscene messages to other persons without consent.

It is unlawful for a person to anonymously write, print, telephone, transmit a digital electronic file, or by other manner or means communicate, send, or deliver to another person within this State, without that person's consent, any obscene, profane, indecent, vulgar, suggestive, or immoral message.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

HISTORY: 1962 Code Section 16-552; 1952 Code Section 16-552; 1943 (43) 26; 1967 (55) 626; 1993 Act No. 184, Section 181; 2001 Act No. 81, Section 6.

ARTICLE 3

Obscenity, Material Harmful to Minors, Child Exploitation, and Child Prostitution

SECTION 16-15-305.

Disseminating, procuring or promoting obscenity unlawful; definitions; penalties; obscene material designated contraband.

(A) It is unlawful for any person knowingly to disseminate obscenity. A person disseminates obscenity within the meaning of this article if he:

- (1) sells, delivers, or provides or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, digital electronic file, or other representation or description of the obscene;
- (2) presents or directs an obscene play, dance, or other performance, or participates directly in that portion thereof which makes it obscene;
- (3) publishes, exhibits, or otherwise makes available anything obscene to any group or individual; or
- (4) exhibits, presents, rents, sells, delivers, or provides; or offers or agrees to exhibit, present, rent, or to provide: any motion picture, film, filmstrip, or projection slide, or sound recording, sound tape, or sound track, video tapes and recordings, or any matter or material of whatever form which is a representation, description, performance, or publication of the obscene.

(B) For purposes of this article any material is obscene if:

- (1) to the average person applying contemporary community standards, the material depicts or describes in a patently offensive way sexual conduct specifically defined by subsection (C) of this section;
- (2) the average person applying contemporary community standards relating to the depiction or description of sexual conduct would find that the material taken as a whole appeals to the prurient interest in sex;
- (3) to a reasonable person, the material taken as a whole lacks serious literary, artistic, political, or scientific value; and
- (4) the material as used is not otherwise protected or privileged under the Constitutions of the United States or of this State.

(C) As used in this article:

(1) "sexual conduct" means:

- (a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted, whether between human beings, animals, or a combination thereof;
- (b) masturbation, excretory functions, or lewd exhibition, actual or simulated, of the genitals, pubic hair, anus, vulva, or female breast nipples including male or female genitals in a state of sexual stimulation or arousal or covered male genitals in a discernably turgid state;
- (c) an act or condition that depicts actual or simulated bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;
- (d) an act or condition that depicts actual or simulated touching, caressing, or fondling of, or other similar physical contact with, the covered or exposed genitals, pubic or anal regions, or female breast nipple, whether alone or between humans, animals, or a human and an animal, of the same or opposite sex, in an act of actual or apparent sexual stimulation or gratification; or
- (e) an act or condition that depicts the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

(2) "patently offensive" means obviously and clearly disagreeable, objectionable, repugnant, displeasing, distasteful, or obnoxious to contemporary standards of decency and propriety within the community.

(3) "prurient interest" means a shameful or morbid interest in nudity, sex, or excretion and is reflective of an arousal of lewd and lascivious desires and thoughts.

(4) "person" means any individual, corporation, partnership, association, firm, club, or other legal or commercial entity.

(5) "knowingly" means having general knowledge of the content of the subject material or performance, or failing after reasonable opportunity to exercise reasonable inspection which would have disclosed the character of the material or performance.

(D) Obscenity must be judged with reference to ordinary adults except that it must be judged with reference to children or other especially susceptible audiences or clearly defined deviant sexual groups if it appears from the character of the material or the circumstances of its dissemination to be especially for or directed to children or such audiences or groups.

(E) As used in this article, "community standards" used in determining prurient appeal and patent offensiveness are the standards of the area from which the jury is drawn.

(F) It is unlawful for any person knowingly to create, buy, procure, or process obscene material with the purpose and intent of disseminating it.

(G) It is unlawful for a person to advertise or otherwise promote the sale of material represented or held out by them as obscene.

(H) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than ten thousand dollars, or both.

(I) Obscene material disseminated, procured, or promoted in violation of this section is contraband and may be seized by appropriate law enforcement authorities.

HISTORY: 1987 Act No. 168 Section 3; 1995 Act No. 7, Part I Section 13; 2001 Act No. 81, Section 7.

SECTION 16-15-315.

Condition on certain sales for resale or on franchising rights that obscene material be received for resale prohibited; penalties.

No person shall, as a condition to any sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication, digital electronic file require that the purchaser or consignee receive for resale any other article, book, publication, or digital electronic file which is obscene within the meaning of Section 16-15-305 nor shall any person deny or threaten to deny any franchise or impose or threaten to impose any penalty, financial or otherwise, by reason of the failure or refusal of any person to accept the articles, books, publications, or digital electronic files, or by reason of the return thereof. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year or fined not more than one thousand dollars, or both.

HISTORY: 1987 Act No. 168 Section 3, eff October 1, 1987; 2001 Act No. 81, Section 8.

SECTION 16-15-325.

Participation in preparation of obscene material prohibited; penalties.

Any individual who knowingly:

(a) photographs himself or any other individual or animal for purposes of preparing an obscene film, photograph, negative, slide, videotapes, motion picture, or digital electronic files for the purpose of dissemination; or

(b) models, poses, acts, or otherwise assists in the preparation of any obscene film, photograph, negative, slide, videotapes, motion picture, or digital electronic files for the purpose of dissemination is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year and fined not more than one thousand dollars.

HISTORY: 1987 Act No. 168 Section 3; 2001 Act No. 81, Section 9.

SECTION 16-15-335.

Permitting minor to engage in any act constituting violation of this article prohibited; penalties.

An individual eighteen years of age or older who, in any manner, knowingly hires, employs, uses, or permits a person under the age of eighteen years to do or assist in doing an act or thing constituting an offense pursuant to this article and involving any material, act, or thing he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

HISTORY: 1987 Act No. 168 Section 3; 2004 Act No. 208, Section 3, eff April 26, 2004.

SECTION 16-15-340.

Luring a child; penalties.

(A) As used in this section, "child" means a person under sixteen years of age.

(B) A person eighteen years of age or older who, with the intent to harm a child or for any other unlawful purpose, lures, entices, or attempts to lure or entice a child, is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(C) Mistake of age is not a defense to prosecution pursuant to the provisions of this section. However, it is an affirmative defense to prosecution pursuant to the provisions of this section if the:

(1) person lured, enticed, or attempted to lure or entice, the child for a lawful purpose; or

(2) person's actions were otherwise reasonable under the circumstances, and the person did not have the intent to harm the child.

(D) The penalties provided in this section are in addition to other penalties as provided by law for kidnapping or any other offense, as warranted. The offense of luring a child is not intended to be a lesser included offense of kidnapping or any other offense.

HISTORY: 2024 Act No. 213 (S.142), Section 5, eff July 2, 2024.

SECTION 16-15-342.

Criminal solicitation of a minor; defenses; penalties.

(A) A person eighteen years of age or older commits the offense of criminal solicitation of a minor if he knowingly contacts or communicates with, or attempts to contact or communicate with, a person who is under the age of eighteen, or a person reasonably believed to be under the age of eighteen, for the purpose of or with the intent of persuading, inducing, enticing, or coercing the person to engage or participate in a sexual activity as defined in Section 16-15-375(5) or a violent crime as defined in Section 16-1-60, or with the intent to perform a sexual activity in the presence of the person under the age of eighteen, or person reasonably believed to be under the age of eighteen.

(B) Consent is a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is at least sixteen years old.

(C) Consent is not a defense to a prosecution pursuant to this section if the person under the age of eighteen, or the person reasonably believed to be under the age of eighteen, is under the age of sixteen.

(D) It is not a defense to a prosecution pursuant to this section, on the basis of consent or otherwise, that the person reasonably believed to be under the age of eighteen is a law enforcement agent or officer acting in an official capacity.

(E) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five

thousand dollars or imprisoned for not more than ten years, or both.

HISTORY: 2004 Act No. 208, Section 4, eff April 26, 2004.

SECTION 16-15-345.

Disseminating obscene material to person under age eighteen prohibited; penalties.

An individual eighteen years of age or older who knowingly disseminates to a person under the age of eighteen years material which he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

HISTORY: 1987 Act No. 168 Section 3; 2004 Act No. 208, Section 5, eff April 26, 2004.

SECTION 16-15-355.

Disseminating obscene material to minor twelve years of age or younger prohibited; penalties.

An individual eighteen years of age or older who knowingly disseminates to a minor twelve years of age or younger material which he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than fifteen years.

HISTORY: 1987 Act No. 168 Section 3; 2004 Act No. 208, Section 6, eff April 26, 2004.

SECTION 16-15-365.

Exposure of private parts in lewd and lascivious manner, aiding or procuring person to perform an act, or permitting use of premises for an act prohibited; penalties.

Any person who wilfully and knowingly exposes the private parts of his person in a lewd and lascivious manner and in the presence of any other person, or aids or abets any such act, or who procures another to perform such act, or any person, who as owner, manager, lessee, director, promoter, or agent, or in any other capacity knowingly hires, leases, or permits the land, building, or premises of which he is owner, lessee, or tenant, or over which he has control, to be used for purposes of any such act, is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

HISTORY: 1987 Act No. 168 Section 3.

SECTION 16-15-375.

Definitions applicable to Sections 16-15-385 through 16-15-425.

The following definitions apply to Section 16-15-385, disseminating or exhibiting to minors harmful material or performances; Section 16-15-387, employing a person under the age of eighteen years to appear in a state of sexually explicit nudity in a public place; Section 16-15-395, first degree sexual exploitation of a minor; Section 16-15-405, second degree sexual exploitation of a minor; Section 16-15-410, third degree sexual exploitation of a minor; Section 16-15-415, promoting prostitution of a minor; and Section 16-15-425, participating in prostitution of a minor.

(1) "Harmful to minors" means that quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:

- (a) the average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
 - (b) the average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
 - (c) to a reasonable person, the material or performance taken as a whole lacks serious literary, artistic, political, or scientific value for minors.
- (2) "Material" means pictures, drawings, video recordings, films, digital electronic files, or other visual depictions or representations but not material consisting entirely of written words.
- (3) "Minor" means an individual who is less than eighteen years old.
- (4) "Prostitution" means engaging or offering to engage in sexual activity with or for another in exchange for anything of value.
- (5) "Sexual activity" includes any of the following acts or simulations thereof:
- (a) masturbation, whether done alone or with another human or animal;
 - (b) vaginal, anal, or oral intercourse, whether done with another human or an animal;
 - (c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;
 - (d) an act or condition that depicts bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;
 - (e) excretory functions;
 - (f) the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.

(6) "Sexually explicit nudity" means the showing of:

- (a) uncovered, or less than opaquely covered human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast; or
- (b) covered human male genitals in a discernibly turgid state.

HISTORY: 1987 Act No. 168 Section 3; 1991 Act No. 73, Section 2; 1994 Act No. 421, Section 2; 2001 Act No. 81, Section 10.

SECTION 16-15-385.

Disseminating harmful material to minors and exhibiting harmful performance to minor defined; defenses; penalties.

(A) A person commits the offense of disseminating harmful material to minors if, knowing the character or content of the material, he:

(1) sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or

(2) allows a minor to review or peruse material that is harmful to minors.

A person does not commit an offense under this subsection when he employs a minor to work in a theater if the minor's parent or guardian consents to the employment and if the minor is not allowed in the viewing area when material harmful to minors is shown.

(B) A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance which is harmful to minors.

(C) Except as provided in item (3) of this subsection, mistake of age is not a defense to a prosecution under this section. It is an affirmative defense under this section that:

(1) the defendant was a parent or legal guardian of a minor, but this item does not apply when the parent or legal guardian exhibits or disseminates the harmful material for the sexual gratification of the parent, guardian, or minor.

(2) the defendant was a school, church, museum, public, school, college, or university library, government agency, medical clinic, or hospital carrying out its legitimate function, or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.

(3) before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least eighteen years old, and the defendant reasonably believed the minor was at least eighteen years old.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

HISTORY: 1987 Act No. 168 Section 3; 1990 Act No. 358, Sections 1, 2; 1993 Act No. 184, Section 34; 2004 Act No. 208, Section 7, eff April 26, 2004.

SECTION 16-15-387.

Employment of person under eighteen to appear in public in state of sexually explicit nudity; mistake of age; penalties.

(A) It is unlawful for a person to employ a person under the age of eighteen years to appear in a state of sexually explicit nudity, as defined in Section 16-15-375(6), in a public place.

(B) Mistake of age is not a defense to a prosecution pursuant to this section. A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

HISTORY: 1994 Act No. 421, Section 1; 2004 Act No. 208, Section 8, eff April 26, 2004.

SECTION 16-15-395.

First degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

(A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation;

(2) permits a minor under his custody or control to engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity or appear in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation for a live performance or for the purpose of producing material that contains a visual representation depicting this activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity or a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in a sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section must run consecutively with and commence at the expiration of another sentence being served by the person sentenced.

HISTORY: 1987 Act No. 168 Section 3; 2001 Act No. 81, Section 11; 2004 Act No. 208, Section 9, eff April 26, 2004; 2014 Act

No. 269 (H.3959), Section 1, eff June 9, 2014.

SECTION 16-15-405.

Second degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

(A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution pursuant to this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence.

HISTORY: 1987 Act No. 168 Section 3; 1993 Act No. 184, Section 182; 2001 Act No. 81, Section 12; 2004 Act No. 208, Section 10, eff April 26, 2004; 2014 Act No. 269 (H.3959), Section 2, eff June 9, 2014.

SECTION 16-15-410.

Third degree sexual exploitation of a minor defined; penalties; exception.

(A) An individual commits the offense of third degree sexual exploitation of a minor if, knowing the character or content of the material, he possesses material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

(B) In a prosecution pursuant to this section, the trier of fact may infer that a participant in sexual activity or a state of sexually explicit nudity depicted as a minor through its title, text, visual representation, or otherwise, is a minor.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than ten years.

(D) This section does not apply to an employee of a law enforcement agency, including the State Law Enforcement Division, a prosecuting agency, including the South Carolina Attorney General's Office, or the South Carolina Department of Corrections who, while acting within the employee's official capacity in the course of an investigation or criminal proceeding, is in possession of material that contains a visual representation of a minor engaging in sexual activity or appearing in a state of sexually explicit nudity when a reasonable person would infer the purpose is sexual stimulation.

HISTORY: 1991 Act No. 73, Section 1, eff May 22, 1991; 2004 Act No. 208, Section 11, eff April 26, 2004; 2008 Act No. 226, Section 1, eff May 14, 2008; 2014 Act No. 269 (H.3959), Section 3, eff June 9, 2014.

SECTION 16-15-415.

Promoting prostitution of a minor defined; defenses; penalties.

(A) An individual commits the offense of promoting prostitution of a minor if he knowingly:

(1) entices, forces, encourages, or otherwise facilitates a minor to participate in prostitution; or

(2) supervises, supports, advises, or promotes the prostitution of or by a minor.

(B) Mistake of age is not a defense to a prosecution under this section.

(C) An individual who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than twenty years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence. Sentences imposed pursuant to this section must run consecutively with and must commence at the expiration of another sentence being served by the individual sentenced.

HISTORY: 1987 Act No. 168 Section 3; 2004 Act No. 208, Section 12, eff April 26, 2004.

SECTION 16-15-425.

Participating in prostitution of a minor defined; defenses; penalties.

(A) An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, "patronizing a minor prostitute" means:

(1) soliciting or requesting a minor to participate in prostitution;

(2) paying or agreeing to pay a minor, either directly or through the minor's agent, to participate in prostitution; or

(3) paying a minor, or the minor's agent, for having participated in prostitution, pursuant to a prior agreement.

(B) Mistake of age is not a defense to a prosecution under this section.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.

HISTORY: 1987 Act No. 168 Section 3; 1993 Act No. 184, Section 183.

SECTION 16-15-430.

Sexual extortion; aggravated sexual extortion.

(A) As used in this section:

(1) "Adult" means a person eighteen years or older.

(2) "Minor" means any person under eighteen years of age at the time of the alleged offense.

(3) "Great bodily injury" means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

(4) "Private image" means an image depicting sexually explicit nudity or sexual activity, as defined in Section 16-15-375, or sexual conduct, as defined in Section 16-15-305.

(5) "Image" means a photograph, film, videotape, recording, live transmission, digital or computer-generated visual depiction, or any other reproduction made by electronic, mechanical, or other means.

(6) "Disclose" means exhibit, transfer, publicize, distribute, or reproduce.

(7) "Vulnerable adult" has the same meaning as in Section 43-35-10.

(B) A person commits the offense of felony sexual extortion if the actor intentionally and maliciously threatens to release, exhibit, or distribute a private image of another in order to compel or attempt to compel the victim to do any act or refrain from doing any act against his will, with the intent to obtain additional private images or anything else of value. Except as provided in subsections (C) and (D), a person convicted of felony sexual extortion must be imprisoned:

(1) not more than five years for a first offense;

(2) not more than ten years for a second offense; or

(3) not more than twenty years for a third or subsequent offense.

(C)(1) A person commits the offense of aggravated felony sexual extortion if the actor intentionally and maliciously threatens to release, exhibit, or distribute a private image of another in order to compel or attempt to compel the victim to do any act or refrain from doing any act against his will, with the intent to obtain additional private images or anything else of value and either:

(a) the victim is a minor or a vulnerable adult and the person convicted of sexual extortion is an adult; or

(b) the victim suffers great bodily injury or death and the finder of fact finds beyond a reasonable doubt that the sexual extortion of the victim was the proximate cause of the great bodily injury or death.

(2) A person convicted of aggravated felony sexual extortion must be imprisoned not more than twenty years.

(D) If the person convicted is a minor, then the person is guilty of misdemeanor sexual extortion and must be sentenced by the family court. The court may order as a condition of sentencing behavioral health counseling from an appropriate agency or provider.

HISTORY: 2023 Act No. 54 (H.3583), Section 2, eff May 18, 2023.

Editor's Note

2023 Act No. 54, Sections 1 and 3, provide as follows:

"SECTION 1. This act may be cited as 'Gavin's Law'."

"SECTION 3. Local school districts shall collaborate with the State Department of Education, the South Carolina Law Enforcement Division, and the Attorney General's office, as appropriate, to implement a policy to educate and notify students of the provisions of this act which includes adequate notice to students, parents or guardians, the public, and school personnel of the change in law. The State Department of Education must file a report as to the status of the adoption and implementation of the education policies under this act to the Governor, the President of the Senate, and the Speaker of the House of Representatives, annually by July first of each year."

SECTION 16-15-435.

Circuit solicitor to request search and arrest warrants for violations of Sections 16-15-305 through 16-15-325; hearing on obscenity issue.

(A) A search warrant or arrest warrant for a violation of Sections 16-15-305, 16-15-315, or 16-15-325 may be issued only upon request of a circuit solicitor.

(B) Following seizure of allegedly obscene property pursuant to a warrant requested by a solicitor, and issued by a neutral and detached magistrate based on supporting affidavits, any interested party may request and the court having appropriate jurisdiction must promptly conduct an adversarial hearing for the purpose of obtaining a judicial determination, based on a preponderance of the evidence, of the obscenity issue.

HISTORY: 1987 Act No. 168 Section 3.

SECTION 16-15-445.

Seizure and forfeiture of equipment used in committing violation; hearing; disposition of forfeited property; allocation of sale proceeds.

(A) All equipment used directly by a person in committing a violation of Sections 16-15-305, 16-15-342, 16-15-395, 16-15-405, or 16-15-410, including necessary software, may be seized by the law enforcement agency making the arrest and ordered forfeited by the court in which the conviction was obtained.

(B) Prior to entering a forfeiture order, the court must conduct a hearing to determine ownership and the rights of innocent third parties with respect to the property, and notice of the hearing must be given to all interested parties. The court must incorporate into its forfeiture order provisions necessary to protect the interests of innocent third parties.

(C) Subject to the limitations of subsection (B), property forfeited pursuant to court order must be destroyed by the arresting law enforcement agency, unless that law enforcement agency can show good cause for retaining the property. Ownership of property so retained vests in the arresting law enforcement agency which may use the property in the performance of its duties, destroy it, or sell

it at public auction. Retained property may be sold at public auction after giving notice, in a newspaper of general circulation in the county, of the date, time, and place of the auction and a description of the property to be auctioned. After payment of the expenses of the auction, one-half of the net proceeds may be retained by the arresting law enforcement agency, and one-half must be remitted to the State Treasurer for deposit to the credit of the Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund.

HISTORY: 1987 Act No. 168 Section 3; 2004 Act No. 208, Section 13, eff April 26, 2004; 2017 Act No. 96 (S.289), Section 9, eff July 1, 2017.

Effect of Amendment

2017 Act No. 96, Pt. II, Section 9, in (C), substituted "Office of the Attorney General, South Carolina Crime Victim Services Division, Department of Crime Victim Compensation, Victim Compensation Fund" for "Victim's Compensation Fund".

Title 16 - Crimes and Offenses

CHAPTER 16

Computer Crime Act

SECTION 16-16-10.

Definitions.

For purposes of this chapter:

(a) "Computer" means a device that performs logical, arithmetic, and memory functions by manipulating impulses including, but not limited to, all input, output, processing, storage, computer software, and communication facilities that are connected or related to a computer in a computer system or computer network. For the purposes of this section, "computer" includes, but is not limited to, mainframes, servers, workstations, desktops, and notebooks; industrial controls such as programmable logic controllers and supervisory control and data acquisition systems; portable hand-held computing devices such as personal digital assistants and digital cellular telephones; data communications network devices such as routers and switches; and all other devices that are computer-based or communicate with or are under the control of a computer such as appropriate telephone switches, medical devices, and cable and satellite television interface systems. "Computer" does not include automated typewriters or typesetters.

(b) "Computer network" means the interconnection of two or more computers, and those devices and facilities through which an interconnection occurs.

(c) "Computer program" means a series of instructions or statements executable on a computer, which direct the computer system in a manner to process data or perform other specified functions.

(d) "Computer software" means a set of computer programs, data, procedures, or associated documentation concerned with the operation of a computer system.

(e) "Computer system" means a set of related, whether connected or unconnected, computer equipment, devices, or software.

(f) "Property" includes, but is not limited to, financial instruments, data, documents associated with computer systems, and computer software, or copies thereof, whether tangible or intangible, including both human and computer system readable data, and data while in transit.

(g) "Services" include, but are not limited to, the use of the computer system, computer network, computer programs, or data prepared for computer use, or data obtained within a computer system, or data contained within a computer network.

(h) "Data" means a representation of information, knowledge, facts, concepts, or instructions that has been prepared or is being prepared in a formalized manner and has been processed, is being processed, or is intended to be processed in a computer, computer system, or computer network. Data may be in any form including, but not limited to, computer printouts, magnetic storage media, optical storage media, network data packets, flash memory cards, smart card memory, punched cards, or as stored in the memory of the computer or in transit or displayed on a video device.

(i) "Access" means to gain entry to, attempt to gain entry to, instruct, communicate with, attempt to communicate with, store or alter data in, retrieve or remove data from, or otherwise make use of or attempt to make use of the logical, arithmetic, control, memory, storage, output, or communication functions of a computer, computer system, or computer network.

(j) "Computer hacking" means:

(1) accessing or attempting to access all or part of a computer, computer system, or a computer network without express or implied authorization for the purpose of establishing contact only;

(2) with the intent to defraud or with malicious intent to commit a crime after the contact is established;

(3) misusing computer or network services including, but not limited to, mail transfer programs, file transfer programs, proxy servers, and web servers by performing functions not authorized by the appropriate principal of the computer, computer system, or computer network. Misuse of computer and network services includes, but is not limited to, the unauthorized use of:

(i) mail transfer programs to send mail to persons other than the authorized users of that computer or computer network;

(ii) file transfer program proxy services or proxy servers to access other computers, computer systems, or computer networks; and

(iii) web servers to redirect users to other web pages or web servers;

(4) using a group of computer programs commonly known as "port scanners" or "probes" to intentionally access any computer, computer system, or computer network without the permission of the appropriate principal of the computer, computer system, or computer network. This group of computer programs includes, but is not limited to, those computer programs that use a computer network to access a computer, computer system, or another computer network to determine:

(i) the presence or types of computers or computer systems on a network;

(ii) the computer network's facilities and capabilities;

(iii) the availability of computer or network services;

(iv) the presence or versions of computer software including, but not limited to, operating systems, computer services, or computer contaminants;

(v) the presence of a known computer software deficiency that can be used to gain unauthorized access to a computer, computer system, or computer network; or

(vi) any other information about a computer, computer system, or computer network not necessary for the normal and lawful operation of the computer initiating the access.

This group of computer programs does not include standard computer software used for the normal operation, administration, management, and test of a computer, computer system, or computer network including, but not limited to, operating system services such as domain name services and mail transfer services, network monitoring and management computer software such as the

computer programs commonly called "ping", "tcpdump", and "tracert", and systems administration computer software such as the computer programs commonly known as "nslookup" and "whois". It is unlawful to intentionally and knowingly use such computer software to access any computer, computer system, or computer network to adversely affect computer or network access or performance; and

(5) the intentional use of a computer, computer system, or a computer network in a manner that exceeds any right or permission granted by the appropriate principal of the computer, computer system, or computer network.

Computer hacking does not include the introduction of a computer contaminant into a computer, computer system, computer program, or computer network.

(k) "Computer contaminant" means a computer program designed to modify, damage, destroy, disable, deny or degrade access to, allow unauthorized access to, functionally impair, record, or transmit information within a computer, computer system, or computer network without the express or implied consent of the owner. Computer contaminant includes, but is not limited to:

(1) a group of computer programs commonly known as "viruses" and "worms" that are self-replicating or self-propagating, and that are designed to contaminate other computer programs, compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;

(2) a group of computer programs commonly known as "Trojans" or "Trojan horses" that are not self-replicating or self-propagating, and that are designed to compromise computer security, consume computer resources, modify, destroy, record, or transmit data, or disrupt the normal operation of the computer, computer system, or computer network;

(3) a group of computer programs commonly known as "zombies" that are designed to use a computer without the knowledge and consent of the appropriate principal, and that are designed to send large quantities of data to a targeted computer network for the purpose of degrading the targeted computer's or network's performance, or denying access through the network to the targeted computer or network, resulting in what is commonly known as "Denial of Service" or "Distributed Denial of Service" attacks; or

(4) a group of computer programs commonly known as "trap doors", "back doors", or "root kits" that are designed to bypass standard authentication software, and that are designed to allow access to or use of a computer without the knowledge or consent of the appropriate principal.

(l) "Unauthorized access" means access of a computer, computer system, or computer network not explicitly or implicitly authorized by the appropriate principal of the computer, computer system, or computer network.

(m) "Unauthorized use" means the:

(i) use of a computer, computer system, or computer network not explicitly or implicitly authorized by the appropriate principal of the computer, computer system, or computer network;

(ii) the use of computer software not explicitly or implicitly authorized by the appropriate principal or licensee of the computer software; or

(iii) the unauthorized use of a computer, computer system, computer network, or computer software in a manner not explicitly or implicitly authorized by the appropriate principal or licensee.

HISTORY: 1984 Act No. 442, Section 2; 2002 Act No. 169, Section 2, eff February 8, 2002; 2002 Act No. 339, Section 9, eff July 2, 2002.

Editor's Note

2002 Act No. 339, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-16-20.

Computer crime offenses; penalties.

(1) It is unlawful for a person to wilfully, knowingly, maliciously, and without authorization or for an unauthorized purpose to:

(a) directly or indirectly access or cause to be accessed a computer, computer system, or computer network for the purpose of:

(i) devising or executing a scheme or artifice to defraud;

(ii) obtaining money, property, or services by means of false or fraudulent pretenses, representations, promises; or

(iii) committing any other crime.

(b) alter, damage, destroy, or modify a computer, computer system, computer network, computer software, computer program, or data contained in that computer, computer system, computer program, or computer network or introduce a computer contaminant into that computer, computer system, computer program, or computer network.

(2) A person is guilty of computer crime in the first degree if the amount of gain directly or indirectly derived from the offense made unlawful by subsection (1) or the loss directly or indirectly suffered by the victim exceeds ten thousand dollars. Computer crime in the first degree is a felony and, upon conviction, a person must be fined not more than fifty thousand dollars or imprisoned not more than five years, or both.

(3)(a) A person is guilty of computer crime in the second degree if the amount of gain directly or indirectly derived from the offense made unlawful by subsection (1) or the loss directly or indirectly suffered by the victim is greater than one thousand dollars but not more than ten thousand dollars.

(b) A person is also guilty of computer crime in the second degree where:

(i) he interferes with, causes to be interfered with, denies or causes to be denied any computer or network service to an authorized user of the computer or network service for the purpose of devising or executing any scheme or artifice to defraud, or obtaining money, property, or services by means of false or fraudulent pretenses, representations, or promises, or committing any other felony;

(ii) he deprives the owner of possession of, or takes, transfers, conceals, or retains possession of any computer, data, computer property, or computer-related property, including all parts of a computer, computer system, computer network, computer software, computer services, or information associated with a computer, whether in a tangible or intangible form; or
(iii) the gain derived from the offense made unlawful by subsection (1) or loss suffered by the victim cannot reasonably be ascertained.

(c) Computer crime in the second degree is a misdemeanor and, upon conviction for a first offense, a person must be fined not more than ten thousand dollars or imprisoned not more than one year, or both. Upon conviction for a second or subsequent offense, a person is guilty of a misdemeanor and must be fined not more than twenty thousand dollars or imprisoned not more than two years, or both.

(4) A person is guilty of computer crime in the third degree if the amount of gain directly or indirectly derived from the offense made unlawful by subsection (1) or the loss directly or indirectly suffered by the victim is not more than one thousand dollars. A person is also guilty of computer crime in the third degree if he wilfully, knowingly, and without authorization or for an unauthorized purpose engages in computer hacking. Computer crime in the third degree is a misdemeanor and, upon conviction for a first offense, a person must be fined not more than two hundred dollars or imprisoned not more than thirty days. Upon conviction for a second or subsequent offense, a person must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

(5) Each computer, computer system, or computer network affected by the violation of this chapter constitutes a separate violation. HISTORY: 1984 Act No. 442, Section 2; 1993 Act No. 184, Section 184; 2001 Act No. 81, Section 2; 2002 Act No. 169, Section 3, eff February 8, 2002; 2002 Act No. 339, Section 10, eff July 2, 2002.

Editor's Note

2002 Act No. 339, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-16-25.

Compensatory damages and restitution.

In addition to other civil remedies available, the owner or lessee of a computer, computer system, computer network, computer program, or data may bring a civil action against a person convicted under this chapter for compensatory damages, restitution, and attorney's fees. Compensatory damages and restitution may include:

- (1) expenditures reasonably and necessarily incurred by the owner or lessee to verify whether a computer system, computer network, computer program, or data was altered, damaged, or deleted by the access;
- (2) costs of repairing or, if necessary, replacing the affected computer, computer system, computer network, computer software, computer program, or data;
- (3) lost profits for the period that the computer, computer system, computer network, computer software, computer program, or data was unusable; and
- (4) costs of replacing or restoring the data lost or damaged as a result of a violation of this chapter.

HISTORY: 2002 Act No. 169, Section 4, eff February 8, 2002; 2002 Act No. 339, Section 11, eff July 2, 2002.

Editor's Note

2002 Act No. 339, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-16-30.

Venue.

For the purpose of venue under this chapter, a violation of this chapter is considered to have been committed in the county in which the violation took place; however, upon proper motion and the proper showing before a judge, venue may be transferred if justice would be better served by the transfer, to one of the following:

- (1) a county in which an act was performed in furtherance of a transaction which violated this chapter;
- (2) the county of the principal place of business in this State of the owner or lessee of a computer, computer system, computer network, or any part of it, which has been subject to the violation; or
- (3) a county in which a violator had control or possession of proceeds of the violation or of books, records, documents, property, financial instruments, computer software, computer programs, or other materials or objects which were used in the furtherance of the violation.

HISTORY: 1984 Act No. 442, Section 2; 2002 Act No. 169, Section 5, eff February 8, 2002; 2002 Act No. 339, Section 12, eff July 2, 2002.

Editor's Note

2002 Act No. 339, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-16-40.

Applicability of other criminal law provisions.

The provisions of this chapter must not be construed to preclude the applicability of any other provision of the criminal law of this

State, which presently applies or may in the future apply, to any transaction which violates this chapter.
HISTORY: 1984 Act No. 442, Section 2.

Title 16 - Crimes and Offenses

CHAPTER 17

Offenses Against Public Policy

ARTICLE 1

Barratry

SECTION 16-17-10.

Barratry prohibited.

Any person who shall:

(1) Wilfully solicit or incite another to bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and

(a) thereby seeks to obtain employment for himself or for another to prosecute or defend such action,

(b) has no direct and substantial interest in the relief thereby sought,

(c) does so with intent to distress or harass any party to such action,

(d) directly or indirectly pays or promises to pay any money or other thing of value to, or the obligations of, any party to such an action or

(e) directly or indirectly pays or promises to pay any money or other thing of value to any other person to bring about the prosecution or maintenance of such an action; or

(2) Wilfully bring, prosecute or maintain an action, at law or in equity, in any court having jurisdiction within this State and

(a) has no direct or substantial interest in the relief thereby sought,

(b) thereby seeks to defraud or mislead the court,

(c) brings such action with intent to distress or harass any party thereto or

(d) directly or indirectly receives any money or other thing of value to induce the bringing of such action;

Shall be guilty of the crime of barratry.

The crime of barratry shall be punishable by a fine of not more than five thousand dollars or by imprisonment of not more than two years, or both.

HISTORY: 1962 Code Section 16-521; 1957 (50) 23.

SECTION 16-17-20.

Persons convicted of barratry barred from practice of law.

Any person convicted of barratry shall be forever barred from practicing law in this State.

HISTORY: 1962 Code Section 16-522; 1957 (50) 23.

SECTION 16-17-30.

Liability of corporations and unincorporated associations.

As used in Section 16-17-10 the term "person" shall include corporations and unincorporated associations, and the statutes and laws of this State pertaining to criminal liability and enforcement thereof against corporations shall apply to any unincorporated association convicted of barratry.

HISTORY: 1962 Code Section 16-523; 1957 (50) 23.

SECTION 16-17-40.

Corporations or unincorporated associations convicted of barratry barred from doing business in State.

Any corporation or unincorporated association found guilty of the crime of barratry shall be forever barred from doing any business or carrying on any activity within this State, and in the case of a corporation its charter or certificate of domestication shall be summarily revoked by the Secretary of State.

HISTORY: 1962 Code Section 16-524; 1957 (50) 23.

SECTION 16-17-50.

Article is cumulative.

The provisions of this article are cumulative and shall not be construed as repealing any existing statute or the common law of this State with respect to the subject matter of any of the provisions hereof.

HISTORY: 1962 Code Section 16-525; 1957 (50) 23.

ARTICLE 3

Desecration or Mutilation of Flags

SECTION 16-17-210.

Definitions.

The words "flag, standard, color or ensign," as used in Sections 16-17-220 and 16-17-230, shall include any flag, standard, color or ensign or any picture or representation made of any substance or represented on any substance and of any size, evidently purporting to be of the flag, standard, color or ensign of the United States, the Confederate States of America or this State, or a picture or representation upon which shall be shown the colors, the stars and the stripes, in any number or either thereof or by which the person seeing such picture or representation without deliberation may believe it to represent the flag, colors, standard or ensign of the United States, the Confederate States of America or this State.

HISTORY: 1962 Code Section 16-533; 1952 Code Section 16-533; 1942 Code Section 1274; 1932 Code Section 1274; Cr. C. '22 Section 169; 1916 (29) 925; 1958 (50) 1676.

SECTION 16-17-220.

Desecration or mutilation of United States, Confederate or State flags.

Any person who in any manner, for exhibition or display, shall (a) knowingly place or cause to be placed any word, inscription, figure, mark, picture, design, device, symbol, name, characters, drawing, notice or advertisement of any nature upon any flag, standard, color or ensign of the United States, the Confederate States of America or this State or upon a flag, standard, color or ensign purporting to be such, (b) knowingly display, exhibit or expose or cause to be exposed to public view any such flag, standard, color or ensign upon which shall have been printed, painted or otherwise placed or to which shall be attached, appended, affixed or annexed any word, inscription, figure, mark, picture, design, device, symbol, name, characters, drawing, photographs, notice or advertisement of any nature, (c) expose to public view, manufacture, sell, expose for sale, give away or have in possession for sale, to give away, or for use for any purpose, any article or substance, being an article of merchandise or a receptacle of merchandise or article or thing for camping or transporting merchandise upon which shall have been printed, painted, attached or otherwise placed a representation of any such flag, standard, color or ensign to advertise, call attention to, decorate, mark or distinguish the article or substance on which placed or (d) publicly mutilate, deface, defile, defy, jeer at, trample upon or cast contempt, either by word or act, upon any such flag, standard, color or ensign shall be guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars or by imprisonment for not more than thirty days, or both, in the discretion of the court, and shall also forfeit a penalty of fifty dollars for each offense, to be recovered with costs in a civil action or suit in any court having jurisdiction. Such action or suit may be brought by and in the name of any citizen of this State, and such penalty when collected, less the reasonable cost and expense of action or suit and recovery to be certified by the clerk of court of the county in which the offense is committed, shall be paid into the State Treasury. Two or more penalties may be sued for and recovered in the same action or suit.

HISTORY: 1962 Code Section 16-532; 1952 Code Sections 16-531, 16-532; 1942 Code Sections 1273, 1274; 1932 Code Sections 1273, 1274; Cr. C. '22 Sections 168, 169; Cr. C. '12 Section 207; 1910 (26) 753; 1916 (29) 925; 1950 (46) 1881; 1958 (50) 1676.
SECTION 16-17-230.

Presumption from possession.

It is permissible to infer that possession by any person, other than a public officer as such, of any flag, standard, color, or ensign on which is anything made unlawful at any time by Section 16-17-220 or of any article, substance, or thing on which is anything made unlawful at any time by that section is in violation of that section.

HISTORY: 1962 Code Section 16-534; 1952 Code Section 16-534; 1942 Code Section 1274; 1932 Code Section 1274; Cr. C. '22 Section 169; 1916 (29) 925; 1922 (32) 858; 1987 Act No. 95 Section 8.

ARTICLE 5

Improper Use of Names

SECTION 16-17-310.

Imitation of organizations' names, emblems and the like.

No person, society or organization shall assume, use, adopt, become incorporated under or continue to use the name and style or emblems of any incorporated benevolent, fraternal, social, humane or charitable organization previously existing in this State or a name and style or emblem so nearly resembling the name and style of such incorporated organization as to be a colorable imitation thereof. When two or more of such societies, associations or corporations claim the right to the same name or to a name substantially similar as above provided, the organization which was first organized and used the name and first became incorporated under the laws of the United States or of any state of the Union, whether incorporated in this State or not, shall be entitled in this State to the prior and exclusive use of such name, and the rights of such societies, associations or corporations and of their individual members shall be fixed and determined accordingly.

Any person who shall wear a badge, button or other emblem or shall use the name or claim to be a member of any benevolent, fraternal, social, humane or charitable organization which is entitled to the exclusive use of such name and emblems under this section, either in the identical form or in such near resemblance thereto as to be a colorable imitation of such emblems and name, unless entitled so to do under the laws, rules and regulations of such organization, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or imprisonment in the State Penitentiary for not less than thirty days nor more than one year.

HISTORY: 1962 Code Section 16-542; 1952 Code Section 16-542; 1942 Code Section 1243; 1932 Code Section 1243; Cr. C. '22 Section 139; Cr. C. '12 Section 285; 1906 (25) 118; 1910 (26) 723, 779; 1925 (34) 20.

SECTION 16-17-320.

Injunction to restrain improper use of name and emblems.

Whenever there shall be an actual or threatened violation of the provisions of Section 16-17-310, the organization entitled to the exclusive use of the name in question, under the terms of said section, shall have the right to apply to the proper courts for an injunction to restrain the infringement of its name and the use of its emblems. If it shall be made to appear to the court that the defendants are in fact infringing or about to infringe upon the name and style of a previously existing incorporated benevolent, fraternal, social, humane or charitable organization in the manner prohibited in said section or that the defendant or defendants are wearing and using the badge, insignia or emblems of such organization, without the authority thereof in violation of said section, an injunction may be issued by the court under the principles of equity, without requiring proof that any person has been in fact misled or deceived by the infringement of such name or the use of such emblem.

HISTORY: 1962 Code Section 16-543; 1952 Code Section 16-543; 1942 Code Section 1243; 1932 Code Section 1243; Cr. C. '22 Section 139; Cr. C. '12 Section 285; 1906 (25) 118; 1910 (26) 723, 779; 1925 (34) 20.

ARTICLE 7

Miscellaneous Offenses

SECTION 16-17-410.

Conspiracy.

The common law crime known as "conspiracy" is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means.

A person who commits the crime of conspiracy is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

A person who is convicted of the crime of conspiracy must not be given a greater fine or sentence than he would receive if he carried out the unlawful act contemplated by the conspiracy and had been convicted of the unlawful act contemplated by the conspiracy or had he been convicted of the unlawful acts by which the conspiracy was to be carried out or effected.

HISTORY: 1962 Code Section 16-550; 1957 (50) 58; 1993 Act No. 184, Section 35.

SECTION 16-17-420.

School disturbances by nonstudents; penalties.

(A) It is unlawful for a person who is not a student to wilfully interfere with, disrupt, or disturb the normal operations of a school or college in this State by:

- (1) entering upon school or college grounds or property without the permission of the principal or president in charge;
- (2) loitering upon or about school or college grounds or property, after notice is given to vacate the grounds or property and after having reasonable opportunity to vacate;
- (3) initiating a physical assault on, or fighting with, another person on school or college grounds or property;
- (4) being loud or boisterous on school or college grounds or property after instruction by school or college personnel to refrain from the conduct;
- (5) threatening physical harm to a student or a school or college employee while on school or college grounds or property; or
- (6) threatening the use of deadly force on school or college property or involving school or college grounds or property when the person has the present ability, or is reasonably believed to have the present ability, to carry out the threat.

(B) For the purpose of this section, "person who is not a student" means a person who is not enrolled in, or who is suspended or expelled from, the school or college that the person interferes with, disrupts, or disturbs at the time the interference, disruption, or disturbance occurs.

(C) Any person who violates a provision of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year, or both.

HISTORY: 1962 Code Section 16-551; 1952 Code Section 16-551; 1942 Code Section 1129; 1932 Code Section 1129; Cr. C. '22 Section 28; 1919 (31) 239; 1968 (55) 2308; 1972 (57) 2620; 2010 Act No. 273, Section 12, eff June 2, 2010; 2018 Act No. 182 (S.131), Section 1, eff May 17, 2018.

Validity

For the validity of the prior version of this section, see *Kenny v. Wilson*, 566 F. Supp.3d 447 (D.S.C. Oct. 8, 2021).

Effect of Amendment

2018 Act No. 182, Section 1, rewrote the section.

SECTION 16-17-425.

Student threats.

(A) It is unlawful for a student of a school or college in this State to make threats to take the life of or to inflict bodily harm upon another by using any form of communication whatsoever.

(B) Nothing contained in this section may be construed to repeal, replace, or preclude application of any other criminal statute.

HISTORY: 2018 Act No. 182 (S.131), Section 2, eff May 17, 2018.

SECTION 16-17-430.

Unlawful communication.

(A) It is unlawful for a person to:

- (1) use in a telephonic communication or any other electronic means, any words or language of a profane, vulgar, lewd, lascivious, or an indecent nature, or to communicate or convey by telephonic or other electronic means an obscene, vulgar, indecent, profane, suggestive, or immoral message to another person;
- (2) threaten in a telephonic communication or any other electronic means an unlawful act with the intent to coerce, intimidate, or harass another person;
- (3) telephone or electronically contact another repeatedly, whether or not conversation ensues, for the purpose of annoying or harassing another person or his family;
- (4) make a telephone call and intentionally fail to hang up or disengage the connection for the purpose of interfering with the telephone service of another;
- (5) telephone or contact by electronic means another and make false statements concerning either the death or injury of a member of the family of the person who is telephoned or electronically contacted, with the intent to annoy, frighten, or terrify that person; or
- (6) knowingly permit a telephone under his control to be used for any purpose prohibited by this section.

(B) A person who violates any provision of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned not more than thirty days.

HISTORY: 1962 Code Section 16-552.1; 1961 (52) 451; 1967 (55) 626; 1993 Act No. 184, Section 36; 2001 Act No. 81, Section

13.

SECTION 16-17-440.

Venue for prosecution under Section 16-17-430.

Venue for prosecution pursuant to the provisions of Section 16-17-430 shall be either in the county wherein the telephonic communications originated or the county where it was received.

HISTORY: 1962 Code Section 16-552.2; 1961 (52) 451.

SECTION 16-17-445.

Deleted.

HISTORY: Former Section, titled Regulation of unsolicited consumer telephone calls, had the following history: 1988 Act No. 656, Section 1; 2000 Act No. 408, Section 1; 2005 Act No. 128, Section 1, eff July 1, 2005. Deleted by 2018 Act No. 218, Section 2, eff May 18, 2018.

SECTION 16-17-446.

Regulation of automatically dialed announcing device (ADAD).

(A) "Adad" means an automatically dialed announcing device which delivers a recorded message without assistance by a live operator for the purpose of making an unsolicited consumer telephone call as defined in Section 16-17-445(A)(3). Adad calls include automatically announced calls of a political nature including, but not limited to, calls relating to political campaigns.

(B) Adad calls are prohibited except:

(1) in response to an express request of the person called;

(2) when primarily connected with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

(3) in response to a person with whom the telephone solicitor has an existing business relationship or has had a previous business relationship.

(C) Adad calls which are not prohibited under subsection (B):

(1) are subject to Section 16-17-445(B)(1), (2), and (3);

(2) shall disconnect immediately when the called party hangs up;

(3) are prohibited after seven p.m. or before eight a.m.;

(4) may not ring at hospitals, police stations, fire departments, nursing homes, hotels, or vacation rental units.

(D) A person who violates this section, upon conviction, must be punished as provided in Section 16-17-445(F).

HISTORY: 1988 Act No. 656, Section 2; 1991 Act No. 89, Section 1.

Validity

For validity of this section, see *Cahaly v. LaRosa*, 25 F.Supp.3d 817 (D.S.C., 2014), 796 F.3d 399 (C.A.4 (S.C.)).

Editor's Note

Section 16-17-445 was deleted by 2018 Act No. 218, Section 2. See now, Chapter 21, Title 37.

SECTION 16-17-450.

Refusal to relinquish party telephone line for emergency call.

(1) Any person who shall wilfully refuse to relinquish immediately a party telephone line when informed that such line is needed for an emergency call to a fire department or police department or for medical aid or ambulance service shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

(2) It shall constitute a defense to a prosecution under subsection (1) that the accused did not know of the emergency in question, or that the accused was using the party telephone line for an emergency call.

(3) Any person who requests another to relinquish a telephone party line on the pretext that he must place an emergency call, knowing such pretext to be false, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

(4) As used in this section

The term "party line" shall mean a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

The term "emergency" shall mean a situation in which property or human life are in jeopardy and the prompt summoning of aid is essential.

HISTORY: 1962 Code Section 16-552.3; 1967 (55) 624.

SECTION 16-17-470.

Eavesdropping, peeping, voyeurism.

(A) It is unlawful for a person to be an eavesdropper or a peeping tom on or about the premises of another or to go upon the premises of another for the purpose of becoming an eavesdropper or a peeping tom. The term "peeping tom", as used in this section, is defined as a person who peeps through windows, doors, or other like places, on or about the premises of another, for the purpose of spying upon or invading the privacy of the persons spied upon and any other conduct of a similar nature, that tends to invade the privacy of others. The term "peeping tom" also includes any person who employs the use of video or audio equipment for the purposes set forth in this section. A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both.

(B) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying sexual desire of any person, he or she knowingly views, photographs, audio records, video records, produces, or creates a digital electronic file, or films another person,

without that person's knowledge and consent, while the person is in a place where he or she would have a reasonable expectation of privacy. A person who violates the provisions of this subsection:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than three years, or both; or

(2) for a second or subsequent offense, is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than five years, or both.

(C) A person commits the crime of aggravated voyeurism if he or she knowingly sells or distributes any photograph, audio recording, video recording, digital electronic file, or film of another person taken or made in violation of this section. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than five hundred dollars or more than five thousand dollars or imprisoned not more than ten years, or both.

(D) As used in this section:

(1) "Place where a person would have a reasonable expectation of privacy" means:

(a) a place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed, filmed, or videotaped by another; or

(b) a place where one would reasonably expect to be safe from hostile intrusion or surveillance.

(2) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person.

(3) "View" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(E) The provisions of subsection (A) do not apply to:

(1) viewing, photographing, videotaping, or filming by personnel of the Department of Corrections or of a county, municipal, or local jail or detention center or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the Department of Corrections or a county, municipal, or local jail or detention center or correctional facility;

(2) security surveillance for the purposes of decreasing or prosecuting theft, shoplifting, or other security surveillance measures in bona fide business establishments;

(3) any official law enforcement activities conducted pursuant to Section 16-17-480;

(4) private detectives and investigators conducting surveillance in the ordinary course of business; or

(5) any bona fide news gathering activities.

(F) In addition to any other punishment prescribed by this section or other provision of law, a person procuring photographs, audio recordings, video recordings, digital electronic files, or films in violation of this section shall immediately forfeit all items. These items must be destroyed when no longer required for evidentiary purposes.

HISTORY: 1962 Code Section 16-554; 1952 Code Section 16-554; 1942 Code Section 1192-1; 1937 (40) 478; 1993 Act No. 184, Section 99; 2000 Act No. 363, Section 1; 2001 Act No. 81, Section 14.

SECTION 16-17-480.

Section 16-17-470 not applicable to law officers.

Nothing in Section 16-17-470 shall prevent duly constituted officers of the law from performing their official duties in ferreting out offenders or suspected offenders against violating the laws of this State or any municipality therein for the purpose of apprehending such suspected violator. But the provisions of this section shall not be construed as giving such officers any additional rights or powers upon private property but shall be construed as preserving only such powers as they had before.

HISTORY: 1962 Code Section 16-555; 1952 Code Section 16-555; 1942 Code Section 1192-1; 1937 (40) 478.

SECTION 16-17-490.

Contributing to delinquency of a minor.

It shall be unlawful for any person over eighteen years of age to knowingly and wilfully encourage, aid or cause or to do any act which shall cause or influence a minor:

(1) To violate any law or any municipal ordinance;

(2) To become and be incorrigible or ungovernable or habitually disobedient and beyond the control of his or her parent, guardian, custodian or other lawful authority;

(3) To become and be habitually truant;

(4) To without just cause and without the consent of his or her parent, guardian or other custodian, repeatedly desert his or her home or place of abode;

(5) To engage in any occupation which is in violation of law;

(6) To associate with immoral or vicious persons;

(7) To frequent any place the existence of which is in violation of law;

(8) To habitually use obscene or profane language;

(9) To beg or solicit alms in any public places under any pretense;

(10) To so deport himself or herself as to wilfully injure or endanger his or her morals or health or the morals or health of others.

Any person violating the provisions of this section shall upon conviction be fined not more than three thousand dollars or imprisoned for not more than three years, or both, in the discretion of the court.

This section is intended to be cumulative and shall not be construed so as to defeat prosecutions under any other law which is applicable to unlawful acts embraced herein.

The provisions of this section shall not apply to any school board of trustees promulgating rules and regulations as authorized by Section 59-19-90(3) which prescribe standards of conduct and behavior in the public schools of the district. Provided, however, that any such rule or regulation which contravenes any portion of the provisions of this section shall first require the consent of the parent or legal guardian of the minor or minors concerned.

HISTORY: 1962 Code Section 16-555.1; 1957 (50) 572, 1971 (57) 848; 1976 Act No. 629.

SECTION 16-17-495.

Custodial interference.

(A)(1) When a court of competent jurisdiction in this State or another state has awarded custody of a child under the age of sixteen years or when custody of a child under the age of sixteen years is established pursuant to Section 63-17-20(B), it is unlawful for a person with the intent to violate the court order or Section 63-17-20(B) to take or transport, or cause to be taken or transported, the child from the legal custodian for the purpose of concealing the child, or circumventing or avoiding the custody order or statute.

(2) When a pleading has been filed and served seeking a determination of custody of a child under the age of sixteen, it is unlawful for a person with the intent to circumvent or avoid the custody proceeding to take or transport, or cause to be taken or transported, the child for the purpose of concealing the child, or circumventing or avoiding the custody proceeding. It is permissible to infer that a person keeping a child outside the limits of this State for more than seventy-two hours without notice to a legal custodian intended to violate this subsection.

(B) A person who violates subsection (A)(1) or (2) is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(C) If a person who violates subsection (A)(1) or (2) returns the child to the legal custodian or to the jurisdiction of the court in which the custody petition was filed within three days of the violation, the person is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(D) Notwithstanding the provisions of this section, if the taking or transporting of a child in violation of subsections (A)(1) or (2), is by physical force or the threat of physical force, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both.

(E) A person who violates the provisions of this section may be required by the court to pay necessary travel and other reasonable expenses including, but not limited to, attorney's fees incurred by the party entitled to the custody or by a witness or law enforcement.

HISTORY: 1976 Act No. 592; 1990 Act No. 470, Section 1; 1995 Act No. 28, Section 1; 1997 Act No. 95, Section 4.

SECTION 16-17-500.

Sale or purchase of tobacco products to minors; proof of age; location of vending machines; penalties; smoking cessation programs.

(A) It is unlawful for an individual to sell, furnish, give, distribute, purchase for, or provide a tobacco product to a minor under the age of eighteen years.

(B) It is unlawful to sell a tobacco product or an alternative nicotine product 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, is shown, and reasonably is relied upon for the individual's proof of age is a defense to an action initiated pursuant to this subsection.

(C) A person engaged in the sale of tobacco products made through the Internet or other remote sales methods shall perform an age verification through an independent, third-party age verification service that compares information available from public records to the personal information entered by the individual during the ordering process that establishes the individual is eighteen years of age or older and shall use a method of mailing, shipping, or delivery that requires the signature of a person at least eighteen years of age before a tobacco product will be released to the purchaser, unless the Internet or other remote sales methods employ the following protections to ensure age verification:

(1) the customer creates an online profile or account with personal information including, but not limited to, name, address, social security information, and a valid phone number, and that personal information is verified through publicly available records; or

(2) the customer is required to upload a copy of his government-issued identification in addition to a current photograph of the customer; and

(3) delivery is made to the customer's name and address.

(D) It is unlawful to sell a tobacco product or an alternative nicotine product through a vending machine unless the vending machine is located in an establishment:

(1) which is open only to individuals who are eighteen years of age or older; or

(2) where the vending machine is under continuous control by the owner or licensee of the premises or an employee of the owner or licensee, can be operated only by activation by the owner, licensee, or employee before each purchase, and is not accessible to the public when the establishment is closed.

(E)(1) An individual who knowingly violates a provision of subsections (A), (B), (C), (D), or (J) in person, by agent, or in any other way is guilty of a misdemeanor and, upon conviction, must be:

(a) for a first offense, fined not less than two hundred dollars and not more than three hundred dollars;

(b) for a second and subsequent offense, fined not less than four hundred dollars and not more than five hundred dollars, imprisoned for not more than thirty days, or both.

(2) In lieu of the fine, the court may require an individual, at the expense of the tobacco retailer or tobacco retail establishment, to successfully complete a Department of Alcohol and Other Drug Abuse Services approved merchant tobacco enforcement education

program.

(3) A tobacco retailer who knowingly violates or permits an employee to violate a provision of subsections (A), (B), (C), (D), or (J) in the tobacco retail establishment is subject to an administrative penalty as follows:

(a) for a first violation, issued a warning;

(b) for a second violation within a thirty-six month period, fined not less than three hundred dollars;

(c) for a third violation within a thirty-six month period, fined not less than six hundred dollars;

(d) for a fourth and subsequent violation within a thirty-six month period, fined not less than one thousand two hundred dollars and the tobacco retailer is prohibited from selling or distributing tobacco products for a period of at least seven days and no greater than thirty days. For purposes of this subsection, a tobacco retailer that knowingly sells or distributes during the period that the tobacco retailer is prohibited from selling or distributing is subject to a fine of not more than two hundred dollars and is prohibited from selling or distributing tobacco products for an additional period of seven days; and

(e) A tobacco retailer or tobacco retail establishment may request a contested case hearing for the fine or for the prohibition from selling or distributing tobacco products in front of the South Carolina Administrative Law Court, pursuant to the South Carolina Administrative Procedures Act, Section 1-23-310 et, seq.

(4) In lieu of the fine and prohibition from selling or distributing tobacco products, the court may require the tobacco retailer or tobacco retail establishment's employees, at the expense of the tobacco retailer or tobacco retail establishment, to successfully complete a Department of Alcohol and Other Drug Services-approved merchant tobacco enforcement education program.

(5) Failure to require identification for the purpose of verifying a person's age is prima facie evidence of a violation of this section.

(6) Local law enforcement and the State Law Enforcement Division may enforce subsections (A), (B), (C), (D), (E), or (J). The Department of Revenue must administer the provisions of subsection (E)(3) and the State Law Enforcement Division may enforce subsection (E)(3).

(7) A violation of subsection (A), (B), (C), (D), or (J) is prima facie evidence of a violation of subsection (E)(3). The Department of Revenue is authorized to present evidence of a violation of subsection (A), (B), (C), (D), or (J) to establish the violation of subsection (E)(3). Evidence of compliance with a merchant tobacco enforcement education program is an affirmative defense to subsection (E)(3)(a) and (b).

(F)(1)(a) A minor under the age of eighteen years must not present or offer proof of age that is false or fraudulent for the purpose of purchasing or possessing these products.

(b) A minor under the age of eighteen years is prohibited from entering a tobacco retail establishment that has as its primary purpose the sale of tobacco products, unless the minor is actively supervised and accompanied by an adult.

(c) The provisions of this subsection do not apply to a minor under the age of eighteen who is recruited and authorized by a law enforcement agency to test an establishment's compliance with laws relating to the unlawful transfer of tobacco products. The testing must be conducted under the direct supervision of a law enforcement agency, and the law enforcement agency must have the consent of a parent or legal guardian of the minor.

(2) A minor who knowingly misrepresents his age to purchase or attempt to purchase a tobacco product commits a noncriminal offense and is subject to a civil fine of twenty-five dollars.

(3) In lieu of the civil fine, the court may require a minor to successfully complete a Department of Health and Environmental Control-approved smoking cessation or tobacco prevention program, a South Carolina Department of Alcohol and other Drug Abuse Services tobacco prevention program, or to perform not more than five hours of community service for a charitable institution.

(4) 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 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 or for the failure to pay a fine, successfully complete a smoking cessation or tobacco prevention program, or perform community service.

(5) 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.

(6) The uniform traffic ticket, established pursuant to Section 56-7-10, may be used by law enforcement officers for a violation of this subsection, including civil penalties and warnings. A violation of subsection (F) does not constitute a criminal offense. A law enforcement officer issuing a uniform traffic ticket pursuant to this subsection must immediately seize the tobacco product.

(G) This section does not apply to the possession of a tobacco product by a minor working within the course and scope of his duties as an employee or participating within the course and scope of an authorized inspection or compliance check.

(H) Jurisdiction to hear a violation of this section is vested exclusively in the municipal court and the magistrates court. A hearing pursuant to subsection (F) must be placed on the municipal or magistrates court's appropriate docket for traffic violations, and not on the court's docket for civil matters. For the purposes of contesting a tobacco retailer being fined or prohibited from selling or distributing tobacco products under subsection (E)(3), the jurisdiction is vested in the South Carolina Administrative Law Court.

(I) A retail establishment must train all tobacco retail sales employees regarding the unlawful distribution of tobacco products to minors.

(J)(1) A tobacco retail establishment that has as its primary purpose the sale of tobacco products must prohibit minors under the age of eighteen years from entering the tobacco retail establishment, unless the minor is actively supervised and accompanied by an adult, and shall determine whether a person is at least eighteen years by requiring proper proof of age in accordance with subsection (B), prior to the sale of a tobacco product.

(2) A tobacco retail establishment described in item (1) must conspicuously post on all entrances to the establishment the following:
(a) a sign in boldface type that states "NOTICE: It is unlawful for a person under eighteen years of age to enter this store, unless the minor is actively supervised and accompanied by an adult. Age will be verified prior to sale.";
(b) a sign printed in letters and numbers at least one-half inch high that displays a toll free number for assistance to callers in quitting smoking, as determined by the Department of Health and Environmental Control.

(3) For purposes of this section, whether a tobacco retail establishment has as its primary purpose the sale of tobacco products must be based on the totality of the circumstances. Facts that must be considered, but not be limited to, are the tobacco retail establishment's business filings, business name and signage, marketing and other advertisements, and the percentage of revenue and inventory directly related to the sale of tobacco products.

(K) Notwithstanding any other provision of law, a violation of this section does not violate the terms and conditions of an establishment's beer and wine permit and is not grounds for revocation or suspension of a beer and wine permit.

HISTORY: 1962 Code Section 16-556; 1952 Code Section 16-556; 1942 Code Section 1465; 1932 Code Section 1465; Cr. C. '22 Section 410; Cr. C. '12 Section 420; Cr. C. '02 Section 320; R. S. 267; 1889 (20) 321; 1996 Act No. 445, Section 3; 2006 Act No. 231, Section 2, eff six months after approval (approved February 21, 2006); 2013 Act No. 35, Section 1, eff June 7, 2013; 2019 Act No. 25 (H.3420), Sections 1, 6, eff April 26, 2019; 2023 Act No. 38 (H.3681), Section 5, eff August 14, 2023; 2024 Act No. 205 (H.4817), Section 1, eff May 21, 2024.

Editor's Note

2006 Act No. 231, Section 1, provides as follows:

"This act may be cited as the 'Youth Access to Tobacco Prevention Act of 2006'."

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e-liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public-use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2019 Act No. 25, Section 1, amended (C), strengthening age verification requirements for the internet sale of tobacco and alternative nicotine products; rewrote (E)(1); amended (F)(1), prohibiting minors from entering retail establishments that primarily sell tobacco or alternative nicotine products, with exceptions; inserted (J) requiring tobacco retail establishments to prohibit minors from entering the establishment, and redesignated former (J) as (K).

2019 Act No. 25, Section 6, in (E), added (3), relating to prima facie evidence of a violation.

2023 Act No. 38, Section 5, rewrote the section.

2024 Act No. 205, Section 1, in (B), in the first sentence, substituted "or an alternative nicotine product to an individual who does not present, upon demand," for "to an individual without a demand of"; and rewrote (D).

SECTION 16-17-501.

Definitions.

As used in this section and Sections 16-17-500, 16-17-502, 16-17-503, 16-17-504, and 16-17-506:

(1) "Distribute" means to sell, furnish, give, provide, or attempt to do so, whether gratuitously or for any type of compensation, tobacco products, including tobacco product samples, cigarette paper, or a substitute for them, to the ultimate consumer.

(2) "Distribution" means the act of selling, furnishing, giving, providing, or attempting to do so, whether gratuitously or for any type of compensation, tobacco products, including tobacco product samples, cigarette paper, or a substitute for them, to the ultimate consumer.

(3) "Electronic smoking device" means any device that may be used to deliver any aerosolized or vaporized substance, including e-liquid, to the person inhaling from the device including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. "Electronic smoking device" includes any component, part, or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device whether or not the substance includes nicotine. "Electronic smoking device" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

(4) "E-liquid" means a substance that:

(a) may or may not contain nicotine;

(b) is intended to be vaporized and inhaled using an electronic smoking device; and

(c) is a legal substance under the laws of this State and the laws of the United States.

"E-liquid" does not include cannabis or CBD as defined under the laws of this State and the laws of the United States unless it also contains nicotine.

- (5) "Proof of age" means a driver's license or identification card issued by this State or any other state or a United States Armed Services identification card.
- (6) "Sample" means a tobacco product distributed to members of the general public at no cost for the purpose of promoting the products.
- (7) "Sampling" means the distribution of samples to members of the general public in a public place.
- (8) "Tobacco product" means:
- (a) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus;
 - (b) any electronic smoking device as defined in this section and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
 - (c) any component, part, or accessory of subitem (a) or subitem (b), whether or not any of these contains tobacco or nicotine including, but not limited to, filters, rolling papers, blunt or hemp wraps, and pipes. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.
- (9) "Tobacco retail establishment" means any place of business where tobacco products are available for sale to the general public. The term includes, but is not limited to, grocery stores, tobacco product shops, kiosks, convenience stores, gasoline service stations, bars, and restaurants.
- (10) "Tobacco retailer" means any person, partnership, joint venture, society, club, trustee, trust association, organization, or corporation who owns, operates, or manages any tobacco retail establishment. Tobacco retailer does not mean the nonmanagement employees of any tobacco retail establishment.

HISTORY: 1996 Act No. 445, Section 2; 2006 Act No. 231, Section 3, eff six months after approval (approved February 21, 2006); 2013 Act No. 35, Section 2, eff June 7, 2013; 2019 Act No. 25 (H.3420), Sections 2.A to 2.D, eff April 26, 2019; 2023 Act No. 38 (H.3681), Section 6, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e-liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public-use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2019 Act No. 25, Section 2.A, in the undesignated paragraph, inserted "16-17-500,".

2019 Act No. 25, Section 2.B, in (6), in the first sentence, substituted "any vaping product, whether or not it includes nicotine, including electronic smoking devices," for "a product, including electronic cigarettes, that consists of or contains nicotine".

2019 Act No. 25, Section 2.C, rewrote (7), which had related to the definition of "electronic cigarette".

2019 Act No. 25, Section 2.D, added (8) and (9), relating to the definitions of "e-liquid" and "vapor product".

2023 Act No. 38, Section 6, rewrote the section.

SECTION 16-17-502.

Distribution of tobacco product samples.

(A) It is unlawful for a person to distribute a tobacco product sample to a person under the age of eighteen years.

(B) A person engaged in sampling shall demand proof of age from a prospective recipient if an ordinary person would conclude on the basis of appearance that the prospective recipient may be under the age of eighteen years.

(C) A person violating this section is subject to the penalties set forth in Section 16-17-500(E).

(D) A tobacco retail establishment violating this section is subject to administrative penalties as provided in Section 16-17-500(E)(3).

HISTORY: 1996 Act No. 445, Section 2; 2013 Act No. 35, Section 3, eff June 7, 2013; 2023 Act No. 38 (H.3681), Section 7, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e-liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving,

inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public-use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 7, in (A), deleted "or an alternative nicotine product" following "tobacco product"; rewrote (C); and added (D).

SECTION 16-17-503.

Enforcement; reporting requirements.

(A) The State Law Enforcement Division may conduct unannounced compliance checks for violations of Sections 16-17-500, 16-17-502, and 16-17-506. A person under the age of eighteen may be recruited and authorized by the State Law Enforcement Division to test the tobacco retail establishment's compliance with Sections 16-17-500, 16-17-502, and 16-17-506. The testing must be under direct supervision of a law enforcement agency and with the consent of the person's parent or guardian. The State Law Enforcement Division must notify the Department of Revenue of violations under Section 16-17-500(E)(3). The results of compliance checks resulting in a tobacco retailer being prohibited from selling or distributing tobacco products must be published by the Department of Revenue annually and made available to the public upon request. Penalties collected pursuant to Sections 16-17-500, 16-17-502 and 16-17-506 must be used to offset the costs of enforcement.

(B) The Director of the South Carolina Department of Alcohol and Other Drug Abuse Services shall conduct random, unannounced inspections at locations where tobacco products are sold and at locations that have notified the Department of Revenue under Section 12-36-511 that the tobacco retailer sells or distributes tobacco products. A person under the age of twenty-one may be recruited and authorized by a law enforcement agency on behalf of the Department of Alcohol and Other Drug Abuse Services to test a tobacco retail establishment's compliance with federal laws relating to the unlawful sale of tobacco to minors for the purposes of federal reporting requirements. The Director of South Carolina Department of Alcohol and Other Drug Abuse Services shall provide for the preparation of and submission annually to the Secretary of the United States Department of Health and Human Services the report required by Section 1926 of the federal Public Health Service Act (42 U.S.C. 300x-26) and otherwise is responsible for ensuring the state's compliance with that provision of federal law and implementing regulations promulgated by the United States Department of Health and Human Services.

HISTORY: 1996 Act No. 445; 2013 Act No. 35, Section 4, eff June 7, 2013; 2023 Act No. 38 (H.3681), Section 8, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e-liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public-use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 8, rewrote the section.

SECTION 16-17-504.

Implementation; local laws.

(A) Sections 16-17-500, 16-17-502, 16-17-503, and 16-17-506 must be enforced to ensure the eligibility for and receipt of federal funds or grants the State receives or may receive relating to the sections. Any laws, ordinances, or rules enacted pertaining to tobacco products may not supersede state law or regulation. Nothing in this section affects the right of any person having ownership or otherwise controlling private property to allow or prohibit the use of tobacco products on the property.

(B) Smoking ordinances in effect before the effective date of this act are exempt from the requirements of subsection (A).

HISTORY: 1996 Act No. 445, Section 2; 2013 Act No. 35, Section 5, eff June 7, 2013; 2023 Act No. 38 (H.3681), Section 9, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to

ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e-liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own public-use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 9, in (A), in the first sentence, substituted "16-17-503, and 16-17-506 must be" for "and 16-17-503 must be implemented in an equitable and uniform manner throughout the State and", and in the second and third sentences, deleted "or alternative nicotine products" following "tobacco products".

SECTION 16-17-505.

Cigarette packages violating certain federal laws; illegal sale or distribution; penalties; seizure.

(1) For purposes of this section, "package" means a pack, carton, or container of any kind in which cigarettes are offered for sale, sold, or otherwise distributed, or intended for distribution to consumers.

(2) It is unlawful to sell, hold for sale, or distribute a package of cigarettes if:

(a) the package differs in any respect with the requirements of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C. 1331, for the placement of labels, warnings, or any other information upon a package of cigarettes that is to be sold within the United States;

(b) the package is labeled "For Export Only", "U.S. Tax Exempt", "For Use Outside U.S.", or similar wording indicating that the manufacturer did not intend that the product be sold in the United States;

(c) the package, or a package containing individually stamped packages, has been altered by adding or deleting the wording, labels, or warnings described in (a) or (b) of this subsection;

(d) the package has been imported into the United States after January 1, 2000, in violation of 26 U.S.C. 5754; or

(e) the package in any way violates federal trademark or copyright laws.

(3) A person who knowingly sells, holds for sale, or distributes cigarette packages in violation of subsection (2) is guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than three years or fined not more than one thousand dollars, or both.

(4) In addition to the other penalties provided by law, law enforcement may seize and destroy or sell to the manufacturer, for export only, any packages described in subsection (2).

HISTORY: 1999 Act No. 92, Section 1.

SECTION 16-17-506.

Sale of e-liquid containers; restrictions.

(A) For purposes of this section, "container" means a bottle or other container of any kind that contains e-liquid and is offered for sale, sold, or otherwise distributed, or intended for distribution to consumers, but that does not include a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the customer.

(B) It is unlawful to sell, hold for sale, or distribute a container of e-liquid unless:

(1) the container satisfies the requirements of 21 C.F.R. 1143.3, if applicable, for the placement of labels, warnings, or any other information upon a package of e-liquid that is to be sold within the United States;

(2) the container complies with child-resistant effectiveness standards under 16 C.F.R. 1700.15(b)(1) when tested in accordance with the requirements of 16 C.F.R. 1700.20; and

(3) the container complies with federal trademark or copyright laws.

(C) A person who knowingly sells, holds for sale, or distributes e-liquid containers in violation of subsection (B) is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than three years or fined not more than one thousand dollars, or both.

(D) In addition to the other penalties provided by law, law enforcement may seize and destroy or sell to the manufacturer, for export only, any containers in violation of this section.

(E) Any tobacco retailer or tobacco retail establishment that permits an employee to violate or knowingly violates subsection (B) is subject to the penalties in Section 16-17-500(E)(3).

HISTORY: 2019 Act No. 25 (H.3420), Section 5, eff April 26, 2019; 2023 Act No. 38 (H.3681), Section 10, eff August 14, 2023.

Editor's Note

2023 Act No. 38, Sections 1, 3 to 4, and 13, provide as follows:

"SECTION 1. This act may be cited as the 'Omnibus Tobacco Enforcement Act of 2023'."

"SECTION 3. Laws, ordinances, or rules enacted by political subdivisions of this State prior to December 31, 2020, pertaining to ingredients, flavors, or licensing, related to the sale of cigarettes, electronic smoking devices, e-liquid, vapor products, tobacco products, or any other products containing nicotine that can be ingested into the body by chewing, smoking, absorbing, dissolving, inhaling, or by any means, and municipal code amendments to said laws, ordinances, or rules, are exempt from the preemption imposed by this act. Nothing in this act shall be construed to interfere with a political subdivision's authority to determine its own

public-use policies relating to any of the products referenced in this act.

"SECTION 4. Nothing in this act shall be construed to interfere with a political subdivision's authority under Chapter 29, Title 6, including, without limitation, with respect to land use regulation, land development regulation, zoning, or permitting."

"SECTION 13. This act takes effect ninety days after approval by the Governor except SECTION 2, SECTION 3, and SECTION 4 which take effect upon approval by the Governor."

Effect of Amendment

2023 Act No. 38, Section 10, redesignated (1) to (4) as (A) to (D), respectively; in (B), redesignated (a) to (c) as (1) to (3); in (C), substituted "subsection (B)" for "subsection (2)" and "must be imprisoned" for "shall be imprisoned"; and added (E).

SECTION 16-17-510.

Enticing enrolled child from attendance in school.

It is unlawful for a person to encourage, entice, or conspire to encourage or entice a child enrolled in any public or private elementary or secondary school of this State from attendance in the school or school program or transport or provide transportation in aid to encourage or entice a child from attendance in any public or private elementary or secondary school or school program.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, a first or second offense must be tried exclusively in magistrate's court. Third and subsequent offenses must be tried in the court of general sessions.

HISTORY: 1962 Code Section 16-556.1; 1969 (56) 320; 1993 Act No. 184, Section 185; 1998 Act No. 352, Section 1.

SECTION 16-17-520.

Disturbance of religious worship.

Any person who shall (a) wilfully and maliciously disturb or interrupt any meeting, society, assembly or congregation convened for the purpose of religious worship, (b) enter such meeting while in a state of intoxication or (c) use or sell spirituous liquors, or use blasphemous, profane or obscene language at or near the place of meeting shall be guilty of a misdemeanor and shall, on conviction, be sentenced to pay a fine of not less than twenty nor more than one hundred dollars, or be imprisoned for a term not exceeding one year or less than thirty days, either or both, at the discretion of the court.

HISTORY: 1962 Code Section 16-557; 1952 Code Section 16-557; 1942 Code Section 1736; 1932 Code Section 1736; Cr. C. '22 Section 718; Cr. C. '12 Section 703; Cr. C. '02 Section 505; G. S. 1635; R. S. 390; 1873 (15) 352; 1894 (21) 824; 1897 (22) 409.

SECTION 16-17-525.

Wilfully, knowingly or maliciously disturbing funeral service; penalties.

(A) It is unlawful for a person to wilfully, knowingly, or maliciously disturb or interrupt a funeral service. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned not more than thirty days. This subsection applies to a wilful, knowing, or malicious disturbance or interruption within:

(1) one thousand feet of the funeral service; and

(2) a time period of one-half hour before the funeral service until one-half hour after the funeral service.

(B) It is unlawful for a person to undertake an activity at a public or privately owned cemetery, other than the decorous participation in a funeral service or visitation of a burial space, without the prior written approval of the public or private owner. A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

(C) For purposes of this section, "funeral service" means any ceremony, procession, or memorial held in connection with the memorialization, burial, cremation, or other disposition of a deceased person's body.

HISTORY: 2006 Act No. 391, Section 1, eff June 14, 2006.

SECTION 16-17-530.

Public disorderly conduct; conditional discharge for first-time offenders.

(A) A person who is: (1) found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducts himself in a disorderly or boisterous manner; (2) uses obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church; or (3) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharges any gun, pistol, or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or be imprisoned for not more than thirty days. However, conditional discharge may be granted by the court in accordance with the provisions of this section upon approval by the circuit solicitor.

(B) When a person who has not previously been convicted of an offense pursuant to this section or any similar offense under any state or federal statute relating to drunk or disorderly conduct pleads guilty to or is found guilty of a violation of this section, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions as it requires, including the requirement that the person cooperate in a treatment and rehabilitation program of a state-supported facility, if available. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without court adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. However, a nonpublic record must be forwarded to and retained by the South Carolina Law Enforcement Division solely for the purpose of use by the courts in determining whether or not a person has committed a subsequent offense.

pursuant to this section. Discharge and dismissal pursuant to this section may occur only once with respect to any person.

(C) Upon the dismissal of the person and discharge of the proceedings against him pursuant to subsection (B), the person may apply to the court for an order to expunge from all official records (other than the nonpublic records to be retained as provided in subsection (B)) all recordation relating to his arrest, indictment or information, trial, finding of guilty, and dismissal and discharge pursuant to this section. If the court determines, after a hearing, that the person was dismissed and the proceedings against him discharged, it shall enter the order. The effect of the order is to restore the person, in the contemplation of the law, to the status he occupied before the arrest or indictment or information. No person as to whom the order has been entered may be held pursuant to another provision of law to be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or acknowledge the arrest, or indictment or information, or trial in response to an inquiry made of him for any purpose.

(D) Before a person may be discharged and the proceedings dismissed pursuant to this section, the person must pay a fee to the summary court of one hundred fifty dollars. No portion of the fee may be waived, reduced, or suspended, except in cases of indigency. If the court determines that a person is indigent, the court may partially or totally waive, reduce, or suspend the fee. The revenue collected pursuant to this subsection must be retained by the jurisdiction that heard or processed the case and paid to the State Treasurer within thirty days of receipt. The State Treasurer shall transmit these funds to the Prosecution Coordination Commission which shall then apportion these funds among the sixteen judicial circuits on a per capita basis equal to the population in that circuit compared to the population of the State as a whole based on the most recent official United States census. The funds must be used for drug treatment court programs only. The amounts generated by this subsection are in addition to any amounts presently being provided for drug treatment court programs and may not be used to supplant funding already allocated for these services. The State Treasurer may request the State Auditor to examine the financial records of a jurisdiction which he believes is not timely transmitting the funds required to be paid to the State Treasurer pursuant to this subsection. The State Auditor is further authorized to conduct these examinations and the local jurisdiction is required to participate in and cooperate fully with the examination.

HISTORY: 1962 Code Section 16-558; 1952 Code Section 16-558; 1949 (46) 466; 1968 (55) 2842; 1969 (56) 153; 2019 Act No. 90 (H.3601), Section 1, eff June 25, 2019.

Validity

For the validity of the prior version of this section, see *Kenny v. Wilson*, 566 F. Supp.3d 447 (D.S.C. Oct. 8, 2021).

Effect of Amendment

2019 Act No. 90, Section 1, rewrote the section, providing procedures for conditional discharge for first-time offenders.

SECTION 16-17-540.

Bribery with respect to agents, servants or employees.

Any:

(1) Person who corruptly gives, offers or promises to an agent, employee or servant any gift or gratuity whatever, with intent to influence his action in relation to his principal's, employer's or master's business;

(2) Agent, employee or servant who corruptly requests or accepts a gift or gratuity or a promise to make a gift or to do an act beneficial to himself under an agreement or with an understanding that he shall act in any particular manner in relation to his principal's, employer's or master's business;

(3) Agent, employee or servant who, being authorized to procure materials, supplies or other articles, either by purchase or contract for his principal, employer or master, receives, directly or indirectly, for himself or for another, a commission, discount or bonus from the person who makes such sale or contract or furnishes such materials, supplies or other articles or from a person who renders such service or labor; and

(4) Person who gives or offers such an agent, employee or servant such commission, discount or bonus;

Shall be punished by a fine of not more than five hundred dollars or by such fine and by imprisonment for not more than one year.

HISTORY: 1962 Code Section 16-570; 1952 Code Section 16-570; 1942 Code Section 1236; 1932 Code Section 1236; Cr. C. '22 Section 132; Cr. C. '12 Section 277; 1905 (24) 942.

SECTION 16-17-550.

Bribery of athletes and athletic officials.

(1) Unlawful to bribe athletes or athletic officials or to accept such bribes. -It shall be unlawful to bribe or offer to bribe any player, manager, coach, referee, umpire or any other participant or official of any athletic contest with intent to influence the play, action, conduct, or decision of any such person or for any such person to accept or agree to accept such bribe or offer for the purpose of losing, trying to lose or trying to limit the margin of victory or defeat in any athletic contest or to aid or abet or assist in any manner whatsoever in any such bribe.

(2) Section to be cumulative to other laws. -This section shall not be construed as repealing or modifying any other provisions of law but shall be cumulative to such other provisions of law.

(3) Penalties. -Any person violating the provisions of this section shall be guilty of a felony and upon conviction shall be fined not more than ten thousand dollars or be imprisoned for not more than ten years or both in the discretion of the court.

HISTORY: 1962 Code Section 16-570.1; 1962 (52) 1732.

SECTION 16-17-560.

Assault or intimidation on account of political opinions or exercise of civil rights.

It is unlawful for a person to assault or intimidate a citizen, discharge a citizen from employment or occupation, or eject a citizen from a rented house, land, or other property because of political opinions or the exercise of political rights and privileges guaranteed

to every citizen by the Constitution and laws of the United States or by the Constitution and laws of this State.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than two years, or both.

HISTORY: 1962 Code Section 16-559; 1952 Code Section 16-559; 1950 (46) 2059; 1993 Act No. 184, Section 186.

SECTION 16-17-570.

Interference with fire and police alarm boxes; giving false alarms.

Any person who shall wilfully, maliciously or mischievously interfere with, cut or injure any pole, wire, insulator or alarm box, give a false alarm from such box or by use of a telephone or break the glass in such box of any fire or police alarm system in this State or any of the appliances or apparatus connected therewith shall be guilty of a misdemeanor and, upon conviction, shall be sentenced to hard labor in the State Penitentiary or on the chain gang in a county having a chain gang for a term of not less than sixty days or the payment of a fine of not more than two hundred dollars.

HISTORY: 1962 Code Section 16-560; 1952 Code Section 16-560; 1942 Code Section 1164; 1932 Code Section 1164; Cr. C. '22 Section 57; Cr. C. '12 Section 194; Cr. C. '02 Section 156; R. S. 152; 1888 (20) 8; 1904 (24) 382; 1931 (37) 37; 1980 Act No. 468.

SECTION 16-17-580.

Removing State line marks.

Any person who shall deface, disturb or remove any granite post or marking, whether wood, stone or metal, duly placed by competent authority on the State line of this State shall be deemed guilty of a misdemeanor and, on conviction, shall be fined not less than one hundred dollars or imprisoned not less than six months.

HISTORY: 1962 Code Section 16-561; 1952 Code Section 16-561; 1942 Code Section 1251; 1932 Code Section 1251; Cr. C. '22 Section 145; Cr. C. '12 Section 291; 1906 (25) 63.

SECTION 16-17-600.

Destruction or desecration of human remains or repositories; liability of crematory operators; penalties.

(A) It is unlawful for a person wilfully and knowingly, and without proper legal authority to:

- (1) destroy or damage the remains of a deceased human being;
- (2) remove a portion of the remains of a deceased human being from a burial ground where human skeletal remains are buried, a grave, crypt, vault, mausoleum, Native American burial ground or burial mound, or other repository; or
- (3) desecrate human remains.

A person violating the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not less than one year nor more than ten years, or both.

A crematory operator is neither civilly nor criminally liable for cremating a body which (1) has been incorrectly identified by the funeral director, coroner, medical examiner, or person authorized by law to bring the deceased to the crematory; or (2) the funeral director has obtained invalid authorization to cremate. This immunity does not apply to a crematory operator who knew or should have known that the body was incorrectly identified.

(B) It is unlawful for a person wilfully and knowingly, and without proper legal authority to:

- (1) obliterate, vandalize, or desecrate a burial ground where human skeletal remains are buried, a grave, graveyard, tomb, mausoleum, Native American burial ground or burial mound, or other repository of human remains;
- (2) deface, vandalize, injure, or remove a gravestone or other memorial monument or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, Native American burial ground or burial mound, memorial park, or battlefield; or
- (3) obliterate, vandalize, or desecrate a park, Native American burial ground or burial mound, or other area clearly designated to preserve and perpetuate the memory of a deceased person or group of persons.

A person violating the provisions of subsection (B) is guilty of a felony and, upon conviction, must be imprisoned not more than ten years or fined not more than five thousand dollars, or both.

(C)(1) It is unlawful for a person wilfully and knowingly to steal anything of value located upon or around a repository for human remains or within a human graveyard, cemetery, Native American burial ground or burial mound, or memorial park, or for a person wilfully, knowingly, and without proper legal authority to destroy, tear down, or injure any fencing, plants, trees, shrubs, or flowers located upon or around a repository for human remains, or within a human graveyard, cemetery, Native American burial ground or burial mound, or memorial park.

(2) A person violating the provisions of item (1) is guilty of:

- (a) a felony and, upon conviction, if the theft of, destruction to, injury to, or loss of property is valued at four hundred dollars or more, must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and must be required to perform not more than five hundred hours of community service;
- (b) a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the theft of, destruction to, injury to, or loss of property is valued at less than four hundred dollars. Upon conviction, a person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both, and must be required to perform not more than two hundred fifty hours of community service.

(D) A person who owns or has an interest in caring for the property, in the case of private lands, or the State, in the case of state lands, may bring a civil action for a violation of this section to recover damages, and the cost of restoration and repair of the property, plus attorney's fees and court costs.

HISTORY: 1962 Code Section 16-563; 1952 Code Section 16-563; 1942 Code Section 1266; 1932 Code Section 1266; Cr. C. '22

Section 161; Cr. C. '12 Section 246; Cr. C. '02 Section 230; 1899 (23) 98; 1938 (40) 1576; 1989 Act No. 74, Section 1; 1993 Act No. 184, Section 37; 1998 Act No. 307, Section 1; 2004 Act No. 229, Section 1, eff May 11, 2004; 2010 Act No. 273, Section 16.W, eff June 2, 2010; 2010 Act No. 255, Section 2, eff June 11, 2010.

SECTION 16-17-610.

Soliciting emigrants without licenses.

No person other than the South Carolina Department of Employment and Workforce shall carry on the business of emigrant agent in this State without having first obtained a license therefor from the State Treasurer and the county treasurer of each county in which he solicits emigrants. The term "emigrant agent," as used in this section, shall be construed to mean any person engaged in hiring laborers or soliciting emigrants in this State to be employed beyond the limits of the State. Any person shall be entitled to State and county licenses, which shall be good for one year, upon payment into the State Treasury for the use of the State of five hundred dollars for each county in which he operates or solicits emigrants for each year so engaged and upon payment into the county treasury of each county in which he operates or solicits emigrants, for the use of each such county, of two thousand dollars for each year so engaged. Any person other than the South Carolina Department of Employment and Workforce doing business as an emigrant agent without having first obtained each such license shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than five hundred dollars in case of failure to obtain a State license and one thousand dollars in case of failure to obtain a county license and not more than five thousand dollars in either such case or may be imprisoned in the county jail or, in case of failure to obtain a county license, upon the public works not less than four months or confined in the State Prison, at hard labor, not exceeding two years for each and every offense, within the discretion of the court.

HISTORY: 1962 Code Section 16-564; 1952 Code Section 16-564; 1942 Code Sections 1377, 1378; 1932 Code Sections 1377, 1378; Cr. C. '22 Sections 308, 309; Cr. C. '12 Sections 895, 896; Cr. C. '02 Section 608; R. S. 488; 1891 (20) 1084; 1893 (21) 429; 1898 (22) 812; 1907 (25) 543; 1949 (46) 415, 417; 1954 (48) 1415.

SECTION 16-17-620.

Exemption of solicitors of farm laborers to work in adjacent states.

The provisions of Section 16-17-610 shall not be applicable to any person soliciting or hiring laborers in this State to be employed in agricultural work in any state bordering on this State when such adjacent state places no limitation on the solicitation or employment of farm labor by South Carolina employers.

HISTORY: 1962 Code Section 16-564.1; 1954 (48) 1415.

SECTION 16-17-630.

Exemption of solicitors of household or domestic employees.

Notwithstanding the provisions of Section 16-17-610 it shall be lawful for any person to solicit without a license household or domestic employees for out-of-State employment.

HISTORY: 1962 Code Section 16-564.2; 1958 (50) 1928.

SECTION 16-17-640.

Blackmail.

Any person who verbally or by printing or writing or by electronic communications:

(1) accuses another of a crime or offense;

(2) exposes or publishes any of another's personal or business acts, infirmities, or failings; or

(3) compels any person to do any act, or to refrain from doing any lawful act, against his will;

with intent to extort money or any other thing of value from any person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail and, upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court.

HISTORY: 1962 Code Section 16-566.1; 1957 (50) 191; 2001 Act No. 81, Section 15.

SECTION 16-17-650.

Cockfighting.

(A) A person who engages in or is present at cockfighting or game fowl fighting or illegal game fowl testing is guilty of a:

(1) misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year for a first offense; or

(2) misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned not more than three years for a second or subsequent offense.

(B) For purposes of this section, "illegal game fowl testing" means allowing game fowl to engage in physical combat:

(1) with or without spurs or other artificial items while in the presence of more than five spectators;

(2) under any circumstances while employing spurs or other artificial items or with the injection or application of a stimulant substance; or

(3) for purposes of or in the presence of wagering or gambling.

(C) A person who violates the provisions of subsection (A)(1) must be tried exclusively in summary court.

(D) A person who violates the provisions of subsection (A)(2) is subject to the forfeiture of monies, negotiable instruments, and securities specifically gained or used to engage in or further a violation of this section pursuant to Section 16-27-55.

(E) All game fowl breeders and game fowl breeder testing facilities must comply with the Department of Health and Environmental Control and the State Veterinarian's regulations, policies, and procedures regarding avian influenza preparedness and testing. In the event of an avian influenza outbreak in South Carolina, all game fowl breeders and game fowl breeder testing facilities must allow

the Department of Health and Environmental Control and the State Veterinarian to conduct avian influenza testing of all game fowl.
HISTORY: 1962 Code Section 16-567; 1952 Code Section 16-567; 1942 Code Section 1445; 1932 Code Section 1445; Cr. C. '22 Section 386; Cr. C. '12 Section 393; Cr. C. '02 Section 298; R. S. 257; 1887 (19) 801; 1917 (30) 47; 2006 Act No. 345, Section 1, eff June 12, 2006.

SECTION 16-17-660.

Using dry wells for sewerage in towns of 500 or over.

It shall be a misdemeanor for any person to keep, maintain or use a dry well or other wells or privy vaults into which sewerage matter is discharged or received in any city, town or village having a population of not less than five hundred, whether incorporated or unincorporated, when such city, town or village has no public general supply of water for personal and domestic uses. Any person who now has or maintains any such well for the discharge or reception of sewerage matter shall, upon fifteen days' notice from any magistrate that complaint thereof has been made, close up such well and discontinue its use entirely. Any person found guilty of violating this section shall be fined not exceeding one hundred dollars or imprisoned for not exceeding thirty days.

HISTORY: 1962 Code Section 16-568; 1952 Code Section 16-568; 1942 Code Section 1488; 1932 Code Section 1488; Cr. C. '22 Section 432; Cr. C. '12 Section 442; 1908 (25) 1117; 1910 (26) 630.

SECTION 16-17-670.

Record kept by dealers in crossties.

Any person within this State dealing in crossties shall keep a book of record which shall be open to the public and in which shall be legibly written the name of the party or parties from whom crossties are purchased, the number of crossties purchased and the lands or premises from which such crossties are cut or harvested. Any person violating the terms of this section shall be subject to a fine of twenty-five dollars for each offense.

HISTORY: 1962 Code Section 16-571; 1952 Code Section 16-571; 1942 Code Section 1350; 1932 Code Section 1350; Cr. C. '22 Section 238; 1918 (30) 701.

SECTION 16-17-680.

Secondary metals recycler permit to purchase nonferrous metals; permit to transport and sell nonferrous metals; violations; penalties; catalytic converters; records; notice; preemption.

(A) For purposes of this section:

(1) "Coil" means a copper, aluminum, or aluminum-copper condensing coil or evaporation coil. The term includes, but is not limited to, coil from a commercial or residential heating or air-conditioning system. The term does not include coil from a window air-conditioning system, if the coil is contained within the system, or coil from an automobile condenser.

(2) "Fixed site" means a site occupied by a secondary metals recycler as the owner of the site or as a lessee of the site under a lease or other rental agreement providing for occupation of the site by a secondary metals recycler for a total duration of not less than three hundred sixty-four days.

(3) "Nonferrous metals" means metals not containing significant quantities of iron or steel, including, but not limited to, copper wire, copper clad steel wire, copper pipe, copper bars, copper sheeting, aluminum other than aluminum cans, a product that is a mixture of aluminum and copper, catalytic converters, lead-acid batteries, steel propane gas tanks, and stainless steel beer kegs or containers.

(4) "Secondary metals recycler" means a person or entity who is engaged, from a fixed site or otherwise, in the business of paying compensation for nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

(B)(1) A secondary metals recycler shall obtain a permit to purchase nonferrous metals. A secondary metals recycler's employee is not required to obtain a separate permit to purchase nonferrous metals provided that the employee is acting within the scope and duties of their employment with the secondary metals recycler. A secondary metals recycler's employee who intends to purchase nonferrous metals on behalf of the secondary metals recycler at a location other than a fixed site shall have a copy of the secondary metals recycler's permit readily available for inspection.

(2) If a secondary metals recycler intends to purchase nonferrous metals at a fixed site or fixed sites, the secondary metals recycler shall obtain a permit from the sheriff of the county in which each of the secondary metals recycler's fixed sites are located. The sheriff may issue the permit to the secondary metals recycler, if the secondary metals recycler:

(a) has a fixed site or fixed sites located in the sheriff's county;

(b) has not been convicted of a violation of Section 16-11-523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(3) If a secondary metals recycler intends to purchase nonferrous metals at a location other than a fixed site, the secondary metals recycler shall obtain a permit from the sheriff of each county in which the secondary metals recycler intends to purchase nonferrous metals. The sheriff may issue the permit to the secondary metals recycler if the secondary metals recycler:

(a) can sufficiently demonstrate to the sheriff the secondary metals recycler's ability to comply with the provisions of this section;

(b) has not been convicted of a violation of Section 16-11-523 or this section; and

(c) declares on an application provided by the sheriff that the secondary metals recycler is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs

and representatives from the secondary metals recyclers' industry.

(5) A sheriff may investigate a secondary metals recycler's background prior to issuing a permit for purposes of determining if the secondary metals recycler qualifies to be issued a permit.

(6) A sheriff may charge and retain a two hundred dollar fee for each permit.

(7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, and the name and address of the secondary metals recycler.

(8) A permit is valid for twenty-four months.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a secondary metals recycler does not comply with the requirements of this section, or a secondary metals recycler is convicted of a violation of Section 16-11-523 or this section.

(10) A sheriff shall issue permits during regular business hours.

(C)(1) A person or entity who wants to transport or sell nonferrous metals to a secondary metals recycler shall obtain a permit to transport and sell the nonferrous metals. An entity's employee is not required to obtain a separate permit to transport or sell nonferrous metals provided that the employee is acting within the scope and duties of their employment with the entity. An entity's employee who intends to transport and sell nonferrous metals on behalf of an entity shall have a copy of the entity's permit readily available for inspection.

(2) If a person is a resident of South Carolina or an entity is located in South Carolina, the person or entity shall obtain a permit from the sheriff of the county in which the person resides or has a secondary residence or in which the entity is located or has a secondary business. The sheriff may issue the permit to the person or entity if the:

(a) person resides or has a secondary residence or the entity is located or has a secondary business in the sheriff's county;

(b) person or entity has not been convicted of a violation of Section 16-11-523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(3) If a person is not a resident of South Carolina or an entity is not located in South Carolina, the person or entity shall obtain a permit from any sheriff of any county. The sheriff may issue the permit to the person or entity if the:

(a) person is not a resident of South Carolina or the entity is not located in South Carolina;

(b) person or entity has not been convicted of a violation of Section 16-11-523 or this section; and

(c) person or entity declares on an application provided by the sheriff that the person or entity is informed of and will comply with the provisions of this section.

(4) The South Carolina Law Enforcement Division shall develop the application and permit in consultation with the state's sheriffs and representatives of the secondary metals recyclers' industry.

(5) A sheriff may investigate a person or entity's background prior to issuing a permit for purposes of determining if the person or entity qualifies to be issued a permit.

(6) A sheriff may not charge a fee for a permit. A sheriff may charge a ten dollar fee to replace a permit that has been lost or destroyed. If the original permit is later found by the person or entity, the person or entity must turn the original permit into the sheriff or destroy the original permit.

(7) A sheriff shall keep a record of all permits issued containing, at a minimum, the date of issuance, the name and address of the person or entity, a photocopy of the person's identification or of the employee's identification, and the person's photograph or the entity's employee's photograph.

(8) A permit is valid statewide and expires on the person's birth date on the second calendar year after the calendar year in which the permit is issued, or, if the permittee is an entity, the permit expires on the date of issuance on the second calendar year after the calendar year in which the permit is issued.

(9) A permit may be denied, suspended, or revoked at any time if a sheriff discovers that the information on an application is inaccurate, a person or entity does not comply with the requirements of this section, or a person or entity is convicted of a violation of Section 16-11-523 or this section.

(10)(a) It is unlawful for a person or entity to obtain a permit to transport and sell nonferrous metals for the purpose of transporting or selling stolen nonferrous metals.

(b) A person who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The person or entity's permit must be revoked.

(11) A sheriff shall issue permits during regular business hours.

(D)(1) It is unlawful to purchase nonferrous metals in any amount for the purpose of recycling the nonferrous metals from a seller unless the purchaser is a secondary metals recycler who has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C). A secondary metals recycler may hold a seller's nonferrous metals while the seller obtains a permit to transport and sell nonferrous metals pursuant to subsection (C).

(2) A secondary metals recycler shall maintain a record containing, at a minimum, the date of purchase, the name and address of the seller, a photocopy of the seller's identification, a photocopy of the seller's permit to transport and sell nonferrous metals, if applicable, the license plate number of the seller's motor vehicle, if available, the seller's photograph, the weight and size or other description of the nonferrous metals purchased, the amount paid for the nonferrous metals, and a signed statement from the seller stating that the seller is the rightful owner or is entitled to sell the nonferrous metals being sold. If the secondary metals recycler has

the seller's photograph on file, the secondary metals recycler may reference the photograph on file without making a photograph for each transaction; however, the secondary metals recycler shall update the seller's photograph on an annual basis. A secondary metals recycler may use a video of the seller in lieu of a photograph provided the secondary metals recycler maintains the video for at least one hundred twenty days. A secondary metals recycler may maintain a record in an electronic database provided that the information is legible and can be accessed by law enforcement upon request.

(3) All nonferrous metals that are purchased by and are in the possession of a secondary metals recycler and all records required to be kept by this section must be maintained and kept open for inspection by law enforcement officials or local and state governmental agencies during regular business hours. The records must be maintained for one year from the date of purchase.

(4) A secondary metals recycler shall not enter into a cash transaction in payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty-five dollars or more. Payment for the purchase of copper, catalytic converters, or beer kegs, which totals twenty-five dollars or more must be made by check alone issued and made payable to the seller. A secondary metals recycler shall neither cash a check issued pursuant to this item nor use an automated teller machine (ATM) or other cash card system in lieu of a check. A secondary metals recycler shall not enter into more than one cash transaction per day per seller in payment for the purchase of copper, catalytic converters, or beer kegs.

(5) A secondary metals recycler shall prominently display a twenty-inch by thirty-inch sign in the secondary metals recycler's fixed site that states: "NO NONFERROUS METALS, INCLUDING COPPER, MAY BE PURCHASED BY A SECONDARY METALS RECYCLER FROM A SELLER UNLESS THE SELLER IS A HOLDER OF A RETAIL LICENSE, AN AUTHORIZED WHOLESALER, A CONTRACTOR LICENSED PURSUANT TO ARTICLE 1, CHAPTER 11, TITLE 40, CODE OF LAWS OF SOUTH CAROLINA, 1976, A GAS, ELECTRIC, COMMUNICATIONS, WATER, PLUMBING, ELECTRICAL, OR CLIMATE CONDITIONING SERVICE PROVIDER, OR THE SELLER PRESENTS THE SELLER'S VALID PERMIT TO TRANSPORT AND SELL NONFERROUS METALS ISSUED PURSUANT TO SECTION 16-17-680, CODE OF LAWS OF SOUTH CAROLINA, 1976."

(6) A purchaser who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third offense or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

If the purchaser obtained a permit to purchase nonferrous metals pursuant to subsection (B), the permit must be revoked.

(E)(1)(a) It is unlawful to sell nonferrous metals in any amount to a secondary metals recycler unless the secondary metals recycler has a valid permit to purchase nonferrous metals issued pursuant to subsection (B) and the seller has a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A seller who violates a provision of this subitem:

(i) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than one year, or both;

(ii) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than five hundred dollars or imprisoned not more than three years, or both; and

(iii) for a third or subsequent offense, is guilty of a felony, and, upon conviction, must be fined not less than one thousand dollars or imprisoned not more than five years, or both.

If the seller obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(2)(a) It is unlawful to purchase or otherwise acquire nonferrous metals in any amount from a seller who does not have a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C) with the intent to resell the nonferrous metals in any amount to a secondary metals recycler using the purchaser's valid permit to transport and sell nonferrous metals issued pursuant to subsection (C).

(b) A purchaser who violates a provision of this subitem is guilty of a felony, and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. The purchaser's permit must be revoked.

(F)(1) When a law enforcement officer has reasonable cause to believe that any item of nonferrous metal in the possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice to the secondary metals recycler. The hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metal recycler's fixed site for fifteen calendar days after receipt of the notice unless released prior to the fifteen-day period by the law enforcement officer.

(2) No later than the expiration of the fifteen-day period, a law enforcement officer may issue a second hold notice to the secondary metals recycler, which shall be an extended hold notice. The extended hold notice must be in writing, be delivered to the secondary metals recycler, specifically identify those items of nonferrous metal that are believed to have been stolen and that are subject to the extended hold notice, and inform the secondary metals recycler of the information contained in this subsection. Upon receipt of the

extended hold notice, the secondary metals recycler must not process or remove the items of nonferrous metal identified in the notice, or any portion thereof, from the secondary metals recycler's fixed site for thirty calendar days after receipt of the extended hold notice unless released prior to the thirty-day period by the law enforcement officer.

(3) At the expiration of the hold period or, if extended, at the expiration of the extended hold period, the hold is automatically released and the secondary metals recycler may dispose of the nonferrous metals unless other disposition has been ordered by a court of competent jurisdiction.

(4) A secondary metals recycler who violates a provision of this subsection:

(a) for a first offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than two hundred dollars nor more than three hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor, and, upon conviction, must be fined not less than four hundred dollars nor more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor, and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense shall constitute a prior offense within the meaning of this subsection.

The secondary metals recycler's permit to purchase nonferrous metals issued pursuant to subsection (B) must be revoked.

(G)(1) It is unlawful to transport nonferrous metals in a vehicle or have nonferrous metals in a person's possession.

(2) Subsection (G)(1) does not apply if:

(a) the person can present a valid permit to transport and sell nonferrous metals issued pursuant to subsection (C); or

(b) the person can present a valid bill of sale for the nonferrous metals.

(3) If a law enforcement officer determines that one or more of the exceptions listed in subsection (G)(2) applies, or the law enforcement officer determines that the nonferrous metals are not stolen goods and are in the rightful possession of the person, the law enforcement officer shall not issue a citation for a violation of this subsection.

(4) A person who violates a provision of subsection (G)(1):

(a) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(b) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(c) for a third or subsequent offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. For an offense to be considered a third or subsequent offense, only those offenses that occurred within a period of ten years, including and immediately preceding the date of the last offense, shall constitute a prior offense within the meaning of this subsection.

(5) If a person transports nonferrous metals that the person knows are stolen in a vehicle or has in the person's possession nonferrous metals that the person knows are stolen, is operating a vehicle used in the ordinary course of business to transport nonferrous metals that the person knows are stolen, presents a valid or falsified permit to transport and sell nonferrous metals that the person knows are stolen, or presents a valid or falsified bill of sale for nonferrous metals that the person knows to be stolen, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both. If the person obtained a permit to transport and sell nonferrous metals pursuant to subsection (C), the permit must be revoked.

(H) For purposes of this section, the only acceptable identification is a valid:

(1) South Carolina driver's license issued by the Department of Motor Vehicles;

(2) South Carolina identification card issued by the Department of Motor Vehicles;

(3) driver's license from another state that contains the licensee's picture on the face of the license; or

(4) military identification card.

(I)(1) A secondary metals recycler shall not purchase or otherwise acquire:

(a) an iron or steel manhole cover;

(b) an iron or steel drainage grate; or

(c) a coil, unless the seller is an exempted entity pursuant to subsection (J)(1)(e) or the seller presents a bill of sale from a company licensed pursuant to Chapter 11, Title 40 indicating that the seller acquired the coil as the result of a unit replacement or repair. The bill of sale is sufficient proof of ownership and serves the same purpose as a permit to transport and sell nonferrous metals. A person who presents a falsified bill of sale is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(2)(a) It is unlawful for any individual or entity other than a permitted secondary metals recycler to purchase, or to attempt to purchase, a used, detached catalytic converter or any nonferrous part of a catalytic converter.

(b) Except as otherwise provided in item (3)(a)(iii)(aa), (bb), and (cc) for those businesses delineated in item (3)(a)(ii), it is unlawful for any individual or entity to possess, obtain or otherwise acquire, transport, or sell a used, detached catalytic converter or any nonferrous part of a catalytic converter without a permit and without providing the following documentation to law enforcement and/or a permitted secondary metals recycler:

(i) the name of the person or company that removed the catalytic converter;

(ii) the name of the person for whom the work was completed;

(iii) the make and model of the vehicle from which the catalytic converter was removed;

(iv) the vehicle identification number of the vehicle from which the catalytic converter was removed;

(v) the part number or other identifying number of the catalytic converter that was removed; and

(vi) the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

(c) It is unlawful for a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter to provide any false, fraudulent, altered or counterfeit information or documentation as required by this subsection.

(d) An individual or entity who violates any provision of subsection (I)(2), for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both; or for a second offense, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

(e) Each unlawfully obtained, possessed, or transported used, detached catalytic converter is a separate violation that subjects the individual or entity to a separate charge. Upon conviction, the court may order the individual or entity to pay restitution for the value of the repair and replacement of the catalytic converter or the individual or entity may be held liable as otherwise provided by law. A person in possession of a used, detached catalytic converter without identifying documentation is presumed to be in possession of contraband subject to forfeiture as otherwise provided by law.

(f) For purposes of this section, a used, detached catalytic converter does not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with applicable U.S. Environmental Protection Agency Clean Air Act regulations, as may from time to time be amended.

(3)(a) It is unlawful for a secondary metals recycler to purchase a used, detached catalytic converter or any nonferrous part of a used catalytic converter unless the secondary metals recycler has a permit from the local sheriff's office, the sale occurs at the secondary metals recycler's fixed site or the sale occurs at the seller's fixed site but only if the seller is a licensed automotive repair service, a licensed demolisher, as defined in Section 56-5-5810, a licensed secondary metals recycler, or a licensed motor vehicle dealer and the purchase is made by a permitted secondary metals recycler who maintains a fixed site within the State, and the following requirements are followed:

(i) the catalytic converter or nonferrous part was purchased as part of a vehicle; or

(ii) the catalytic converter or nonferrous part was purchased from a secondary metals recycler, new or used motor vehicle dealer, automotive repair service, motor vehicle manufacturer, vehicle demolisher, or distributor of catalytic converters and a copy of the seller's valid business license is received and maintained by the purchaser at the time of the transaction; or

(iii) the business selling the catalytic converter or nonferrous part provides a record or receipt showing:

(aa) the repair order number, when applicable;

(bb) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

(cc) the vehicle identification number of the vehicle from which the catalytic converter was removed; or

(iv) the individual selling the catalytic converter or nonferrous part provides the secondary metals recycler with the following information for the motor vehicle that the catalytic converter was taken from to include all of the following:

(aa) the name of the person or company that removed the catalytic converter;

(bb) the name of the person for whom the work was completed;

(cc) the make and model of the vehicle from which the catalytic converter was removed;

(dd) the vehicle identification number of the vehicle from which the catalytic converter was removed;

(ee) the part number or other identifying number of the catalytic converter that was removed; and

(ff) the certificate of title or certificate of registration showing the seller's ownership interest in the vehicle.

Nothing in this item prevents an out-of-state secondary metals recycler who maintains a fixed site and who complies with all other provisions of this chapter from obtaining, purchasing, or otherwise acquiring a used, detached catalytic converter or any nonferrous part of a used catalytic converter.

(b) Before each purchase or acquisition of a used, detached catalytic converter, the secondary metals recycler, including an agent, employee, or representative of the secondary metals recycler, must:

(i) verify, with the applicable documentation that the person transferring or selling the used, detached catalytic converter acquired it legally and has the right to transfer or sell it; and

(ii) retain a record of the applicable verification and other information required pursuant to subsection (D)(2) and note in their records any obvious marking on the used, detached catalytic converter such as paint, labels, or engravings that would aid in the identification of the catalytic converter.

(c) A seller of used, detached catalytic converters or any nonferrous metal part of such is subject to the provisions of subsection (C) regarding the permitting of a person or entity to transport and sell nonferrous metals except for an automotive repair service who, in lieu of a permit, may produce a record or receipt showing:

(i) the repair order number, when applicable;

(ii) the date of repair or the date on which the catalytic converter was removed from a vehicle, including the identity of the individual or entity that removed the catalytic converter, when applicable; and

(iii) the vehicle identification number of the vehicle from which the catalytic converter was removed.

(d) It is unlawful for a secondary metals recycler to fail to collect or retain all required documentation from a seller of a used, detached catalytic converter or any nonferrous part of a catalytic converter as required by this subsection. A secondary metals recycler who obtains all documentation as required by this subsection is exempt from prosecution under this subsection unless they knew or had reason to believe that the documentation provided was false, fraudulent, altered or counterfeit, or knew or had reason to

believe that the used, detached catalytic converter or any nonferrous part of a catalytic converter was stolen.

(e) A licensed secondary metals recycler, who is exempt from the provisions of subsection (I)(2), but who violates a provision of subsection (I)(3):

(i) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned not more than thirty days;

(ii) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both; and

(iii) for a third or subsequent offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both.

(iv) Each unlawfully obtained or possessed used, detached catalytic converter or part of a used catalytic converter is a separate violation and subjects the secondary metals recycler to a separate charge for each. Any unlawfully possessed used, detached catalytic converter is subject to forfeiture as otherwise provided for by law. Upon conviction, the court may order the secondary metals recycler to pay restitution for the value of the repair and replacement of the catalytic converter or the secondary metals recycler may be held liable as otherwise provided for by law.

(J)(1) Except as provided in item (2), the provisions of this section do not apply to:

(a) the purchase or sale of aluminum cans;

(b) a transaction between a secondary metals recycler and another secondary metals recycler;

(c) a governmental entity;

(d) a manufacturing or industrial vendor that generates or sells regulated metals in the ordinary course of its business;

(e) a seller who is a holder of a retail license, an authorized wholesaler, an automobile demolisher as defined in Section 56-5-5810(d), a contractor licensed pursuant to Chapter 11, Title 40, a real estate broker or property manager licensed pursuant to Chapter 57, Title 40, a residential home builder licensed pursuant to Chapter 59, Title 40, a demolition contractor, a provider of gas service, electric service, communications service, water service, plumbing service, electrical service, climate conditioning service, appliance repair service, automotive repair service, or electronics repair service; or

(f) a seller that is an organization, a corporation, or an association registered with the State as a charitable organization or a nonprofit corporation.

(2) An exempted entity listed in item (1) is subject to the provisions of subsection (C)(10), subsection (G)(5), and subsection (I).

A secondary metals recycler shall maintain a record of transactions involving exempted entities listed in item (1) pursuant to subsection (D) and is subject to the penalty provisions of subsection (D)(6). Any item of nonferrous metals acquired from an exempted entity listed in item (1) is subject to a hold notice pursuant to subsection (F).

(K) This section preempts local ordinances and regulations governing the purchase, sale, or transportation of nonferrous metals in any amount, except to the extent that such ordinances pertain to zoning or business license fees. Political subdivisions of the State may not enact ordinances or regulations more restrictive than those contained in this section.

HISTORY: 1962 Code Section 16-571.1; 1967 (55) 371; 1974 (58) 2627; 1975 (59) 207; 1993 Act No. 105, Section 1; 1996 Act No. 459, Section 29; 2007 Act No. 97, Section 1, eff June 14, 2007; 2008 Act No. 260, Section 1, eff June 4, 2008; 2009 Act No. 26, Section 2, eff June 2, 2009; 2011 Act No. 68, Section 2, eff August 17, 2011; 2012 Act No. 242, Section 2, eff December 15, 2012; 2014 Act No. 190 (S.561), Section 1, 2, 3, 4, eff June 2, 2014; 2021 Act No. 80 (H.3991), Section 1, eff May 18, 2021.

Editor's Note

2012 Act No. 242, Section 13, provides as follows:

"Subsection (H) of Section 56-5-5670 of the 1976 Code as contained in SECTION 8 and subsection (H) of Section 56-5-5945 of the 1976 Code as contained in SECTION 9 take effect upon approval by the Governor. All other provisions of this act take effect one hundred eighty days after approval by the Governor."

Effect of Amendment

2021 Act No. 80, Section 1, in (G), in (1), deleted "in a vehicle on the highways of this State" following "person's possession", made nonsubstantive changes in (4), and in (5), in the first sentence, deleted "in a vehicle on the highways of this State" following "person's possession" and made a nonsubstantive change; in (I), inserted the (1) designator, redesignated former (1) to (3) as (a) to (c), and added (2) and (3); and in (J), in (1)(e), deleted "core recycling service," following "climate conditioning service," and in (2), substituted ", subsection (G)(5), and subsection (I)" for "and subsection (G)(5)".

SECTION 16-17-690.

Fortunetelling for purpose of promoting another business.

It shall be unlawful to engage in the business, trade or profession of fortunetelling, palmistry, phrenology, clairvoyance or the prediction of future events by cards or other means or to offer to tell fortunes or predict future events by palmistry, astrology, clairvoyance, cards or other means as an inducement to promote some other business, trade or profession. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars or imprisonment for not less than fifteen nor more than thirty days.

HISTORY: 1962 Code Section 16-572; 1952 Code Section 16-572; 1945 (44) 60.

SECTION 16-17-700.

Tattooing.

It is unlawful for a person to tattoo any part of the body of another person unless the tattoo artist meets the requirements of Chapter 34 of Title 44. However, it is not unlawful for a licensed physician or surgeon to tattoo part of the body of a person of any age if in

the physician's or surgeon's medical opinion it is necessary or appropriate; and it is not unlawful for a physician to delegate tattooing procedures to an employee in accordance with Section 40-47-60, subject to the regulations of the State Board of Medical Examiners. A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined up to two thousand five hundred dollars or imprisoned not more than one year, or both.

HISTORY: 1962 Code Section 16-574; 1966 (54) 2331; 1986 Act No. 395; 1993 Act No. 184, Section 187; 2004 Act No. 250, Section 2, eff June 17, 2004.

Code Commissioner's Note

Section 40-47-60 was deleted by 2006 Act No. 365, Section 1. See now, Section 40-47-30.

SECTION 16-17-710.

Resale of ticket to event; price restriction; exceptions; penalties.

(A) A person or entity who offers for resale or resells a ticket for admission to an event must request or receive no more than one dollar above the price charged by the original ticket seller.

(B) This section does not apply to an open market event ticket offered for resale through an internet website or at a permitted physical location when the person or entity reselling the ticket guarantees to the ticket buyer a full refund of the amount paid for the ticket if:

(1) the event is cancelled, except that ticket delivery and processing charges are not required to be refunded if disclosed in the guarantee;

(2) the buyer is denied admission to the event, unless the denial is due to the act or omission of the buyer; or

(3) the ticket is not delivered to the buyer and the failure results in the buyer's inability to use the ticket to attend the event.

(C) For purposes of this section, the term "open market event ticket" means a ticket to an event other than an event sponsored by or taking place at a venue owned by an institution of higher education. An institution of higher education may designate a ticket as an open market event ticket if the institution approves the resale of the ticket prior to the initial sale or delivery of the ticket and issues a public statement or notice authorizing the resale of the ticket.

(D) For purposes of this section, the term "permitted physical location" is a physical geographic location that is either:

(1) on property not owned by the owner of the venue of the ticketed event or on public property even if the property is the venue of the ticketed event subject to reasonable restrictions or conditions imposed by the owner to protect the safety and welfare of attendees of the ticketed event; or

(2) on private property owned by the owner of the venue of the ticketed event if the owner expressly authorizes in writing such resales to occur on the property. The owner may provide specific locations on the property for resales to occur and provide for any conditions for resales on the property.

(E) A person or entity who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days.

(F) The resale or offer for resale of each ticket constitutes a separate offense.

HISTORY: 1962 Code Section 16-575; 1968 (55) 2692; 1977 Act No. 64; 2006 Act No. 367, Section 2, eff June 9, 2006.

SECTION 16-17-720.

Impersonating law enforcement officer.

It shall be unlawful for any person other than a duly authorized law enforcement officer to represent to any person that he is a law enforcement officer and, acting upon such representation, to arrest or detain any person, search any building or automobile or in any way impersonate a law enforcement officer or act in accordance with the authority commonly given to such officers. Nothing in this section shall be construed to prohibit a private citizen from making a citizen's arrest in accordance with the laws of this State.

Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than one year.

HISTORY: 1962 Code Section 16-576; 1969 (56) 157.

SECTION 16-17-722.

Filing of false police reports; knowledge; offense; penalties.

(A) It is unlawful for a person to knowingly file a false police report.

(B) A person who violates subsection (A) by falsely reporting a felony is guilty of a felony and upon conviction must be imprisoned for not more than five years or fined not more than one thousand dollars, or both.

(C) A person who violates subsection (A) by falsely reporting a misdemeanor is guilty of a misdemeanor and must be imprisoned not more than thirty days or fined not more than five hundred dollars, or both.

(D) In imposing a sentence under this section, the judge may require the offender to pay restitution to the investigating agency to offset costs incurred in investigating the false police report.

HISTORY: 1998 Act No. 349, Section 1.

SECTION 16-17-725.

Making false complaint to law enforcement officer; giving false information to rescue squad or fire department; misrepresenting identity to law enforcement officer during traffic stop or to avoid arrest or criminal charge.

(A) It is unlawful for a person to knowingly make a false complaint to a law enforcement officer concerning the alleged commission of a crime by another, or for a person to knowingly give false information to a rescue squad or fire department concerning the alleged occurrence of a health emergency or fire.

(B) It is unlawful for a person to misrepresent his identification to a law enforcement officer during a traffic stop or for the purpose

of avoiding arrest or criminal charges.

(C) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1985 Act No. 87; 2008 Act No. 191, Section 1, eff April 2, 2008.

SECTION 16-17-730.

Charges for political advertisements in newspapers.

No newspaper in this State shall charge more for a political advertisement than the local prevailing rate for a commercial advertisement and payment for such advertisement shall be under the same terms and conditions as payment for a commercial advertisement. Any newspaper violating the provisions of this section shall, upon conviction, be fined not more than one hundred dollars for each violation.

HISTORY: 1977 Act No. 146 Section 4.

SECTION 16-17-735.

Persons impersonating officials or law enforcement officers; persons falsely asserting authority of law; offenses; punishment.

(A) It is unlawful for a person to impersonate a state or local official or employee or a law enforcement officer in connection with a sham legal process. A person acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity commits a misdemeanor if, knowing that his conduct is illegal, he:

(1) subjects another to arrest, detention, search, seizure, mistreatment, dispossession, assessment, lien, or other infringement of personal or property rights; or

(2) denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity.

A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(B) It is unlawful for a person falsely to assert authority of state law in connection with a sham legal process. A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(C) It is unlawful for a person to act without authority under state law as a Supreme Court Justice, a court of appeals judge, a circuit court judge, a master-in-equity, a family court judge, a probate court judge, a magistrate, a clerk of court or register of deeds, a commissioned notary public, or other authorized official in determining a controversy, adjudicating the rights or interests of others, or signing a document as though authorized by state law. A person violating the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned not more than one year, or both.

(D) It is unlawful for a person falsely to assert authority of law, in an attempt to intimidate or hinder a state or local official or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of a sham legal process. A person violating this subsection is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not less than one year and not more than three years, or both.

(E) For purposes of this section:

(1) "Law enforcement officer" is as defined in Section 16-9-310.

(2) "State or local official or employee" means an appointed or elected official or an employee of a state agency, board, commission, department, in a branch of state government, institution of higher education, other school district, political subdivision, or other unit of government of this State.

(3) "Sham legal process" means the issuance, display, delivery, distribution, reliance on as lawful authority, or other use of an instrument that is not lawfully issued, whether or not the instrument is produced for inspection or actually exists, which purports to:

(a) be a summons, subpoena, judgment, lien, arrest warrant, search warrant, or other order of a court of this State, a law enforcement officer, or a legislative, executive, or administrative agency established by state law;

(b) assert jurisdiction or authority over or determine or adjudicate the legal or equitable status, rights, duties, powers, or privileges of a person or property; or

(c) require or authorize the search, seizure, indictment, arrest, trial, or sentencing of a person or property.

(4) "Lawfully issued" means adopted, issued, or rendered in accordance with the applicable statutes, rules, regulations, and ordinances of the United States, a state, an agency, or a political subdivision of a state.

HISTORY: 1998 Act No. 385, Section 1.

SECTION 16-17-740.

Sale or possession of "cigarette load"; penalty.

It is unlawful for any person to sell or possess a novelty device commonly known as a "cigarette load" which may cause a cigarette or cigar to blow up or explode after being lit.

Any person violating the provisions of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed two hundred dollars or by a term of imprisonment not to exceed thirty days.

HISTORY: 1983 Act No. 19.

SECTION 16-17-750.

Failure to carry certificate of alien registration or alien registration receipt card; penalty.

(A) It is unlawful for a person eighteen years of age or older to fail to carry in the person's personal possession any certificate of alien registration or alien registration receipt card issued to the person pursuant to 8 U.S.C. Section 1304 while the person is in this

State.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days, or both.

HISTORY: 2011 Act No. 69, Section 5, eff January 1, 2012.

Validity

For validity of this section, see U.S. v. South Carolina, 840 F.Supp.2d 898 (D.S.C. December 22, 2011).

SECTION 16-17-760.

Knowing and false representation with intent of securing tangible benefit; penalty.

(A) This act may be cited as the "South Carolina Military Service Integrity and Preservation Act".

(B) A person who, with the intent of securing a tangible benefit, knowingly and falsely represents himself through a written or oral communication, including a resume, to have:

(1) served in the Armed Forces of the United States, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both; or

(2) been awarded a Congressional Medal of Honor, a Distinguished-Service Cross, a Navy Cross, an Air Force Cross, a Silver Star, a Purple Heart, a Combat Infantryman's Badge, a Combat Action Badge, a Combat Medical Badge, a Combat Action Ribbon, or a Combat Action Medal as authorized by Congress or pursuant to federal law for the Armed Forces of the United States, is guilty of a misdemeanor, and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

(C) For purposes of this section, "tangible benefit" includes:

(1) a benefit relating to military service provided by the federal government or a state or local government;

(2) employment or personal advancement;

(3) financial remuneration;

(4) an effect on the outcome of a criminal or civil court proceeding; or

(5) an effect on an election which is presumed if the representation is made by a candidate for public office.

HISTORY: 2014 Act No. 175 (H.4259), Section 1, eff May 16, 2014.

SECTION 16-17-770.

Impersonating a lawyer; penalties.

(A) It is unlawful for a person other than a lawyer, who is licensed to practice law in this State or in another state or jurisdiction in the United States and not disbarred or suspended from the practice of law in any state or jurisdiction, to represent to any person that he is a lawyer for the purpose of soliciting business, obtaining anything of value, or providing legal advice or assistance. A person who violates the provisions of this section:

(1) for a first offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both;

(2) for a second offense, is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand five hundred dollars or imprisoned for not more than three years, or both; and

(3) for a third or subsequent offense, is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

(B) The provisions of this section do not alter the provisions of Chapter 5, Title 40, regulating the practice of law.

HISTORY: 2017 Act No. 64 (H.3215), Section 1, eff May 19, 2017.

Title 16 - Crimes and Offenses

CHAPTER 19

Gambling and Lotteries

SECTION 16-19-10.

Setting up lotteries.

Whoever shall publicly or privately erect, set up, or expose to be played or drawn at or shall cause or procure to be erected, set up, or exposed to be played, drawn, or thrown at any lottery under the denomination of sales of houses, lands, plate, jewels, goods, wares, merchandise, or other things whatsoever or for money or by any undertaking whatsoever, in the nature of a lottery, by way of chances, either by dice, lots, cards, balls, numbers, figures, or tickets or who shall make, write, print or publish, or cause to be made, written, or published any scheme or proposal for any of the purposes aforesaid is guilty of a misdemeanor and, upon conviction, must be fined one thousand dollars and imprisoned for one year. One-third of the fine imposed shall be paid to the person, if any, who informed law enforcement officials or other appropriate authorities about the violation which led to the conviction. Each violation constitutes a separate offense.

HISTORY: 1962 Code Section 16-501; 1952 Code Section 16-501; 1942 Code Section 1231; 1932 Code Section 1231; Cr. C. '22 Section 123; Cr. C. '12 Section 259; Cr. C. '02 Section 199; G. S. 2596; R. S. 185; 1762 (4) 180; 1996 Act No. 292, Section 3.

SECTION 16-19-20.

Adventuring in lotteries.

Whoever shall be adventurer in or shall pay any moneys or other consideration or shall in any way contribute unto or upon account of any sales or lotteries shall forfeit for every such offense the sum of one hundred dollars to be recovered with costs of suit, by action or indictment in any court of competent jurisdiction in this State, one moiety thereof to and for the use of the State and the other moiety thereof to the person who shall inform and sue for the same.

HISTORY: 1962 Code Section 16-502; 1952 Code Section 16-502; 1942 Code Section 1232; 1932 Code Section 1232; Cr. C. '22 Section 124; Cr. C. '12 Section 260; Cr. C. '02 Section 200; G. S. 2597; R. S. 186; 1762 (4) 180.

SECTION 16-19-30.

Selling lottery tickets.

It shall be unlawful to offer for sale any lottery tickets or to open or keep any office for the sale of lottery tickets, and if any person shall offend against any of the provisions of this section he shall, on conviction thereof, forfeit and pay to the State a sum not exceeding ten thousand dollars. The county treasurer of the county in which such offense occurs shall prosecute the offender.

HISTORY: 1962 Code Section 16-503; 1952 Code Section 16-503; 1942 Code Section 1233; 1932 Code Section 1233; Cr. C. '22 Section 125; Cr. C. '12 Section 261; Cr. C. '02 Section 201; G. S. 2598; R. S. 187; 1846 (11) 368.

SECTION 16-19-40.

Unlawful games and betting.

If any person shall play at any tavern, inn, store for the retailing of spirituous liquors or in any house used as a place of gaming, barn, kitchen, stable or other outhouse, street, highway, open wood, race field or open place at (a) any game with cards or dice, (b) any gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (c) any roley-poley table, (d) rouge et noir, (e) any faro bank (f) any other table or bank of the same or the like kind under any denomination whatsoever or (g) any machine or device licensed pursuant to Section 12-21-2720 and used for gambling purposes, except the games of billiards, bowls, backgammon, chess, draughts, or whist when there is no betting on any such game of billiards, bowls, backgammon, chess, draughts, or whist or shall bet on the sides or hands of such as do game, upon being convicted thereof, before any magistrate, shall be imprisoned for a period of not over thirty days or fined not over one hundred dollars, and every person so keeping such tavern, inn, retail store, public place, or house used as a place for gaming or such other house shall, upon being convicted thereof, upon indictment, be imprisoned for a period not exceeding twelve months and forfeit a sum not exceeding two thousand dollars, for each and every offense.

HISTORY: 1962 Code Section 16-504; 1952 Code Section 16-504; 1942 Code Section 1738; 1932 Code Section 1738; Cr. C. '22 Section 720; Cr. C. '12 Section 704; Cr. C. '02 Section 506; G. S. 1715; R. S. 391; 1802 (5) 432; 1816 (6) 27; 1909 (26) 66; 1999 Act No. 125, Section 5.

SECTION 16-19-50.

Keeping unlawful gaming tables.

Any person who shall set up, keep, or use any (a) gaming table, commonly called A, B, C, or E, O, or any gaming table known or distinguished by any other letters or by any figures, (b) roley-poley table, (c) table to play at rouge et noir, (d) faro bank (e) any other gaming table or bank of the like kind or of any other kind for the purpose of gaming, or (f) any machine or device licensed pursuant to Section 12-21-2720 and used for gambling purposes except the games of billiards, bowls, chess, draughts, and backgammon, upon being convicted thereof, upon indictment, shall forfeit a sum not exceeding five hundred dollars and not less than two hundred dollars.

This section does not apply to the development, manufacture, processing, selling, possessing, provision of technical aid, or transporting of any printed materials, gaming equipment, devices, or other materials, software, or hardware used or designated for use in out-of-state jurisdictions by a gaming device manufacturer. A gaming device manufacturer is a manufacturing entity that is in good standing with the South Carolina Secretary of State's Office, is registered with the United States Department of Justice Gambling Device Registration Unit, is authorized to do business in the State of South Carolina, and has all appropriate business licensure and zoning authorization necessary to operate a manufacturing facility in the jurisdiction in which the manufacturing

facility is located. Any transportation of gaming devices authorized in this section must comply with all applicable federal laws. This section may not be construed so as to prohibit communications between persons in this State and persons involved with such legal lotteries or gaming devices relative to such printed materials, equipment, devices, or other materials, software, or hardware. HISTORY: 1962 Code Section 16-505; 1952 Code Section 16-505; 1942 Code Section 1739; 1932 Code Section 1739; Cr. C. '22 Section 721; Cr. C. '12 Section 705; Cr. C. '02 Section 507; G. S. 1716; R. S. 392; 1816 (6) 27; 1999 Act No. 125, Section 7; 2022 Act No. 190 (H.4161), Section 2, eff May 16, 2022.

Effect of Amendment

2022 Act No. 190, Section 2, added the second undesignated paragraph.

SECTION 16-19-60.

Certain social games of tiles, cards, and dice not unlawful under certain circumstances.

Notwithstanding any other provision of law to the contrary, it is not unlawful for persons who are members of a club or other social organization to gather for the purpose of engaging in games of tiles, cards, or dice including, but not limited to, canasta, mahjong, and bridge, where the games are played among members in a private residence, home, or community clubhouse or similar structure; no mechanical or electronic devices or machines of any kind, slot machines, pull tabs, punch boards, pull boards, or video games, devices, or machines of any kind are used or incorporated in any way; no person or entity of any kind receives any direct or indirect economic, financial, or monetary benefit of any kind; the host of the game or owner or lessee of the location in which the games are played does not receive any direct or indirect economic, financial, or monetary benefit of any kind; there is no betting, wagering, or gambling of any kind; a bona fide social relationship among the participants exists; and, except for the advantage of skill or luck, the risks of losing or winning are the same for all parties.

HISTORY: 2014 Act No. 194 (S.779), Section 1, eff June 2, 2014.

SECTION 16-19-70.

Keeping gaming tables open or playing games on the Sabbath.

Whoever shall keep or suffer to be kept any gaming table or permit any game or games to be played in his house on the Sabbath day, on conviction thereof before any court having jurisdiction, shall be fined in the sum of fifty dollars, to be sued for on behalf of, and to be recovered for the use of, the State.

HISTORY: 1962 Code Section 16-506; 1952 Code Section 16-506; 1942 Code Section 1748; 1932 Code Section 1748; Cr. C. '22 Section 729; Cr. C. '12 Section 714; Cr. C. '02 Section 516; G. S. 2592; R. S. 402; 1790 (5) 350.

SECTION 16-19-80.

Forfeiture of wagers.

All and every sum or sums of money staked, betted or pending on the event of any such game or games as aforesaid are hereby declared to be forfeited.

HISTORY: 1962 Code Section 16-507; 1952 Code Section 16-507; 1942 Code Section 1741; 1932 Code Section 1741; Cr. C. '22 Section 723; Cr. C. '12 Section 707; Cr. C. '02 Section 509; G. S. 1718; R. S. 394; 1816 (6) 28; 1909 (26) 67.

SECTION 16-19-90.

Betting on elections.

Any person who shall make any bet or wager of money or wager of any other thing of value or shall have any share or part in any bet or wager of money or wager of any other thing of value upon any election in this State shall be guilty of a misdemeanor and, upon conviction, shall be fined in a sum not exceeding five hundred dollars and be imprisoned not exceeding one month.

HISTORY: 1962 Code Section 16-508; 1952 Code Section 16-508; 1942 Code Section 1740; 1932 Code Sections 1412, 1740; Cr. C. '22 Sections 347, 722; Cr. C. '12 Sections 358, 706; Cr. C. '02 Sections 271, 508; G. S. 1717, 2546; R. S. 235, 393; 1850 (12) 72; 1909 (26) 67.

SECTION 16-19-100.

Imprisonment in case of conviction.

Upon conviction of any person under any of the provisions of Sections 16-19-40, 16-19-50 or 16-19-90, the court before whom such conviction shall take place shall commit such offender to the common jail of the county in which such conviction shall happen for a period not exceeding the time for which such offender has been sentenced, unless such offender shall sooner pay the fine or fines herein imposed, together with the cost of prosecution.

HISTORY: 1962 Code Section 16-512; 1952 Code Section 16-512; 1942 Code Section 1744; 1932 Code Section 1744; Cr. C. '22 Section 726; Cr. C. '12 Section 711; 1909 (26) 67.

SECTION 16-19-110.

Exoneration for becoming State's evidence.

Any person who might be subject or liable to the fines and penalties imposed herein, either for gaming at or keeping a gaming table or tables, shall, upon being permitted by the circuit solicitor to become evidence in behalf of the State, be freed and exonerated from the same.

HISTORY: 1962 Code Section 16-513; 1952 Code Section 16-513; 1942 Code Section 1744; 1932 Code Section 1744; Cr. C. '22 Section 726; Cr. C. '12 Section 711; 1909 (26) 67.

SECTION 16-19-120.

Officers shall destroy gambling devices after confiscation.

All officers of the law in whose care, possession or keeping may be placed any gambling or gaming machine or device of any kind whatsoever or any gambling or gaming punchboard of any kind or description whatsoever which has been confiscated for violation

of any criminal law or laws of this State shall immediately after conviction of the violator of the law destroy the same.

HISTORY: 1962 Code Section 16-514; 1952 Code Section 16-514; 1942 Code Section 1747; 1932 Code Section 1747; 1923 (33) 123.

SECTION 16-19-130.

Betting, pool selling, bookmaking and the like prohibited.

Any person within this State who:

(1) Engages in betting at any race track, pool selling or bookmaking, with or without writing, at any time or place;

(2) Keeps or occupies any room, shed, tenement, booth, building, float or vessel, or any part thereof, or occupies any place or stand of any kind upon any public or private grounds within this State with books, papers, apparatus or paraphernalia for the purpose of recording or registering bets or wagers or of selling pools;

(3) Records or registers bets or wagers or sells pools or makes books, with or without writing, upon the result of any (a) trial or contest of skill, speed or power of endurance of man or beast, (b) political nomination, appointment or election or (c) lot, chance, casualty, unknown or contingent event whatsoever;

(4) Receives, registers, records or forwards or purports or pretends to receive, register, record or forward, in any manner whatsoever, any money, thing or consideration of value bet or wagered or offered for the purpose of being bet or wagered by or for any other person or sells pools upon any such result;

(5) Being the owner, lessee or occupant of any room, shed, tenement, tent, booth, building, float or vessel, or part thereof, or of any grounds within this State knowingly permits the same to be used or occupied for any of these purposes or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers or the selling of such pools or becomes the custodian or depository for gain, hire or reward of any money, property or thing of value staked, wagered or pledged or to be wagered or pledged upon any such result; or

(6) Aids, assists or abets in any manner in any of the aforesaid acts, which are hereby forbidden;

Shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one thousand dollars or imprisonment not exceeding six months, or both fine and imprisonment, in the discretion of the court.

HISTORY: 1962 Code Section 16-515; 1952 Code Section 16-515; 1942 Code Section 1749; 1932 Code Section 1749; Cr. C. '22 Section 730; 1912 (27) 713.

SECTION 16-19-140.

Violation of Section 16-19-130 constitutes a nuisance.

The violation of any of the provisions of Section 16-19-130 shall be deemed a common nuisance.

HISTORY: 1962 Code Section 16-516; 1952 Code Section 16-516; 1942 Code Section 1749; 1932 Code Section 1749; Cr. C. '22 Section 730; 1912 (27) 713.

SECTION 16-19-150.

Punishment of offense covered by Section 16-19-40.

Notwithstanding the provisions of Sections 16-19-130 and 16-19-140, wherever the offense is covered by Section 16-19-40, the punishment there provided shall be imposed, it being the intention to leave the jurisdiction of such gambling as is there specifically prohibited in the courts now having jurisdiction of the same.

HISTORY: 1962 Code Section 16-517; 1952 Code Section 16-517; 1942 Code Section 1749; 1932 Code Section 1749; Cr. C. '22 Section 730; 1912 (27) 713.

SECTION 16-19-160.

Punchboards for gaming.

It shall be unlawful for any person to use or offer for use any punchboards or other kinds of boards with numbers concealed thereon for the purpose of gaming or chance in this State. Any person violating this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than ten dollars nor more than twenty-five dollars or imprisoned not less than five days nor more than thirty days, or both, at the discretion of the court; provided, that for the second or third offense hereunder the fine shall not be less than twenty-five dollars nor more than one hundred dollars or imprisonment on the public works of the county for a period not exceeding three months.

HISTORY: 1962 Code Section 16-518; 1952 Code Section 16-518; 1942 Code Section 1749-1; 1932 Code Section 1749-A; Cr. C. '22 Section 731; 1918 (30) 728.

Title 16 - Crimes and Offenses

CHAPTER 21

Offenses Involving Motor Vehicle Titles

SECTION 16-21-10.

Altering, forging or counterfeiting certificate of title, registration card or license plate; misrepresentation or concealment in application.

(A) It is unlawful for a person to:

- (1) alter, forge, or counterfeit a certificate of title, registration card, or license plate;
- (2) alter or forge an assignment of a certificate of title or an assignment or release of a security interest on a certificate of title or on a form the department prescribes;
- (3) possess or use a certificate of title, registration card, or license plate, knowing it to have been altered, forged, or counterfeited; or
- (4) use a false or fictitious name or address, make a material false statement, fail to disclose a security interest, or conceal any other material fact in an application for a certificate of title or for registration.

(B) A person violating the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

HISTORY: 1962 Code Section 46-150.81; 1957 (50) 595; 1960 (51) 1602; 1993 Act No. 184, Section 38.

SECTION 16-21-20.

Permitting misuse of certificate of title, registration card or license plate; failing to deliver certificate or application; fraudulent application.

A person is guilty of a misdemeanor who:

- (1) with fraudulent intent, permits another to use or have possession of a certificate of title, registration card, or license plate who is not entitled to it;
- (2) wilfully fails to mail or deliver a certificate of title or application to the department within forty-five days after the time required by Chapter 19 of Title 56;
- (3) wilfully fails to deliver to his transferee a certificate of title within forty-five days after the time required by Chapter 19 of Title 56; or
- (4) commits a fraud in an application for a title or registration.

HISTORY: 1962 Code Section 46-150.82; 1957 (50) 595; 1995 Act No. 42, Section 1.

SECTION 16-21-30.

Lending certificate of title.

No person shall lend to another any certificate of title issued to him if the person desiring to borrow the certificate would not be entitled to the use thereof, nor shall any person knowingly permit the use of any such certificate by one not entitled thereto. Any violation of this section is a misdemeanor.

HISTORY: 1962 Code Section 46-150.83; 1957 (50) 595.

SECTION 16-21-40.

Removing or falsifying identification number of vehicle or engine; buying, receiving or selling vehicle or engine.

(A) A person who:

- (1) wilfully removes or falsifies an identification number of a vehicle or an engine for a vehicle is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.
- (2) wilfully and with intent to conceal or misrepresent the identity of a vehicle or engine removes or falsifies an identification number of the vehicle or engine is guilty of a felony and, upon conviction, must be imprisoned not more than five years.
- (3) buys, receives, possesses, sells, or disposes of a vehicle or an engine for a vehicle, knowing that an identification number of the vehicle or engine has been removed or falsified, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.
- (4) buys, receives, possesses, sells, or disposes of a vehicle or an engine for a vehicle, with knowledge that an identification number of the vehicle or engine has been removed or falsified and with intent to conceal or misrepresent the identity of the vehicle or engine, is guilty of a felony and, upon conviction, must be imprisoned not more than five years.

(B) An identification number may be placed on a vehicle or engine by its manufacturer in the regular course of business or placed or restored on a vehicle or engine by authority of the department without violating this section. An identification number so placed or restored is not falsified.

(C) As used in this section:

- (1) "Identification number" includes an identifying number, serial number, engine number, or other distinguishing number or mark, placed on a vehicle or engine by its manufacturer or by authority of the department or in accordance with the laws of another state or country;
- (2) "Remove" includes deface, cover, and destroy; and
- (3) "Falsify" includes alter and forge.

HISTORY: 1962 Code Section 46-150.84; 1957 (50) 595; 1960 (51) 1602; 1993 Act No. 184, Section 39.

SECTION 16-21-50.

Removing or affixing license plates to conceal or misrepresent identity of vehicle or owner.

A person who removes a license plate from a vehicle or affixes to a vehicle a license plate not authorized by law for use on it, in

either case with intent to conceal or misrepresent the identity of the vehicle or its owner, is guilty of a misdemeanor. As used in this section "remove" includes deface, cover and destroy.

HISTORY: 1962 Code Section 46-150.85; 1957 (50) 595.

SECTION 16-21-60.

Use of vehicle without permission.

(A) It is unlawful for a person not entitled to possession of a vehicle to take, use, or drive a vehicle, without the consent of the owner and with intent to deprive him, temporarily or otherwise, of the vehicle or its possession.

A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

(B) But if the deprivation of the owner was for a temporary purpose only, unconnected with the commission of or intent to commit a crime other than the taking of the vehicle, the person is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than one year, or both.

HISTORY: 1962 Code Section 46-150.86; 1957 (50) 595; 1960 (51) 1602; 1971 (57) 914; 1993 Act No. 184, Section 188.

SECTION 16-21-70.

Use of bicycle or certain other vehicles without permission.

Whoever knowingly and wilfully shall take and use any bicycle or other vehicle, except as defined in Section 56-19-10, without the consent of the owner thereof, but without intent to steal such vehicle, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than five hundred dollars or by imprisonment for a period of not more than one year or both fine and imprisonment, in the discretion of the court.

HISTORY: 1962 Code Section 46-150.87; 1952 Code Section 46-803; 1942 Code Section 1209; 1932 Code Section 1209; Cr. C. '22 Section 97; Cr. C. '12 Section 228; Cr. C. '02 Section 175; R. S. 170; 1883 (18) 434; 1917 (30) 43-47; 1957 (50) 595.

SECTION 16-21-80.

Receiving, possessing, concealing, selling, or disposing of stolen vehicle.

A person not entitled to the possession of a vehicle who receives, possesses, conceals, sells, or disposes of it, knowing it to be stolen or converted under circumstances constituting a crime, is guilty of a:

(1) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the vehicle is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days, or both;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the value of the vehicle is more than two thousand dollars but less than ten thousand dollars;

(3) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the value of the vehicle is ten thousand dollars or more.

HISTORY: 1962 Code Section 46-150.88; 1957 (50) 595; 1960 (51) 1602; 1993 Act No. 184, Section 120; 2010 Act No. 273, Section 16.X, eff June 2, 2010.

SECTION 16-21-90.

Damaging or tampering with vehicle.

A person who, with intent and without right to do so, damages a vehicle or damages or removes any of its parts or components is guilty of a misdemeanor.

A person who, without right to do so and with intent to commit a crime, tampers with a vehicle or goes in or on it or works or attempts to work any of its parts or components or sets or attempts to set it in motion is guilty of a misdemeanor.

HISTORY: 1962 Code Section 46-150.89; 1957 (50) 595.

SECTION 16-21-100.

False reports of stolen or converted vehicles.

A person who knowingly makes a false report of the theft or conversion of a vehicle to a peace officer or to the Department is guilty of a misdemeanor.

HISTORY: 1962 Code Section 46-150.90; 1957 (50) 595.

SECTION 16-21-110.

Failing to report unclaimed vehicle in garage, repair shop and the like.

A person who fails to report a vehicle as unclaimed in accordance with Section 56-19-840 is guilty of a misdemeanor and punishable by a fine of not more than twenty-five dollars.

HISTORY: 1962 Code Section 46-150.91; 1957 (50) 595.

SECTION 16-21-120.

Other violations.

A person is guilty of a misdemeanor who wilfully violates any other provision of Chapter 19 of Title 56, except as otherwise provided therein.

HISTORY: 1962 Code Section 46-150.92; 1957 (50) 595.

SECTION 16-21-130.

Penalties.

A person who violates the provisions of this chapter, except as specifically provided, is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned not more than thirty days, or both.

HISTORY: 1962 Code Section 46-150.93; 1957 (50) 595; 1960 (51) 1602; 1971 (57) 914; 1993 Act No. 184, Section 40.

SECTION 16-21-140.

Accessories, aiders or abettors.

A person who, whether present or absent, aids, abets, induces, procures, or causes the commission of an act under a provision of this chapter is guilty of the principal offense and must be punished accordingly.

HISTORY: 1962 Code Section 46-150.94; 1957 (50) 595; 1960 (51) 1602; 1993 Act No. 184, Section 41.

SECTION 16-21-150.

Admissibility of evidence of prior similar acts.

In a prosecution for a crime specified in this chapter evidence that the defendant has committed a prior act or acts of the same kind is admissible to prove criminal intent or knowledge.

HISTORY: 1962 Code Section 46-150.95; 1957 (50) 595.

Title 16 - Crimes and Offenses

CHAPTER 23

Offenses Involving Weapons

ARTICLE 1

Handguns

SECTION 16-23-10.

Definitions.

When used in this article:

(1) "Handgun" means any firearm designed to expel a projectile and designed to be fired from the hand, but shall not include any firearm generally recognized or classified as an antique, curiosity, or collector's item, or any that does not fire fixed cartridges.

(2) "Dealer" means any person engaged in the business of selling firearms at retail or any person who is a pawnbroker.

(3) "Crime of violence" means murder, manslaughter (except negligent manslaughter arising out of traffic accidents), rape, mayhem, kidnapping, burglary, robbery, housebreaking, assault with intent to kill, commit rape, or rob, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year.

(4) "Fugitive from justice" means any person who has fled from or is fleeing from any law enforcement officer to avoid prosecution or imprisonment for a crime of violence.

(5) "Subversive organization" means any group, committee, club, league, society, association, or combination of individuals the purpose of which, or one of the purposes of which, is the establishment, control, conduct, seizure, or overthrow of the government of the United States or any state or political subdivision thereof, by the use of force, violence, espionage, sabotage, or threats or attempts of any of the foregoing.

(6) "Conviction" as used herein shall include pleas of guilty, pleas of nolo contendere, and forfeiture of bail.

(7) "Division" means the State Law Enforcement Division.

(8) "Purchase" or "sell" means to knowingly buy, offer to buy, receive, lease, rent, barter, exchange, pawn or accept in pawn.

(9) "Person" means any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(10) "Luggage compartment" means the trunk of a motor vehicle which has a trunk; however, with respect to a motor vehicle which does not have a trunk, the term "luggage compartment" refers to the area of the motor vehicle in which the manufacturer designed that luggage be carried or to the area of the motor vehicle in which luggage is customarily carried. In a station wagon, van, hatchback vehicle, truck, or sport utility vehicle, the term "luggage compartment" refers to the area behind the rearmost seat.

HISTORY: 1962 Code Section 16-129; 1965 (54) 578; 1975 (59) 582; 1976 Act No. 685 Sections 1-3; 2004 Act No. 294, Section 1, eff August 16, 2004; 2014 Act No. 123 (S.308), Section 2.D, eff February 11, 2014.

Editor's Note

2010 Act No. 273, Section 7.B, provides:

"The common law offenses of assault and battery with intent to kill, assault with intent to kill, assault and battery of a high and aggravated nature, simple assault and battery, assault of a high and aggravated nature, aggravated assault, and simple assault are abolished for offenses occurring on or after the effective date of this act [June 2, 2010]."

2010 Act No. 277, Section 5, provides:

"The requirements of Section 56-1-80 of the 1976 Code, as amended by Section 3 of this act, must be met upon the renewal of an existing driver's license or special identification card of a person convicted of a crime of violence as defined in Section 16-23-10(3) in this State on or after July 1, 2011."

SECTION 16-23-20.

Unlawful carrying of handgun; exceptions.

(A) It is unlawful, whether or not the person has a concealed weapon permit, for anyone to carry about the person any handgun, whether concealed or not, unless otherwise specifically authorized by law into a:

(1) law enforcement, correctional, or detention facility;

(2) courthouse, courtroom, or other publicly owned building, whether owned by the State, a county, a municipality, or other political subdivision, where court is held and during the time that court is in session;

(3) polling place on election days;

(4) office of or business meeting of the governing body of a county, public school district, municipality, or special purpose district;

(5) school or college athletic event not related to firearms;

(6) daycare facility or preschool facility;

(7) place where the carrying of firearms is prohibited by federal law;

(8) church or other established religious sanctuary unless express permission is given by the appropriate church official or governing body;

(9) hospital, medical clinic, doctor's office, or any other facility where medical services or procedures are performed, unless expressly authorized by the appropriate entity;

(10) residence or dwelling place of another person without the express permission of the owner or person in legal control or possession of the residence or dwelling place, as appropriate; or

(11) place clearly marked with a sign prohibiting the carrying of a concealable weapon on the premises in compliance with Section 23-31-235. A person who violates a provision of this item, whether the violation is wilful or not, only may be charged with a violation of Section 16-11-620 and must not be charged with or penalized for a violation of this subsection.

(B) The provisions of subsection (A) do not apply to:

- (1) regular, salaried law enforcement officers, and reserve police officers of a state agency, municipality, or county of the State, uncompensated Governor's constables, law enforcement officers or other authorized personnel of the federal government or other states when they are carrying out official duties while in this State, deputy enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, and retired commissioned law enforcement officers;
- (2) employees of a law enforcement facility, correctional facility, detention facility, or courthouse while in the course of employment and where the employment requires the possession of a firearm;
- (3) members of the Armed Forces of the United States, the National Guard, organized reserves, or the State Militia when on duty;
- (4) subject to the limitations of Section 23-31-600(D), persons who meet the definition of "qualified retired law enforcement officer" contained in Section 23-31-600; or
- (5) a person carrying as authorized by Section 23-31-240.

(C) Nothing contained in this section may be construed to alter or affect the provisions of Sections 10-11-320, 16-23-30, 16-23-420, 16-23-430, 16-23-465, 44-23-1080, 44-52-165, and 51-3-145, or the ability for a person to obtain a concealed weapon permit as provided for in Section 23-31-215.

(D) Notwithstanding any provision in this section, a person who is not otherwise prohibited by law from carrying a firearm may lawfully store a firearm anywhere in a vehicle whether occupied or unoccupied.

HISTORY: 1962 Code Section 16-129.1; 1965 (54) 578; 1974 (58) 2871; 1975 (59) 630; 1980 Act No. 349; 1982 Act No. 404; 1993 Act No.181, Section 274; 1995 Act No. 85, Section 3; 1996 Act No. 407, Section 2; 1996 Act No. 464, Section 3; 2004 Act No. 294, Sections 1, 2, eff August 16, 2004; 2006 Act No. 336, Section 1, eff June 2, 2006; 2007 Act No. 28, Section 1, eff May 14, 2007; 2014 Act No. 123 (S.308), Section 2.C, eff February 11, 2014; 2021 Act No. 66 (H.3094), Section 3, eff August 15, 2021; 2022 Act No. 218 (H.3050), Section 8, eff May 23, 2022; 2024 Act No. 111 (H.3594), Section 3, eff March 7, 2024.

Editor's Note

2021 Act No. 66, Section 1, provides as follows:

"SECTION 1. This act may be cited as the 'Open Carry With Training Act'."

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2021 Act No. 66, Section 3, in (9)(b), inserted "carried openly or" at the beginning.

2022 Act No. 218, Section 8, in (1), deleted "employed as private detectives or private investigators" following "retired commissioned law enforcement officers".

2024 Act No. 111, Section 3, rewrote the section.

SECTION 16-23-30.

Sale or delivery of handgun to and possession by certain persons unlawful; stolen handguns.

(A) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State any handgun to:

- (1) a person who has been convicted of a crime of violence in any court of the United States, the several states, commonwealths, territories, possessions, or the District of Columbia or who is a fugitive from justice or a habitual drunkard or a drug addict or who has been adjudicated mentally incompetent;
- (2) a person who is a member of a subversive organization;
- (3) a person under the age of eighteen, but this shall not apply to the issue of handguns to members of the Armed Forces of the United States, active or reserve, National Guard, State Militia, or R. O. T. C., when on duty or training or the temporary loan of handguns for instructions under the immediate supervision of a parent or adult instructor; or
- (4) a person who by order of a circuit judge or county court judge of this State has been adjudged unfit to carry or possess a firearm, such adjudication to be made upon application by any police officer, or by any prosecuting officer of this State, or sua sponte, by the court, but a person who is the subject of such an application is entitled to reasonable notice and a proper hearing prior to any such adjudication.

(B) It is unlawful for a person enumerated in subsection (A) to possess or acquire handguns within this State.

(C) A person shall not knowingly buy, sell, transport, pawn, receive, or possess any stolen handgun or one from which the original serial number has been removed or obliterated.

HISTORY: 1962 Code Section 16-129.2; 1965 (54) 578; 2004 Act No. 294, Section 1, eff August 16, 2004; 2006 Act No. 336, Section 4, eff June 2, 2006; 2008 Act No. 192, Section 1, eff April 2, 2008.

SECTION 16-23-50.

Penalties; disposition of fines; forfeiture and disposition of handguns.

(A)(1) A person, including a dealer, who violates the provisions of this article, except Section 16-23-20, is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than five years, or both.

(2) A person violating the provisions of Section 16-23-20 is guilty of:

- (a) a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or

both, for a first offense;

(b) a misdemeanor and, upon conviction, must be imprisoned not more than three years for a second offense; or

(c) a felony and, upon conviction, must be imprisoned not more than five years for a third or subsequent offense.

(B) In addition to the penalty provided in this section, the handgun involved in the violation of this article must be confiscated. The handgun must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated handgun may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell handguns in this State for a handgun or any other equipment approved by the agency, or destroy it. A weapon must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the handgun, the division may keep the handgun for use by its forensic laboratory. Records must be kept of all confiscated handguns received by the law enforcement agencies under the provisions of this article.

HISTORY: 1962 Code Section 16-129.7; 1965 (54) 578; 1975 (59) 582; 1976 Act No. 585; 1986 Act No. 367; 1986 Act No. 532, Section 4; 1988 Act No. 457, Section 1; 1993 Act No. 184, Section 189; 1994 Act No. 497, Part II, Section 36J; 1998 Act No. 297, Section 1; 2004 Act No. 294, Section 1, eff August 16, 2004; 2024 Act No. 111 (H.3594), Section 4, eff March 7, 2024.

Editor's Note

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2024 Act No. 111, Section 4, in (A), rewrote (2).

SECTION 16-23-55.

Procedure for returning found handgun.

(A) A handgun that is found and turned over to a law enforcement agency must be held for a period of ninety days. During that period, the agency shall make a diligent effort to determine:

(1) if the handgun is stolen;

(2) if the handgun has been used in the commission of a crime; and (3) the true owner of the handgun.

(B) At least twice during the ninety-day holding period, the agency shall advertise the handgun with its full description in a newspaper having general circulation in the county where the handgun was found.

(C) After the ninety days have elapsed from publication of the first advertisement, and upon request of the individual who found and turned over the handgun, the agency shall return the handgun to this person if the individual pays all advertising and other costs incidental to returning the handgun.

(D) Notwithstanding subsection (C), the agency shall not return a handgun to the individual who found and turned it in if that individual is prohibited under state or federal law from possessing or receiving a handgun. The agency may dispose of any handgun that is not reclaimed or returned under this section by sale in accordance with Sections 27-21-20 and 27-21-22.

HISTORY: 1989 Act No. 172, Section 1; 2004 Act No. 294, Section 1, eff August 16, 2004; 2024 Act No. 111 (H.3594), Section 5, eff March 7, 2024.

Editor's Note

Section 23-31-140, referenced in subsections (C) and (D), was repealed by 2012 Act No. 285.

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2024 Act No. 111, Section 5, in (C), in the first sentence, deleted "fully completes the application process as described in Section 23-31-140 and in federal law, and" following "if the individual", and deleted the second sentence, which had provided that no handgun may be returned until the individual fully completes the application; and rewrote (D).

SECTION 16-23-60.

Construction.

Provisions of this article must not be construed to grant any additional police powers not authorized by law, and do not in any manner affect the powers of constables commissioned by the Governor.

HISTORY: 1962 Code Section 16-129.8; 1974 (58) 2871; 2004 Act No. 294, Section 1, eff August 16, 2004.

ARTICLE 3

Machine Guns, Sawed-off Shotguns and Rifles

SECTION 16-23-210.

Definitions.

When used in this article:

(a) "Machine gun" applies to and includes any weapon which shoots, is designed to shoot, or can be readily restored to shoot,

automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination or parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

(b) "Sawed-off shotgun" means a shotgun having a barrel or barrels of less than eighteen inches in length or a weapon made from a shotgun which as modified has an overall length of less than twenty-six inches or a barrel or barrels of less than eighteen inches in length.

(c) "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed shotgun shell but does not include an antique firearm as defined in this section.

(d) "Sawed-off rifle" means a rifle having a barrel or barrels of less than sixteen inches in length or a weapon made from a rifle which as modified has an overall length of less than twenty-six inches or a barrel or barrels of less than sixteen inches in length.

(e) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger. The term includes any such weapon which may be readily restored to fire a fixed cartridge but does not include an antique firearm as described in this section.

(f) "Antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(g) "Military firearm" means any military weapon, firearm, or destructive device, other than a machine gun, that is manufactured for military use by a firm licensed by the federal government pursuant to a contract with the federal government and does not include a pistol, rifle, or shotgun which fires only one shot for each pull of the trigger.

HISTORY: 1962 Code Section 16-121; 1952 Code Section 16-121; 1942 Code Section 1258-1; 1934 (38) 1288; 1975 (59) 135; 1990 Act No. 564, Section 1; 1999 Act No. 71, Section 1.

SECTION 16-23-220.

Unlawful transportation of machine gun, military firearm, or sawed-off shotgun or rifle within State.

It is unlawful for a person to transport from one place to another in this State or for any railroad company, express company, or other common carrier or any officer, agent, or employee of any of them or other person acting in their behalf knowingly to ship or to transport from one place to another in this State a machine gun or firearm commonly known as a machine gun, military firearm, sawed-off shotgun, or sawed-off rifle, except as provided in Sections 16-23-250 and 23-31-330.

A person who violates the provisions of this section, upon conviction, must be punished pursuant to Section 16-23-260.

HISTORY: 1962 Code Section 16-122; 1952 Code Section 16-122; 1942 Code Section 1258-1; 1934 (38) 1288; 1975 (59) 135; 1990 Act No. 564, Section 1; 1993 Act No. 184, Section 42.

SECTION 16-23-230.

Unlawful storing, keeping, or possessing of machine gun, military firearm, or sawed-off shotgun or rifle.

It is unlawful for a person to store, keep, possess, or have in possession or permit another to store, keep, possess, or have in possession a machine gun or firearm commonly known as a machine gun, military firearm, sawed-off shotgun, or sawed-off rifle, except as provided in Sections 16-23-250 and 23-31-330.

A person who violates the provisions of this section, upon conviction, must be punished pursuant to Section 16-23-260.

HISTORY: 1962 Code Section 16-123; 1952 Code Section 16-123; 1942 Code Section 1258-1; 1934 (38) 1288; 1975 (59) 135; 1990 Act No. 564, Section 1; 1993 Act No. 184, Section 43.

SECTION 16-23-240.

Unlawful sale, rental, or giving away of machine gun, military firearm, or sawed-off shotgun or rifle; exceptions.

It is unlawful for a person to sell, rent, give away, or participate in any manner, directly or indirectly, in the sale, renting, giving away, or otherwise disposing of a machine gun, or firearm commonly known as a machine gun, military firearm, sawed-off shotgun, or sawed-off rifle, except as provided in Sections 16-23-250 and 23-31-330.

A person who violates the provisions of this section, upon conviction, must be punished pursuant to Section 16-23-260.

HISTORY: 1962 Code Section 16-124; 1952 Code Section 16-124; 1942 Code Section 1258-1; 1934 (38) 1288; 1975 (59) 135; 1990 Act No. 564, Section 1; 1993 Act No. 184, Section 44.

SECTION 16-23-250.

Exceptions to application of article.

The provisions of this article do not apply to the Army, Navy, or Air Force of the United States, the National Guard, and organizations authorized by law to purchase or receive machine guns, military firearms, or sawed-off shotguns or sawed-off rifles, from the United States or from this State and the members of these organizations. Any peace officer of the State or of a county or other political subdivision, state constable, member of the highway patrol, railway policeman or warden, superintendent, head keeper or deputy of a state prison, correction facility, workhouse, county jail, city jail, or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases or persons on duty in the postal service of the United

States or a common carrier while transporting direct to a police department, military, or naval organization or person authorized by law to possess or use a machine gun, or sawed-off shotgun, or sawed-off rifle, may possess machine guns, or sawed-off shotguns, or sawed-off rifles, when required in the performance of their duties. The provisions of this section must not be construed to apply to machine guns, or sawed-off shotguns, or sawed-off rifles kept for display as relics and which are rendered harmless and not usable. The provisions of this article do not apply to any manufacturer of machine guns or military firearms licensed pursuant to the provisions of 18 U. S. C. Section 921 et seq., any person authorized to possess these weapons by the United States Department of the Treasury, the Bureau of Alcohol, Tobacco and Firearms, or any other federal agency empowered to grant this authorization, any common or contract carrier transporting or shipping any machine gun or military firearm to or from the manufacturer if the transportation or shipment is not prohibited by federal law, or persons licensed pursuant to Section 23-31-370.

HISTORY: 1962 Code Section 16-125; 1952 Code Section 16-125; 1942 Code Section 1258-1; 1934 (38) 1288; 1975 (59) 135; 1978 Act No. 541 Section 3; 1986 Act No. 532, Section 1; 1990 Act No. 564, Section 1; 2001 Act No. 106, Section 1.

SECTION 16-23-260.

Penalties.

A person violating the provisions of this article is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

HISTORY: 1962 Code Section 16-127; 1952 Code Section 16-127; 1942 Code Section 1258-1; 1990 Act No. 564, Section 1; 1993 Act No. 184, Section 45.

SECTION 16-23-270.

Article not applicable to antique firearms.

The provisions of this article shall not apply to antique firearms.

HISTORY: 1975 (59) 135; 1990 Act No. 564, Section 1.

SECTION 16-23-280.

Manufacture and sale of machine guns by licensed manufacturer.

Notwithstanding the provisions of this article, machine guns or military firearms manufactured by a firm licensed by the federal government and subject to the Federal Gun Control Act may be legally manufactured, transported, possessed, and sold within the State by the manufacturer thereof.

HISTORY: 1978 Act No. 541 Section 1; 1990 Act No. 564, Section 1.

ARTICLE 5

Miscellaneous Offenses

SECTION 16-23-405.

Definition of "weapon"; confiscation and disposition of weapons used in commission or in furtherance of crime.

(A) Except for the provisions relating to rifles and shotguns in Section 16-23-460, as used in this chapter, "weapon" means firearm (rifle, shotgun, pistol, or similar device that propels a projectile through the energy of an explosive), a blackjack, a metal pipe or pole, or any other type of device, or object which may be used to inflict bodily injury or death.

(B) A person convicted of a crime, in addition to a penalty, shall have a weapon used in the commission or in furtherance of the crime confiscated. Each weapon must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated weapon may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell pistols in this State for a pistol or other equipment approved by the agency, or destroy it. A weapon may not be disposed of until the results of all legal proceedings in which it may be involved are finally determined. A firearm seized by the State Law Enforcement Division may be kept by the division for use by its forensic laboratory.

HISTORY: 1986 Act No. 532, Section 5; 1998 Act No. 297, Section 2; 2008 Act No. 337, Section 1, eff June 25, 2008.

Editor's Note

Section 16-23-460, referenced in (A), was repealed by 2024 Act No. 111, Section 15, eff March 7, 2024.

SECTION 16-23-410.

Pointing firearm at another person.

It is unlawful for a person to present or point at another person a loaded or unloaded firearm.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years. This section must not be construed to abridge the right of self-defense or to apply to theatricals or like performances.

HISTORY: 1962 Code Section 16-141; 1952 Code Section 16-141; 1942 Code Section 1119; 1932 Code Section 1119; Cr. C. '22 Section 17; Cr. C. '12 Section 162; 1910 (26) 694; 1993 Act No. 184, Section 46.

SECTION 16-23-415.

Taking firearm or other weapon from law enforcement officer.

An individual who takes a firearm, stun gun, or taser device from the person of a law enforcement officer or a corrections officer is guilty of a felony and, upon conviction, must be imprisoned for not more than five years, or fined not more than five thousand dollars, or both, if all of the following circumstances exist at the time the firearm is taken:

- (1) the individual knows or has reason to believe the person from whom the weapon is taken is a law enforcement officer or a corrections officer;
- (2) the law enforcement officer or corrections officer is performing his duties as a law enforcement officer or a corrections officer,

or the individual's taking of the weapon is directly related to the law enforcement officer's or corrections officer's professional responsibilities;

(3) the individual takes the weapon without consent of the law enforcement officer or corrections officer;

(4) the law enforcement officer is authorized by his employer to carry the weapon in the line of duty; and

(5) the law enforcement officer or corrections officer is authorized by his employer to carry the weapon while off duty and has identified himself as a law enforcement officer.

HISTORY: 2006 Act No. 379, Section 3, eff June 9, 2006.

SECTION 16-23-420.

Possession of firearm on school property.

(A) It is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property. The provisions of this subsection related to any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, do not apply to when the firearm remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(B) It is unlawful for a person to enter the premises or property described in subsection (A) and to display, brandish, or threaten others with a firearm.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years, or both.

(D) This section does not apply to a guard, law enforcement officer, or member of the armed forces, or student of military science. A married student residing in an apartment provided by the private or public school whose presence with a firearm in or around a particular building is authorized by persons legally responsible for the security of the buildings is also exempted from the provisions of this section.

(E) For purposes of this section, the terms "premises" and "property" do not include state or locally owned or maintained roads, streets, or rights-of-way of them, running through or adjacent to premises or property owned, operated, or controlled by a private or public school, college, university, technical college, or other post-secondary institution, which are open full time to public vehicular traffic.

(F) This section does not apply to a person when upon any premises, property, or building that is part of an interstate highway rest area facility.

HISTORY: 1962 Code Section 16-141.1; 1969 (56) 319; 1993 Act No. 184, Section 47; 1996 Act No. 464, Section 6; 2002 Act No. 274, Section 1, eff May 28, 2002; 2004 Act No. 294, Section 3, eff August 16, 2004; 2009 Act No. 32, Section 2, eff June 2, 2009; 2024 Act No. 111 (H.3594), Section 6, eff March 7, 2024.

Editor's Note

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2024 Act No. 111, Section 6, in (A), in the second sentence, substituted "when the firearm remains" for "a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23 when the weapon remains"; in (D), in the second sentence, substituted "firearm" for "weapon"; and in (F), deleted "who is authorized to carry concealed weapons pursuant to Article 4, Chapter 31, or Title 23".

SECTION 16-23-430.

Carrying weapon on school property.

(A) It shall be unlawful for any person, except state, county, or municipal law enforcement officers or personnel authorized by school officials, to carry on his person, while on any elementary or secondary school property, a knife, with a blade over two inches long, a blackjack, a metal pipe or pole, firearms, or any other type of weapon, device, or object which may be used to inflict bodily injury or death.

(B) This section does not apply when the weapon remains inside an attended or locked motor vehicle and is secured in a closed glove compartment, closed console, closed trunk, or in a closed container secured by an integral fastener and transported in the luggage compartment of the vehicle.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than five years, or both. Any weapon or object used in violation of this section may be confiscated by the law enforcement division making the arrest.

HISTORY: 1962 Code Section 16-141.2; 1971 (57) 535; 1990 Act No. 579, Section 1; 1993 Act No. 184, Section 48; 2009 Act No. 32, Section 1, eff June 2, 2009; 2024 Act No. 111 (H.3594), Section 7, eff March 7, 2024.

Editor's Note

1990 Act No. 579, Section 7, eff June 12, 1990, provides as follows:

"SECTION 7. This act may be cited as the 'Safe Schools Act of 1990'."

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2024 Act No. 111, Section 7, in (B), deleted "to a person who is authorized to carry a concealed weapon pursuant to Article 4, Chapter 31, Title 23" following "does not apply".

SECTION 16-23-440.

Discharging firearms at or into dwellings, structures, enclosures, vehicles or equipment; penalties.

(A) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into a dwelling house, other building, structure, or enclosure regularly occupied by persons. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.

(B) It is unlawful for a person to discharge or cause to be discharged unlawfully firearms at or into any vehicle, aircraft, watercraft, or other conveyance, device, or equipment while it is occupied. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than ten years, or both.

HISTORY: 1962 Code Section 16-142; 1952 Code Section 16-142; 1942 Code Section 1120; 1932 Code Section 1120; Cr. C. '22 Section 18; Cr. C. '12 Section 163; 1910 (26) 785; 1988 Act No. 469; 1993 Act No. 184, Section 49; 2001 Act No. 98, Section 1.

SECTION 16-23-450.

Placing loaded trap gun, spring gun or like device.

It shall be unlawful for any person to construct, set or place a loaded trap gun, spring gun or any like device in any manner in any building or in any place within this State, and any violation of the provisions of this section shall constitute a misdemeanor and be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment of not less than thirty days nor more than one year or by both fine and imprisonment, in the discretion of the court.

HISTORY: 1962 Code Section 16-143; 1952 Code Section 16-143; 1942 Code Section 1121; 1932 Code Section 1121; 1931 (37) 78.

SECTION 16-23-460.

Repealed.

HISTORY: Former Section, titled Carrying concealed weapons; forfeiture of weapons, had the following history: 1962 Code Section 16-145; 1952 Code Section 16-145; 1942 Code Section 1256; 1932 Code Section 1256; Cr. C. '22 Section 151; Cr. C. '12 Section 158; Cr. C. '02 Section 130; G. S. 2472; R. S. 129; 1880 (17) 448; 1894 (21) 824; 1897 (22) 423; 1900 (23) 446; 1922 (32) 905; 1965 (54) 578; 1975 (59) 743; 1986 Act No. 532, Section 6; 1996 Act No. 464, Section 4; 2008 Act No. 337, Section 2, eff June 25, 2008. Repealed by 2024 Act No. 111, Section 15, eff March 7, 2024.

SECTION 16-23-465.

Additional penalty for unlawfully carrying pistol or firearm onto premises of business selling alcoholic liquor, beer or wine for on-premises consumption; exceptions.

(A) In addition to the penalties provided for by Sections 16-11-330, 16-11-620, 23-31-220, and Article 1, Chapter 23, Title 16, a person convicted of knowingly carrying a firearm into a business which sells alcoholic liquor, beer, or wine for consumption on the premises is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than two years, or both.

In addition to the penalties described above, a person who violates this section while carrying a concealable weapon pursuant to Article 4, Chapter 31, Title 23 must have his concealed weapon permit revoked for a period of five years.

(B)(1) This section does not apply to a person otherwise lawfully carrying a firearm who does not consume alcoholic liquor, beer, or wine while carrying the concealable weapon on the business' premises. A person who violates this item may be charged with a violation of subsection (A).

(2) A property owner, holder of a lease interest, or operator of a business may prohibit the carrying of concealable weapons into the business by posting a "NO CONCEALABLE WEAPONS ALLOWED" sign in compliance with Section 23-31-235. A person who carries a concealable weapon into a business with a sign posted in compliance with Section 23-31-235 may be charged with a violation of subsection (A).

(3) A property owner, holder of a lease interest, or operator of a business may request that a person carrying a concealable weapon leave the business' premises, or any portion of the premises, or request that a person carrying a concealable weapon remove the concealable weapon from the business' premises, or any portion of the premises. A person carrying a concealable weapon who refuses to leave a business' premises or portion of the premises when requested or refuses to remove the concealable weapon from a business' premises or portion of the premises when requested may be charged with a violation of subsection (A).

HISTORY: 1977 Act No. 45; 1993 Act No. 184, Section 190; 1996 Act No. 464, Section 5; 2002 Act No. 274, Section 2, eff May 28, 2002; 2014 Act No. 123 (S.308), Section 1, eff February 11, 2014; 2024 Act No. 111 (H.3594), Section 8, eff March 7, 2024.

Editor's Note

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2024 Act No. 111, Section 8, in (A), deleted "16-23-460," following "16-11-620", inserted "knowingly" following "convicted of", and made a nonsubstantive change; and in (B), in (1), substituted "otherwise lawfully carrying a firearm who does not consume" for "carrying a concealable weapon pursuant to and in compliance with Article 4, Chapter 31, Title 23; however, the person shall not consume".

SECTION 16-23-470.

Illegal possession of tear-gas gun or ammunition.

(A) It is unlawful for anyone except an authorized law enforcement officer to possess, use, transport, sell, or buy a tear-gas machine or gun, or its parts, or any ammunition, shells, or equipment that may be used in a tear-gas gun or machine. It is lawful for a person for self-defense purposes only to possess, use, transport, sell, or buy a tear-gas machine or gun, or its parts, or ammunition, shells, or equipment for a tear-gas machine or gun, but the capacity of a tear-gas cartridge, shell, or container shall not exceed fifty cubic centimeters nor shall a tear-gas machine or gun have the capability of shooting a cartridge, shell, or container of more than fifty cubic centimeters.

(B) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than five thousand dollars, or both.

(C) Except as permitted above, nothing in this section prohibits the purchase, sale, transportation, or use of tear gas for the destruction of insects or rodents if tear gas is not in containers or shells suitable for use in a tear-gas gun, equipment, or machine and if the purchaser has written authority for the purchase and use of tear gas from the county agent of the county in which he resides.

HISTORY: 1962 Code Section 16-147; 1952 Code Section 16-147; 1948 (45) 1857; 1978 Act No. 603; 1993 Act No. 184, Section 191.

SECTION 16-23-480.

Manufacture or possession of article designed to cause damage by fire or other means.

It is unlawful for a person to manufacture, cause to be manufactured, or possess any object or article which is designed to cause damage by fire or any other means to person or property either by ignition, detonation, or other means. It is unlawful for a person to possess any object or article solely for the purpose of causing damage by fire or other means to person or property either by ignition, detonation, or other means.

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both.

HISTORY: 1962 Code Section 16-148; 1969 (56) 320; 1993 Act No. 184, Section 50.

SECTION 16-23-490.

Additional punishment for possession of firearm or knife during commission of, or attempt to commit, violent crime.

(A) If a person is in possession of a firearm or visibly displays what appears to be a firearm or visibly displays a knife during the commission of a violent crime and is convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, he must be imprisoned five years, in addition to the punishment provided for the principal crime. This five-year sentence does not apply in cases where the death penalty or a life sentence without parole is imposed for the violent crime.

(B) Service of the five-year sentence is mandatory unless a longer mandatory minimum term of imprisonment is provided by law for the violent crime. The court may impose this mandatory five-year sentence to run consecutively or concurrently.

(C) Except as provided in this subsection, the person sentenced under this section is not eligible during this five-year period for parole, work release, or extended work release. The five years may not be suspended and the person may not complete his term of imprisonment in less than five years pursuant to good-time credits or work credits, but may earn credits during this period. The person is eligible for work release, if the person is sentenced for voluntary manslaughter (Section 16-3-50), kidnapping (Section 16-3-910), carjacking (Section 16-3-1075), burglary in the second degree (Section 16-11-312(B)), armed robbery (Section 16-11-330(A)), or attempted armed robbery (Section 16-11-330(B)), the crime did not involve any criminal sexual conduct or an additional violent crime as defined in Section 16-1-60, and the person is within three years of release from imprisonment.

(D) As used in this section, "firearm" means any machine gun, automatic rifle, revolver, pistol, or any weapon which will, or is designed to, or may readily be converted to expel a projectile; "knife" means an instrument or tool consisting of a sharp cutting blade whether or not fastened to a handle which is capable of being used to inflict a cut, slash, or wound.

(E) The additional punishment may not be imposed unless the indictment alleged as a separate count that the person was in possession of a firearm or visibly displayed what appeared to be a firearm or visibly displays a knife during the commission of the violent crime and conviction was had upon this count in the indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time indicted and convicted of a violent crime as defined in Section 16-1-60.

HISTORY: 1962 Code Section 16-149; 1970 (56) 1968; 1986 Act No. 462, Section 28; 1993 Act No. 184, Section 51; 2010 Act No. 273, Section 27, eff June 2, 2010.

SECTION 16-23-495.

Concealable weapon offense.

(A) A person convicted of committing or attempting to commit a crime involving a concealable weapon, as defined by Section 23-31-210(5), in violation of an offense listed in Chapter 23, Title 16, or a violation of Section 10-11-320, must be imprisoned not to

exceed three years. A term of imprisonment imposed for violating this section must be served consecutively to any term of imprisonment imposed for the underlying offense, and may not exceed the actual sentence imposed for the underlying offense.

(B) This section does not apply to a person with a valid permit to carry a concealable weapon issued pursuant to Article 4, Chapter 31, Title 23, provided that the permit was valid at the time the crime was committed.

(C) The additional punishment may not be imposed unless the indictment alleged as a separate count that the person was in possession of a concealable weapon without a valid concealed weapon permit during the commission of the crime and conviction was had upon this count in the indictment. The penalties prescribed in this section may not be imposed unless the person convicted was at the same time indicted and convicted of the underlying crime.

(D) The State Law Enforcement Division shall develop a document and distribute it to retailers that are federally licensed to engage in the business of dealing in or selling firearms in South Carolina. Such retailers shall provide the document to gun purchasers in South Carolina to inform them that South Carolina law provides a process for gun owners to obtain a concealed weapon permit and allows law-abiding gun owners to carry their weapons without a permit. The document must inform gun purchasers that if a gun owner commits a crime involving a concealable weapon, and the owner does not have a valid concealed weapon permit, then there may be an additional criminal penalty for the underlying offense.

(E) The State Law Enforcement Division must conduct a regular, statewide marketing campaign to inform South Carolinians that South Carolina law provides a process for gun owners to obtain a concealed weapon permit and allows law-abiding gun owners to carry their weapons without a permit. The campaign must inform gun purchasers that if a gun owner commits a crime involving a concealable weapon, and the owner does not have a valid concealed weapon permit, then there may be an additional criminal penalty for the underlying offense.

HISTORY: 2024 Act No. 111 (H.3594), Section 22, eff March 7, 2024.

Editor's Note

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

SECTION 16-23-500.

Unlawful possession of a firearm by a person convicted of violent offense; confiscation; return of firearm to innocent owner.

(A) Except as provided in subsection (F), it is unlawful for a person who has been convicted of a crime punishable by a maximum term of imprisonment of more than one year to possess a firearm or ammunition within this State.

(B) A person who violates the provisions of this section is guilty of a felony and, upon conviction:

(1) for a first offense, must be imprisoned not more than five years;

(2) for a second offense, must be imprisoned for a mandatory minimum of five years, but not more than twenty years; and

(3) for a third or subsequent offense, must be imprisoned for a mandatory minimum of ten years, but not more than thirty years.

(C)(1) In addition to the penalty provided in this section, the firearm or ammunition involved in the violation of this section must be confiscated. The firearm or ammunition must be delivered to the chief of police of the municipality or to the sheriff of the county if the violation occurred outside the corporate limits of a municipality. The law enforcement agency that receives the confiscated firearm or ammunition may use it within the agency, transfer it to another law enforcement agency for the lawful use of that agency, trade it with a retail dealer licensed to sell firearms or ammunition in this State for a firearm, ammunition, or any other equipment approved by the agency, or destroy it. A firearm or ammunition must not be disposed of in any manner until the results of any legal proceeding in which it may be involved are finally determined. If the State Law Enforcement Division seized the firearm or ammunition, the division may keep the firearm or ammunition for use by its forensic laboratory. Records must be kept of all confiscated firearms or ammunition received by the law enforcement agencies under the provisions of this section.

(2) A law enforcement agency that receives a firearm or ammunition pursuant to this section shall administratively release the firearm or ammunition to an innocent owner. The firearm or ammunition must not be released to the innocent owner until the results of any legal proceedings in which the firearm or ammunition may be involved are finally determined. Before the firearm or ammunition may be released, the innocent owner shall provide the law enforcement agency with proof of ownership and shall certify that the innocent owner will not release the firearm or ammunition to the person who has been charged with a violation of this section which resulted in the confiscation of the firearm or ammunition. The law enforcement agency shall notify the innocent owner when the firearm or ammunition is available for release. If the innocent owner fails to recover the firearm or ammunition within thirty days after notification of the release, the law enforcement agency may maintain or dispose of the firearm or ammunition as otherwise provided in this section.

(D) The court with jurisdiction over an offense, punishable by imprisonment for more than one year, as provided in subsection (A), shall make a specific finding on the record that the offense is subject to the provisions of this section. A judge's failure to make a specific finding on the record does not bar or otherwise affect prosecution pursuant to this subsection and does not constitute a defense to prosecution pursuant to this subsection.

(E) A second or subsequent offense for the purpose of this section means any conviction pursuant to Section 16-23-500 (A).

(F) For the purpose of this section, "crime punishable by a maximum term of imprisonment of more than one year" does not include:

(1) any offense in this State or another jurisdiction pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices;

(2) any offense classified by the laws of this State or another jurisdiction as a misdemeanor and punishable by a term of imprisonment of five years or less; or

(3) any crime for which the conviction has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

HISTORY: 2010 Act No. 273, Section 25, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 2, eff April 21, 2016; 2024 Act No. 111 (H.3594), Section 16, eff March 7, 2024.

Editor's Note

2024 Act No. 111, Sections 1 and 24, provide as follows:

"SECTION 1. This act may be cited as the 'South Carolina Constitutional Carry/Second Amendment Preservation Act of 2024'."

"SECTION 24. No provision in this act should be construed as the General Assembly discouraging responsible gun ownership; and the General Assembly, in fact, encourages all gun owners to pursue and receive appropriate gun safety training before carrying a firearm or weapon."

Effect of Amendment

2016 Act No. 154, Section 2, in (C), inserted paragraph identifier (1), and added (2), relating to the release of a firearm to an innocent owner; and in (D), added the second sentence, relating to the failure to make a specific finding.

2024 Act No. 111, Section 16, rewrote the section.

SECTION 16-23-520.

Use, transportation, manufacture, possession, purchase, or sale of teflon-coated ammunition.

It is unlawful for a person to use, transport, manufacture, possess, distribute, sell, or buy any ammunition or shells that are coated with polytetrafluoroethylene (teflon).

A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

HISTORY: 1984 Act No. 340; 1993 Act No. 184, Section 52.

SECTION 16-23-530.

Firearms; possession by or sale to unlawful alien; penalties.

(A) It is unlawful for an alien unlawfully present in the United States to possess, purchase, offer to purchase, sell, lease, rent, barter, exchange, or transport into this State a firearm.

(B) It is unlawful for a person to knowingly sell, offer to sell, deliver, lease, rent, barter, exchange, or transport for sale into this State a firearm to a person knowing that such person is not lawfully present in the United States.

(C) A person violating the provisions of subsection (A) of this section is guilty of a felony and, upon conviction, must be fined not more than ten thousand dollars or imprisoned not more than ten years, or both.

(D) A person violating the provisions of subsection (B) of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than three years, or both.

HISTORY: 2008 Act No. 280, Section 15, eff June 4, 2008.

ARTICLE 7

Bombs, Destructive Devices, and Weapons of Mass Destruction

Editor's Note

2002 Act No. 393, Section 45, provides as follows:

"This act takes effect upon approval by the Governor, and applies to offenses committed after its effective date and to causes of action arising or accruing on or after the effective date."

SECTION 16-23-710.

Definitions.

For purposes of this article:

(1) "Bacteriological weapon" and "biological weapon" mean devices which are designed in a manner as to permit the intentional release into the population or environment of microbiological or other biological materials, toxins, or agents, whatever their origin or method of production, in a manner not authorized by law, or any device, the development, production, or stockpiling of which is prohibited pursuant to the "Convention of the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction", 26 U.S.T. 583, TIAS 8063.

(2) "Bomb" includes a destructive device capable of being detonated, triggered, or set off to release any substance or material that is destructive, irritating, odoriferous, or otherwise harmful to one or more organisms including, but not limited to, human beings, livestock, animals, crops or vegetation, or to earth, air, water, or any other material or substance necessary or required to sustain human or any other individual form of life, or to real or personal property.

(3) "Bomb technician", "explosive ordnance technician", or "EOD technician" means either:

(a) a law enforcement officer, fire official, emergency management official, or an employee of the State, its political subdivisions, or an authority of the State or a political subdivision, whose job title includes the designation of bomb technician, explosive ordnance disposal technician, or EOD technician and whose assigned duties include the rendering-safe of improvised explosive devices, destructive devices, old or abandoned explosives, war relics, or souvenirs while acting in the performance of his official duties; or

(b) an official or employee of the United States including, but not limited to, a member of the Armed Forces of the United States, who is qualified as an explosive ordnance disposal technician under the federal, state, or local laws or regulations while acting in the

performance of his duty.

(4) "Building" means any structure, vehicle, watercraft, or aircraft:

(a) where any person lodges or lives; or

(b) where people assemble for purposes of business, government, education, religion, entertainment, public transportation, or public use or where goods are stored. Where a building consists of two or more units separately occupied or secured, each unit is considered both a separate building in itself and a part of the main building.

(5) "Device" means an object, contrivance, instrument, technique, or any thing that is designed, manufactured, assembled, or capable of serving any purpose in a bomb, destructive device, explosive, incendiary, or weapon of mass destruction.

(6) "Detonate" means to explode or cause to explode.

(7) "Destructive device" means:

(a) a bomb, incendiary device, or any thing that can detonate, explode, be released, or burn by mechanical, chemical, or nuclear means, or that contains an explosive, incendiary, poisonous gas, or toxic substance (chemical, biological, or nuclear materials) including, but not limited to, an incendiary or over-pressure device, or any other device capable of causing damage, injury, or death;

(b) a bacteriological weapon or biological weapon; or

(c) a combination of any parts, components, chemical compounds, or other substances, either designed or intended for use in converting any device into a destructive device which has been or can be assembled to cause damage, injury, or death.

(8) "Detonator" means a device containing a detonating charge used to initiate detonation in an explosive or any device capable of triggering or setting off an explosion or explosive charge including, but not limited to, impact or an impact device, a timing mechanism, electricity, a primer, primer or detonating cord, a detonating cap or device of any kind, detonating waves, electric blasting caps, blasting caps for use with safety fuses, shock tube initiator, and detonating cord delay connectors, or any other device capable of detonating or exploding a bomb, weapon of mass destruction, or destructive device.

(9) "Distribute" means the actual or constructive delivery or the attempted transfer from one person to another.

(10) "Explosive" means a chemical compound or other substance or a mechanical system intended for the purpose of producing an explosion capable of causing injury, death, or damage to property or an explosive containing oxidizing and combustible units or other ingredients in such proportions or quantities that ignition, fire, friction, concussion, percussion, or detonation may produce an explosion capable of causing injury, death, or damage to property. Explosives include, but are not limited to, the list of explosive materials published and periodically updated by the Bureau of Alcohol, Tobacco and Firearms.

(11) "Hoax device" or "replica" means a device or object which has the appearance of a destructive device.

(12) "Incendiary" means any material that:

(a) causes, or is capable of causing, fire when it is lit or ignited; and

(b) is used to ignite a flammable liquid or compound in an unlawful manner.

(13) "Incendiary device" means a destructive device, however possessed or delivered, and by whatever name called, containing or holding a flammable liquid or compound, which is capable of being ignited by any means possible. Incendiary device includes, but is not limited to, any form of explosive, explosive bomb, grenade, missile, or similar device, whether capable of being carried or thrown by a person acting alone or with one or more persons, but does not include a device manufactured or produced for the primary purpose of illumination or for marking detours, obstructions, defective paving, or other hazards on streets, roads, highways, or bridges, when used in a lawful manner.

(14) "Over-pressure device" means a container filled with an explosive gas or expanding gas or liquid which is designed or constructed so as to cause the container to break, fracture, or rupture in a manner capable of causing death, injury, or property damage, and includes, but is not limited to, a chemical reaction bomb, an acid bomb, a caustic bomb, or a dry ice bomb.

(15) "Parts" mean a combination of parts, components, chemical compounds, or other substances, designed or intended for use in converting any device into a destructive device.

(16) "Poisonous gases" mean a toxic chemical or its precursors that through its chemical action or properties on life processes, causes death or injury to human beings or other living organisms. However, the term does not include:

(a) riot control agents, smoke and obscuration materials, or medical products which are manufactured, possessed, transported, or used in accordance with the laws of this State or the United States;

(b) tear gas devices designed to be carried on or about the person which contain not more than fifty cubic centimeters of the chemical; or

(c) pesticides, as used in agriculture and household products.

(17) "Property" means real or personal property of any kind including money, choses in action, and other similar interest in property.

(18) "Terrorism" includes activities that:

(a) involve acts dangerous to human life that are a violation of the criminal laws of this State;

(b) appear to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping; and

(c) occur primarily within the territorial jurisdiction of this State.

(19) "Weapon of mass destruction" means:

(a) any destructive device as defined in item (7);

(b) any weapon that is designed or intended to cause death or serious bodily injury through the release, dissemination, or impact of

toxic or poisonous chemicals, or their precursors;

(c) any weapon involving a disease organism; or

(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-715.

Possession, threatened or attempted use of weapon of mass destruction for act of terrorism; penalty.

A person who, without lawful authority, possesses, uses, threatens, or attempts or conspires to possess or use a weapon of mass destruction in furtherance of an act of terrorism is guilty of a felony and upon conviction:

(1) in cases resulting in the death of another person, must be punished by death or by imprisonment for life; or

(2) in cases which do not result in the death of another person, must be punished by imprisonment for not less than twenty-five years nor more than life.

HISTORY: 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-720.

Use, counseling or soliciting others to use, possessing, or threatening to use destructive device; harboring terrorist.

(A) It is unlawful for a person intentionally to use a destructive device or cause an explosion, or intentionally to aid, counsel, solicit another, or procure the use of a destructive device. A person who violates this subsection is guilty of a felony and, upon conviction:

(1) in cases resulting in the death of another person where there was malice aforethought, must be punished by death, by imprisonment for life, or by a mandatory minimum term of imprisonment for thirty years;

(2) in cases resulting in the death of another person where there was not malice aforethought, must be imprisoned not less than ten years nor more than thirty years; and

(3) in cases resulting in injury to a person, must be imprisoned for not less than ten years nor more than twenty-five years.

(B) A person who intentionally causes an explosion by means of a destructive device or aids, counsels, solicits another, or procures an explosion by means of a destructive device, which results in damage to a building or other real or personal property, or a person who attempts to injure another or damage or destroy a building or other real or personal property by means of a destructive device, is guilty of a felony and, upon conviction, must be imprisoned for not less than ten years nor more than twenty-five years.

(C) A person who knowingly possesses, manufactures, transports, distributes, or possesses with the intent to distribute a destructive device or any explosive, incendiary device, or over-pressure device or toxic substance or material which has been configured to cause damage, injury, or death, or a person who possesses parts, components, or materials which when assembled constitute a destructive device is guilty of a felony and, upon conviction, must be imprisoned for not less than two years nor more than fifteen years.

(D) A person who threatens, solicits another to threaten, or conspires to threaten to cause damage, injury, or death or to cause damage to or destroy a building or other real or personal property by means of destructive device is guilty of a felony and, upon conviction, must be imprisoned for not more than fifteen years.

(E) A person who knowingly protects, harbors, or conceals another who is known by the person to have planned, executed, or committed any violation of the provisions of this article is guilty of a felony and, upon conviction, must be imprisoned for not more than fifteen years.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-730.

Hoax device or replica of destructive device or detonator; manufacture, possession or transport; threat to use; penalties.

A person who knowingly manufactures, possesses, transports, distributes, uses or aids, or counsels, solicits another, or conspires with another in the use of a hoax device or replica of a destructive device or detonator which causes any person reasonably to believe that the hoax device or replica is a destructive device or detonator is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year or fined not more than ten thousand dollars, or both. A person who communicates or transmits to another person that a hoax device or replica is a destructive device or detonator with the intent to intimidate or threaten injury, to obtain property of another, or to interfere with the ability of another person to conduct or carry on his life, business, trade, education, religious worship, or to interfere with the operations and functions of any government entity is guilty of a felony and, upon conviction, must be imprisoned for not less than two years nor more than fifteen years.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-740.

Hindering explosive ordinance technician or law enforcement official while detecting or disarming destructive device; penalty.

A person who knowingly and wilfully hinders or obstructs an explosive ordinance technician, bomb technician, law enforcement officer, fire official, emergency management official, public safety officer, animal trained to detect destructive devices, or any robot or mechanical device designed for or utilized by a law enforcement officer, fire official, emergency management official, public safety officer, or bomb technician of this State or of the United States while in the detection, disarming, or destruction of a destructive device is guilty of a felony and, upon conviction, must be imprisoned for not less than one year nor more than five years.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-750.

Conveying false information regarding attempted use of a destructive device; aiding or conspiring; penalty.

A person who conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made to kill, injure, or intimidate any person or to damage or destroy any building or other real

or personal property by means of an explosive, incendiary, or destructive device or who aids, employs, or conspires with any person to do or cause to be done any of the acts in this section, is guilty of a felony and, upon conviction, for a first offense must be imprisoned for not less than one year nor more than ten years. For a second or subsequent offense, the person must be imprisoned for not less than five years nor more than fifteen years. A sentence imposed for a violation of this section must not be suspended and probation must not be granted.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-760.

Admissibility of photographic evidence of destructive devices; custody of inert devices introduced into evidence.

(A) Unless otherwise ordered by a court of competent jurisdiction, photographs, electronic imaging, video tapes, or other identification or analysis of a destructive device, explosive, incendiary, poisonous gas, toxic substance, whether chemical, biological, or nuclear material, or detonator identified by a qualified bomb technician or person qualified as a forensic expert in the field of destructive devices is admissible in any civil or criminal trial in lieu of production of the actual destructive device or detonator. Evidence transferred to the clerk of court by a qualified bomb technician for safekeeping must not be destroyed except pursuant to a court order issued by a court of competent jurisdiction.

(B) If a destructive device, explosive, incendiary, poisonous gas, toxic substance, whether chemical, biological, or nuclear material, or detonator that has been rendered inert and safe is introduced into evidence in any criminal or civil trial, the clerk of court may retain custody or transfer custody of the destructive device or detonator to a qualified bomb technician for safekeeping only after the destructive device has been preserved as evidence by photograph, videotape, or other suitable means of identification.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-770.

Forfeiture of property used or intended for use in violation of article; storage and destruction; exceptions.

(A) All property used or intended for use in violation of this article and all proceeds derived from, realized from, or traced back to property used or intended for use in violation of this article is contraband and subject to forfeiture. Property subject to forfeiture must be seized by a law enforcement agency and forfeited to the State, a political subdivision of the State, or the seizing law enforcement agency.

(B) On application of a seizing law enforcement agency, the circuit court may order the agency to destroy or transfer the seized device to any agency of this State or of the United States that can safely store or render harmless a destructive device, explosive, poisonous gas, or detonator if the court finds that it is impractical or unsafe for the seizing law enforcement agency to store the destructive device, explosive, poisonous gas, or detonator. Notwithstanding Section 16-23-760, the application for destruction of a destructive device may be made at anytime after seizure. Any destruction ordered pursuant to this subsection must be done in the presence of at least one credible witness or recorded on film, videotape, or other electronic imaging method. The court also may order the seizing agency or the agency to which the device, explosive, poisonous gas, or detonator is transferred to make a report of the destruction, take samples before the destruction, or both.

(C) Nothing in subsection (A) or (B) prohibits a bomb technician, law enforcement officer, or fire official from taking action that will render an explosive, destructive device, poisonous gas, or detonator, or other object which is suspected of being an explosive, destructive device, poisonous gas, or detonator safe without prior approval of a court when the action is in the performance of his duties and is intended to protect lives or property which are in imminent danger.

(D) The provisions of this article do not apply to the lawful use of:

- (1) fertilizers, propellant activated devices, or propellant activated industrial tools manufactured, imported, distributed, or used for their intended purposes;
- (2) pesticides which are manufactured, stored, transported, distributed, possessed, or used in accordance with Chapter 7, Title 2, the federal Insecticide, Fungicide, and Rodenticide Act and the Environmental Pesticide Control Act of 1972;
- (3) explosives, blasting agents, detonators, and other objects regulated and controlled by the South Carolina Explosives Control Act;
- (4) ammunition for small arms and firearms;
- (5) components of ammunition for small arms and firearms;
- (6) ammunition reloading equipment;
- (7) the use of small arms propellant when used in war reenactments;
- (8) firearms, as defined in Section 16-8-10; or
- (9) fireworks and explosives which are permitted to be sold, possessed, or used under Chapter 35 of Title 23.

(E) The provisions of this article do not apply to the military or naval forces of the United States, to the duly organized military force of a state or territory, or to police or fire departments in this State when they are acting within their official capacities and in performance of their duties.

HISTORY: 2000 Act No. 237, Section 6; 2002 Act No. 339, Section 13, eff July 2, 2002.

SECTION 16-23-780.

Reporting existence and location of destructive device or weapon of mass destruction.

All state, county, and municipal law enforcement officers who encounter a known or suspected destructive device, biological or bacteriological weapon or a nuclear, biological, or chemical weapon of mass destruction in the course of their employment must immediately report the existence and location of the device or weapon to the State Law Enforcement Division for purposes of disseminating the information to law enforcement agencies, and to the appropriate state and local public health officials for purposes of enabling public health officials to assess the nature and extent of the threat of the device or weapon to public health.

HISTORY: 2002 Act No. 339, Section 13, eff July 2, 2002.

Title 16 - Crimes and Offenses

CHAPTER 25

Domestic Violence

ARTICLE 1

General Provisions

SECTION 16-25-10.

Definitions.

As used in this article, the term:

(1) "Deadly weapon" means any pistol, dirk, slingshot, metal knuckles, razor, or other instrument which can be used to inflict deadly force.

(2) "Great bodily injury" means bodily injury which causes a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ.

For validity of (3), see Editors' Notes below.

(3) "Household member" means:

(a) a spouse;

(b) a former spouse;

(c) persons who have a child in common; or

(d) a male and female who are cohabiting or formerly have cohabited.

(4) "Moderate bodily injury" means physical injury that involves prolonged loss of consciousness or that causes temporary or moderate disfigurement or temporary loss of the function of a bodily member or organ or injury that requires medical treatment when the treatment requires the use of regional or general anesthesia or injury that results in a fracture or dislocation. Moderate bodily injury does not include one-time treatment and subsequent observation of scratches, cuts, abrasions, bruises, burns, splinters, or any other minor injuries that do not ordinarily require extensive medical care.

(5) "Prior conviction of domestic violence" includes conviction of any crime, in any state, containing among its elements those enumerated in, or substantially similar to those enumerated in, Section 16-25-20(A) that is committed against a household member as defined in item (3) within the ten years prior to the incident date of the current offense.

(6) "Protection order" means any order of protection, restraining order, condition of bond, or any other similar order issued in this State or another state or foreign jurisdiction for the purpose of protecting a household member.

(7) "Firearm" means a pistol, revolver, rifle, shotgun, machine gun, submachine gun, or an assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive but does not include an antique firearm as defined in 18 U.S.C. 921(a)(16).

HISTORY: 1984 Act No. 484, Section 1; 1994 Act No. 519, Section 1; 2003 Act No. 92, Section 3, eff January 1, 2004; 2005 Act No. 166, Section 1, eff January 1, 2006; 2015 Act No. 58 (S.3), Pt II, Section 2, eff June 4, 2015.

Validity

For validity of (3) of this section, see *Jane Doe v. State of South Carolina*, 421 S.C. 490, 808 S.E.2d 807 (2017), rehearing granted (Nov. 17, 2017).

Effect of Amendment

2015 Act No. 58, Section 2, rewrote the section, adding (1), (2), (4), (5), (6), and (7); and in (3), changed the paragraph designators from numbers to letters.

SECTION 16-25-20.

Acts prohibited; penalties.

(A) It is unlawful to:

(1) cause physical harm or injury to a person's own household member; or

(2) offer or attempt to cause physical harm or injury to a person's own household member with apparent present ability under circumstances reasonably creating fear of imminent peril.

(B) Except as otherwise provided in this section, a person commits the offense of domestic violence in the first degree if the person violates the provisions of subsection (A) and:

(1) great bodily injury to the person's own household member results or the act is accomplished by means likely to result in great bodily injury to the person's own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the second degree;

(3) has two or more prior convictions of domestic violence within ten years of the current offense;

(4) the person uses a firearm in any manner while violating the provisions of subsection (A); or

(5) in the process of committing domestic violence in the second degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim's breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider. A person who violates this subsection is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years. Domestic violence in the first degree is a lesser included offense of domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(C) A person commits the offense of domestic violence in the second degree if the person violates subsection (A) and:

(1) moderate bodily injury to the person's own household member results or the act is accomplished by means likely to result in moderate bodily injury to the person's own household member;

(2) the person violates a protection order and in the process of violating the order commits domestic violence in the third degree;

(3) the person has one prior conviction for domestic violence in the past ten years from the current offense; or

(4) in the process of committing domestic violence in the third degree one of the following also results:

(a) the offense is committed in the presence of, or while being perceived by, a minor;

(b) the offense is committed against a person known, or who reasonably should have been known, by the offender to be pregnant;

(c) the offense is committed during the commission of a robbery, burglary, kidnapping, or theft;

(d) the offense is committed by impeding the victim's breathing or air flow; or

(e) the offense is committed using physical force or the threatened use of force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(i) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(ii) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned for not more than three years, or both.

Domestic violence in the second degree is a lesser-included offense of domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

Assault and battery in the second degree pursuant to Section 16-3-600(D) is a lesser-included offense of domestic violence in the second degree as defined in this subsection.

(D) A person commits the offense of domestic violence in the third degree if the person violates subsection (A).

(1) A person who violates this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned not more than ninety days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense pursuant to the provisions of this subsection may be tried in summary court.

(2) Domestic violence in the third degree is a lesser-included offense of domestic violence in the second degree, as defined in subsection (C), domestic violence in the first degree, as defined in subsection (B), and domestic violence of a high and aggravated nature, as defined in Section 16-25-65.

(3) Assault and battery in the third degree pursuant to Section 16-3-600(E) is a lesser-included offense of domestic violence in the third degree as defined in this subsection.

(4) A person who violates this subsection is eligible for pretrial intervention pursuant to Chapter 22, Title 17.

(E) When a person is convicted of a violation of Section 16-25-20(B) or (C) or Section 16-25-65, the circuit court may suspend execution of all or part of the sentence and place the offender on probation, or if a person is convicted of a violation of Section 16-25-20(D), the court may suspend execution of all or part of the sentence, conditioned upon:

(1) the offender's mandatory completion, to the satisfaction of the court, of a domestic violence intervention program designed to treat batterers in accordance with the provisions of subsection (G);

(2) fulfillment of all the obligations arising under court order pursuant to this section and Section 16-25-65;

(3) other reasonable terms and conditions of probation as the court may determine necessary to ensure the protection of the victim; and

(4) making restitution as the court deems appropriate.

(F) In determining whether or not to suspend the imposition or execution of all or part of a sentence as provided in this section, the court must consider the nature and severity of the offense, the number of times the offender has repeated the offense, and the best interests and safety of the victim.

(G) An offender who participates in a domestic violence intervention program pursuant to this section, shall participate in a program offered through a government agency, nonprofit organization, or private provider selected and approved by the Circuit Solicitor with jurisdiction over the offense or the Attorney General if the offense is prosecuted by the Attorney General's Office. If the offender moves to a different circuit after entering a treatment program selected by the Circuit Solicitor, the Circuit Solicitor for the county in which the offender resides shall have the authority to select and approve the batterer's treatment program. The offender shall pay a reasonable fee, if required, for participation in the program but no person may be denied participation due to inability to pay. If the offender suffers from a substance abuse problem or mental health concern, the judge may order, or the program may refer, the offender to supplemental treatment coordinated through the Department of Alcohol and Other Drug Abuse Services with the local alcohol and drug treatment authorities pursuant to Section 61-12-20 or the Department of Mental Health or Veterans' Hospital, respectively. The offender must pay a reasonable fee for participation in the substance abuse treatment or mental health program, if required, but no person may be denied participation due to inability to pay.

(H) A person who violates the terms and conditions of an order of protection issued in this State pursuant to Chapter 4, Title 20, the "Protection from Domestic Abuse Act", or a valid protection order related to domestic or family violence issued by a court of

another state, tribe, or territory is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days and fined not more than five hundred dollars.

(I) Unless the complaint is voluntarily dismissed or the charge is dropped prior to the scheduled trial date, a person charged with a violation provided in this chapter must appear before a judge for disposition of the case or be tried in the person's absence.

HISTORY: 1984 Act No. 484, Section 1; 1994 Act No. 519, Section 1; 2003 Act No. 92, Section 3, eff January 1, 2004; 2005 Act No. 166, Section 2, eff January 1, 2006; 2008 Act No. 255, Section 1, eff June 4, 2008; 2015 Act No. 58 (S.3), Pt II, Section 4, eff June 4, 2015.

Effect of Amendment

2015 Act No. 58, Section 4, rewrote (B), deleted former (C), redesignated former (D) through (H) as (C) through (G), and added (H) and (I).

SECTION 16-25-30.

Firearms and ammunition prohibitions; penalties.

(A) Notwithstanding the provisions of Section 16-23-30, it is unlawful for a person to ship, transport, receive, or possess a firearm or ammunition, if the person:

(1) has been convicted of a violation of Section 16-25-20(B) or 16-25-65, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(B) or Section 16-25-65;

(2) has been convicted of a violation of Section 16-25-20(C) and the court made specific findings and concluded that the person caused moderate bodily injury to their own household member, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(C) and the court made specific findings and concluded that the person caused moderate bodily injury to their own household member;

(3) has been convicted of a violation of Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition;

(4) is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. The standard applied in this subsection applies only to the determination of whether to prohibit a person from possessing a firearm or ammunition and does not apply to the issuance of the order pursuant to Chapter 4, Title 20; or

(5) is subject to a valid order of protection related to domestic or family violence issued by a court of another state, tribe, or territory in compliance with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition. The standard applied in this subsection applies only to the determination of whether to prohibit a person from possessing a firearm or ammunition and does not apply to the issuance of the order pursuant to Chapter 4, Title 20.

(B) A person who violates subsection (A)(1) is guilty of a felony and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than five years, or both. A person who violates subsection (A)(2) or (A)(3) is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than three years, or both. A person who violates subsection (A)(4) or (A)(5) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(C) A person must not be considered to have been convicted of domestic violence for purposes of this section unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense described in this section for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise. A person must not be considered to have been convicted of domestic violence for purposes of this section if the conviction has been expunged, set aside, or is an offense for which the person has been pardoned.

(D) At the time a person is convicted of violating the provisions of Section 16-25-20 or 16-25-65, or upon the issuance of an order of protection pursuant to Chapter 4, Title 20, the court must deliver to the person a written form that conspicuously bears the following language: "Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65, or a person who is subject to a valid order of protection pursuant to Chapter 4, Title 20, to ship, transport, possess, or receive a firearm or ammunition."

(E) The provisions of this section prohibiting the possession of firearms and ammunition by persons who have been convicted of domestic violence shall apply to a person who has been convicted of domestic violence for:

(1) life, if the person has been convicted of a violation of Section 16-25-65, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-65;

(2) ten years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if

the person has been convicted of a violation of Section 16-25-20(B), or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(B);

(3) three years from the date of conviction or the date the person is released from confinement for the conviction, whichever is later, if the person has been convicted of a violation of Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or has been convicted of domestic violence in another state, tribe, or territory containing among its elements those elements enumerated in Section 16-25-20(C) or (D) and the judge at the time of sentencing ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition; or

(4) the duration of the order of protection, if the person is subject to a valid order of protection issued by the family court pursuant to Chapter 4, Title 20, and the family court judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the family court judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition, or is subject to a valid order of protection related to domestic or family violence issued by a court of another state, tribe, or territory in compliance with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act and the judge at the time of the hearing made specific findings of physical harm, bodily injury, assault, or that the person offered or attempted to cause physical harm or injury to a person's own household member with apparent and present ability under the circumstances reasonably creating fear of imminent peril and the judge ordered that the person is prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition.

(F)(1) Following the period of time established in subsection (E), if the person has not been convicted of any other domestic violence offenses pursuant to this article or similar offenses in another jurisdiction, no domestic violence charges are currently pending against the person, and the person is not otherwise prohibited from shipping, transporting, receiving, or possessing a firearm or ammunition pursuant to any other State law, the person's right to ship, transport, receive, or possess a firearm or ammunition shall be restored.

(2) Following the period of time established in subsection (E), if the person requests in writing to the South Carolina Law Enforcement Division (SLED), SLED shall notify the National Instant Criminal Background Check System (NICS) that the State has restored the person's right to ship, transport, receive, or possess a firearm or ammunition, and shall request immediate removal of the person's name to whom the restrictions contained in this section apply.

HISTORY: 2009 Act No. 59, Section 6, eff June 2, 2009; 2015 Act No. 58 (S.3), Pt II, Section 9, eff June 4, 2015.

Editor's Note

Former Section 16-25-30, entitled "Penalties", was derived from 1984 Act No. 484, Section 1, 1994 Act No. 519, Section 1, and omitted effective January 1, 2004, by 2003 Act No. 92.

Effect of Amendment

2015 Act No. 58, Section 9, rewrote the section.

SECTION 16-25-65.

Domestic violence of a high and aggravated nature; elements; penalty; statutory offense.

(A) A person who violates Section 16-25-20(A) is guilty of the offense of domestic violence of a high and aggravated nature when one of the following occurs. The person:

(1) commits the offense under circumstances manifesting extreme indifference to the value of human life and great bodily injury to the victim results;

(2) commits the offense, with or without an accompanying battery and under circumstances manifesting extreme indifference to the value of human life, and would reasonably cause a person to fear imminent great bodily injury or death; or

(3) violates a protection order and, in the process of violating the order, commits domestic violence in the first degree.

(B) A person who violates subsection (A) is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years.

(C) The provisions of subsection (A) create a statutory offense of domestic violence of a high and aggravated nature and must not be construed to codify the common law crime of assault and battery of a high and aggravated nature.

(D) Circumstances manifesting extreme indifference to the value of human life include, but are not limited to, the following:

(1) using a deadly weapon;

(2) knowingly and intentionally impeding the normal breathing or circulation of the blood of a household member by applying pressure to the throat or neck or by obstructing the nose or mouth of a household member and thereby causing stupor or loss of consciousness for any period of time;

(3) committing the offense in the presence of a minor;

(4) committing the offense against a person he knew, or should have known, to be pregnant;

(5) committing the offense during the commission of a robbery, burglary, kidnapping, or theft; or

(6) using physical force against another to block that person's access to any cell phone, telephone, or electronic communication device with the purpose of preventing, obstructing, or interfering with:

(a) the report of any criminal offense, bodily injury, or property damage to a law enforcement agency; or

(b) a request for an ambulance or emergency medical assistance to any law enforcement agency or emergency medical provider.

HISTORY: 1994 Act No. 519, Section 1; 2003 Act No. 92, Section 3, eff January 1, 2004; 2005 Act No. 166, Section 3, eff January 1, 2006; 2015 Act No. 58 (S.3), Pt II, Section 5, eff June 4, 2015.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

Effect of Amendment

2015 Act No. 58, Section 5, rewrote (A) and (B); in (C), deleted "criminal" before "domestic violence"; and added (D).

SECTION 16-25-70.

Warrantless arrest or search; admissibility of evidence.

(A) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony pursuant to the provisions of Section 16-25-20, 16-25-65, or 16-25-125, even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of probable cause related to a violation pursuant to the provisions of this chapter by telephone or radio communication with the appropriate law enforcement agency. A law enforcement agency must complete an investigation of an alleged violation of this chapter even if the law enforcement agency was not notified at the time the alleged violation occurred. The investigation must be documented on an incident report form which must be maintained by the investigating agency. If an arrest warrant is sought, the law enforcement agency must present the results of the investigation and any other relevant evidence to a magistrate who may issue an arrest warrant if probable cause is established.

(B) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20 or 16-25-65 even if the act did not take place in the presence of the officer. A law enforcement officer may not make an arrest if he determines probable cause does not exist after consideration of the factors set forth in subsection (D) and observance that no physical manifestation of injury is present. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate law enforcement agency.

(C) In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is reasonably necessary to prevent physical harm or danger to a family or household member.

(D) If a law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, the officer must evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer must not arrest the other person accused of having committed domestic or family violence. In determining whether a person is the primary aggressor, the officer must consider the following factors and any other factors he considers relevant:

- (1) prior complaints of domestic or family violence;
- (2) the relative severity of the injuries inflicted on each person taking into account injuries alleged which may not be easily visible at the time of the investigation;
- (3) the likelihood of future injury to each person;
- (4) whether one of the persons acted in self-defense; and
- (5) household member accounts regarding the history of domestic violence.

(E) A law enforcement officer must not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage a party's requests for intervention by law enforcement.

(F) A law enforcement officer who arrests two or more persons for a crime involving domestic or family violence must include the grounds for arresting both parties in the written incident report, and must include a statement in the report that the officer attempted to determine which party was the primary aggressor pursuant to this section and was unable to make a determination based upon the evidence available at the time of the arrest.

(G) When two or more household members are charged with a crime involving domestic or family violence arising from the same incident and the court finds that one party was the primary aggressor pursuant to this section, the court, if appropriate, may dismiss charges against the other party or parties.

(H) Evidence discovered as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in a court of law:

- (1) if it is found:
 - (a) in plain view of a law enforcement officer in a room in which the officer is interviewing, detaining, or pursuing a suspect; or
 - (b) pursuant to a search incident to a lawful arrest for a violation of this article or for a violation of Chapter 3, Title 16; or
- (2) if it is evidence of a violation of this article.

An officer may arrest and file criminal charges against a suspect for any offense that arises from evidence discovered pursuant to this section.

Unless otherwise provided for in this section, no evidence of a crime found as a result of a warrantless search administered pursuant to a complaint filed under this article is admissible in any court of law.

(I) In addition to the protections granted to the law enforcement officer and law enforcement agency under the South Carolina Tort

Claims Act, a law enforcement officer is not liable for an act, omission, or exercise of discretion under this section unless the act, omission, or exercise of discretion constitutes gross negligence, recklessness, wilfulness, or wantonness.

HISTORY: 1984 Act No. 484, Section 1; 1994 Act No. 519, Section 1; 1995 Act No. 83, Section 61; 1997 Act No. 120, Section 3; 2002 Act No. 329, Section 4, eff June 18, 2002; 2003 Act No. 92, Section 3, eff January 1, 2004; 2008 Act No. 319, Section 3, eff June 11, 2008; 2015 Act No. 58 (S.3), Pt IV, Section 16, eff June 4, 2015.

Effect of Amendment

2015 Act No. 58, Section 16, in (A), deleted "(A) or (D)" following "16-25-20", and added the second to last sentence, relating to the incident report; in (B), substituted "may arrest" for "must arrest", deleted "(A) or (D)" following "16-25-20", and substituted "officer may not make" for "officer is not required to make".

SECTION 16-25-80.

Effect on enforcement of contempt orders and police arrest powers; construction with assault and battery and other criminal offenses.

Nothing in this article affects or limits the powers of any court to enforce its own orders by civil or criminal contempt or the powers of the police to make other lawful arrests.

Nothing in this article may be construed to repeal, replace, or preclude application of any other provisions of law pertaining to assault, assault and battery, assault and battery of a high and aggravated nature, or other criminal offenses.

HISTORY: 1984 Act No. 484, Section 1; 1994 Act No. 519, Section 1; 2003 Act No. 92, Section 3, eff January 1, 2004.

Editor's Note

2010 Act No. 273, Section 7.C, provides:

"Wherever in the 1976 Code of Laws reference is made to the common law offense of assault and battery of a high and aggravated nature, it means assault and battery with intent to kill, as contained in repealed Section 16-3-620, and, except for references in Section 16-1-60 and Section 17-25-45, wherever in the 1976 Code reference is made to assault and battery with intent to kill, it means attempted murder as defined in Section 16-3-29."

SECTION 16-25-90.

Parole eligibility as affected by evidence of domestic violence suffered at hands of household member.

Notwithstanding any provision of Chapters 13 and 21 of Title 24, and notwithstanding any other provision of law, an inmate who was convicted of, or pled guilty or nolo contendere to, an offense against a household member is eligible for parole after serving one-fourth of his prison term when the inmate at the time he pled guilty to, nolo contendere to, or was convicted of an offense against the household member, or in post-conviction proceedings pertaining to the plea or conviction, presented credible evidence of a history of criminal domestic violence, as provided in Section 16-25-20, suffered at the hands of the household member. This section shall not affect the provisions of Section 17-27-45.

HISTORY: 1995 Act No. 7, Part I Section 14; 1998 Act No. 401, Section 1; 2003 Act No. 92, Section 3, eff January 1, 2004.

SECTION 16-25-100.

Judicial training on issues concerning domestic violence.

Magistrates, municipal court judges, family court judges, and circuit court judges shall receive continuing legal education on issues concerning domestic violence. The frequency and content of the continuing legal education is to be determined by the South Carolina Court Administration at the direction of the Chief Justice of the South Carolina Supreme Court.

HISTORY: 2005 Act No. 166, Section 4, eff January 1, 2006.

SECTION 16-25-120.

Release on bond; factors; issuance of restraining order; notice of right to counsel.

(A) In addition to the provisions of Section 17-15-30, the court must consider the factors provided in subsection (B) when considering release of a person on bond who is charged with a violent offense, as defined in Section 16-1-60, when the victim of the offense is a household member, as defined in Section 16-25-10, and the person:

(1) is subject to the terms of a valid order of protection or restraining order at the time of the offense in this State or another state; or
(2) has a previous conviction involving the violation of a valid order of protection or restraining order in this State or another state.

(B) The court must consider the following factors before release of a person on bond who is subject to the provisions of subsection (A):

(1) whether the person has a history of domestic violence, as defined in this article, or a history of other violent offenses, as defined in Section 16-1-60;

(2) the mental health of the person;

(3) whether the person has a history of violating the orders of a court or other governmental agency; and

(4) whether the person poses a potential threat to another person.

(C) When considering release of a person on bond under this section, the court must consider whether to issue a restraining order or order of protection provided for in Chapter 4 of Title 20 against the person. The court must consider the factors enumerated in subsection (B) of this section, and if it determines in its discretion that a restraining order or order of protection is required, it should issue the order or forward the matter to the appropriate court.

(D)(1) At the bond hearing pursuant to the provisions of this section or another provision of law, the court shall inform in writing the person charged with a violation of Article 1, Chapter 25, Title 16 of his right to obtain counsel and, if indigent, his right to court-appointed counsel along with instructions on how to obtain court-appointed counsel.

(2) If the court decides to release the person pending his trial, the court shall provide the person with a written notice that must

conspicuously bear the following language:

"Pursuant to Section 16-25-125 of the South Carolina Code of Laws, it is unlawful for a person who has been charged with or convicted of criminal domestic violence or criminal domestic violence of a high and aggravated nature, who is subject to an order of protection, or who is subject to a restraining order, to enter or remain upon the grounds or structure of a domestic violence shelter in which the person's household member resides or the domestic violence shelter's administrative offices. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both."

(3) The court shall provide the person with an opportunity to sign the notice evidencing the person's acknowledgment of having received and read the notice.

HISTORY: 2005 Act No. 166, Section 5, eff January 1, 2006; 2008 Act No. 319, Section 4, eff June 11, 2008; 2015 Act No. 58 (S.3), Pt III, Section 13, eff June 4, 2015.

Effect of Amendment

2015 Act No. 58, Section 13, in (A) and (B), substituted "must consider" for "may consider"; and in (B)(1), deleted "criminal" before "domestic violence".

SECTION 16-25-125.

Trespass upon grounds or structure of domestic violence shelter; penalty; notice.

(A) For purposes of this section:

(1) "Domestic violence shelter" means a facility whose purpose is to serve as a shelter to receive and house persons who are victims of criminal domestic violence and that provides services as a shelter.

(2) "Grounds" means the real property of the parcel of land upon which a domestic violence shelter or a domestic violence shelter's administrative offices are located, whether fenced or unfenced.

(3) "Household member" means a household member as defined in Section 16-25-10.

(B) It is unlawful for a person who has been charged with or convicted of a violation of Section 16-25-20 or Section 16-25-65, who is subject to an order of protection issued pursuant to Chapter 4 of Title 20, or who is subject to a restraining order issued pursuant to Article 17, Chapter 3 of Title 16, to enter or remain upon the grounds or structure of a domestic violence shelter in which the person's household member resides or the domestic violence shelter's administrative offices.

(C) The domestic violence shelter must post signs at conspicuous places on the grounds of the domestic violence shelter and the domestic violence shelter's administrative offices which, at a minimum, read substantially as follows:

"NO TRESPASSING

VIOLATORS WILL BE SUBJECT TO CRIMINAL PENALTIES".

(D) This section does not apply if the person has legitimate business or any authorization, license, or invitation to enter or remain upon the grounds or structure of the domestic violence shelter or the domestic violence shelter's administrative offices.

(E) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.

HISTORY: 2008 Act No. 319, Section 1, eff June 11, 2008.

SECTION 16-25-130.

Victim address confidentiality program.

(A) For the purposes of this section:

(1) "Address" means the residential street address, school address, or work address of an individual, as specified on the application for a program participant under this section.

(2) "Address confidentiality program" or "program" means the address confidentiality program established by this section.

(3) "Application assistant" means an employee of an agency or nonprofit organization who provides counseling, referral, shelter, or other specialized services to victims of domestic violence, dating violence, human trafficking, sexual offenses, stalking, or harassment and who has been designated by the Attorney General to assist persons with applications to participate in the address confidentiality program.

(4) "Designated address" means the address assigned to a program participant by the Attorney General pursuant to this section.

(5) "Domestic violence" means any act that is described in Chapter 25, Title 16.

(6) "Human trafficking" has the same meaning as provided in Article 19, Chapter 3, Title 16.

(7) "Mailing address" means an address that is recognized for delivery by the United States Postal Service.

(8) "Program participant" means a person certified by the Attorney General to participate in the program.

(9) "Sexual offense" means any act that is described in Articles 7 and 8, Chapter 3, Title 16.

(10) "Stalking" has the same meaning as provided in Article 17, Chapter 3, Title 16.

(11) "Harassment" has the same meaning as provided in Article 17, Chapter 3, Title 16.

(B) The address confidentiality program is established to protect victims of domestic violence, human trafficking, stalking, harassment, or sexual offenses by authorizing the use of designated addresses for such victims. The program is administered by the Attorney General under the following application and certification procedures:

(1) Upon the recommendation of an application assistant, the following persons may apply to the Attorney General for assignment of a designated address:

- (a) an individual;
- (b) a parent, guardian, custodian, legal counsel, or other appropriate adult acting on behalf of a minor; or
- (c) a guardian acting on behalf of an incapacitated person.

(2) The Attorney General may approve an application only if it is filed with the Office of the Attorney General in the manner established and on a form prescribed by the Attorney General. A completed application must contain:

- (a) the application's preparation date, the applicant's signature, and the signature and victim service provider number of the application assistant who assisted the applicant in applying to be a program participant;
- (b) a designation of the Attorney General as agent for the purposes of service of process and for receipt of first-class, certified or registered mail;
- (c) the mailing address where the applicant may be contacted by the Attorney General or his designee and the telephone number or numbers at which the applicant may be called by the Attorney General or his designee; and
- (d) one or more addresses or mailing addresses that the applicant requests be concealed, if disclosure may jeopardize the applicant's safety or increase the risk of violence to the applicant or members of the applicant's household.

(3) Upon receipt of a properly completed application, the Attorney General may certify the applicant as a program participant. A program participant is certified for four years following the date of initial certification unless the certification is withdrawn or invalidated before that date. The Attorney General shall send notification of lapsing certification and a reapplication form to a program participant at least four weeks prior to the expiration of the program participant's certification.

(4) The Attorney General shall forward first-class, certified or registered mail to the appropriate program participants.

(5)(a) An applicant may not file an application knowing that it:

- (i) contains false or incorrect information; or
- (ii) falsely claims that disclosure of the address or mailing address listed in the application threatens the safety of the applicant, the applicant's children, the minor, or incapacitated person on whose behalf the application is made.

(b) An application assistant may not assist or participate in the filing of an application that the application assistant knows:

- (i) contains false or incorrect information; or
- (ii) falsely claims that disclosure of the address or mailing address listed in the application threatens the safety of the applicant, the applicant's children, the minor, or incapacitated person on whose behalf the application is made.

(C) Certification for the program may be canceled if one or more of the following conditions apply:

(1) a program participant obtains a name change, unless the program participant provides the Attorney General with documentation of a legal name change within thirty business days of the name change;

(2) there is a change in a program participant's residential street address from the address listed on the application, unless the program participant provides the Attorney General with notice of the change in such manner as the Attorney General provides; or

(3) the applicant or program participant files an application knowing that it:

- (a) contains false or incorrect information; or
- (b) falsely claims that disclosure of the address or mailing address listed in the application threatens the safety of the applicant, the applicant's children, the minor, or incapacitated person on whose behalf the application is made.

(D) Notwithstanding the provisions of subsection (E), state and local government agencies and the courts shall accept and use only the designated address as the program participant's address upon demonstration of a program participant's certification in the program.

(E) As the Attorney General determines appropriate, he may make a program participant's address or mailing address available for use by granting an exemption to:

(1) a law enforcement agency, a commissioner or other chief administrator of a state or local government agency, or the commissioner's or administrator's designee, if:

- (a) the agency has a bona fide statutory, administrative, or law enforcement need for the program participant's address or mailing address such that the agency is unable to fulfill its statutory duties and obligations without the address or mailing address; and
- (b) the program participant's address or mailing address will be used only for those statutory, administrative, or law enforcement purposes and otherwise will be kept under seal and excluded from public inspection; or

(2) a person identified in a court order, if the Attorney General receives a court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure.

(F) A program participant's application and supporting materials, and the program's state email account, are not public record pursuant to Chapter 4, Title 30, the Freedom of Information Act, and must be kept confidential by the Attorney General.

(G) The Attorney General, his employees, application assistance agencies designated under this section, and the employees or volunteers of such agencies shall not be liable for any injury, loss, or damage resulting from any act or omission under this section, except if the injury, loss, or damage is caused by an act or omission pursuant to this section that is criminal, grossly negligent, intentional, or wilful. The State asserts this immunity under Section 15-78-20.

(H) This section does not create, and shall not be construed to create, a new cause of action or substantive legal right against the State or an officer or employee thereof.

(I) A participant in the address confidentiality program may not be mailed an absentee ballot unless the participant has requested an absentee ballot pursuant to Section 7-15-330. The participant's absentee ballot must be the same ballot used in the precinct assigned

to the participant's residential street address. The request for an absentee ballot submitted by the participant is not a public record pursuant to Chapter 4, Title 30, the Freedom of Information Act, and must be kept confidential by the county board of voter registration and elections to which the request was made.

HISTORY: 2024 Act No. 213 (S.142), Section 3, eff July 2, 2024.

ARTICLE 3

Domestic Violence Advisory Committee

SECTION 16-25-310.

Definitions.

For purposes of this article:

(1) "Committee" means the Domestic Violence Advisory Committee.

(2) "Household member" means a household member as defined in Section 16-25-10.

(3) "Meeting" means both in-person meetings and meetings through telephone conferencing.

(4) "Provider of medical care" means a licensed health care practitioner who provides, or a licensed health care facility through which is provided, medical evaluation or treatment, including dental and mental health evaluation or treatment.

(5) "Working day" means Monday through Friday, excluding official state holidays.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

SECTION 16-25-320.

Multidisciplinary Domestic Violence Advisory Committee created.

(A) There is created a multidisciplinary Domestic Violence Advisory Committee composed of:

(1) the Attorney General of the State of South Carolina, or a designee, who serves ex officio;

(2) the Director of the South Carolina Department of Social Services, or a designee, who serves ex officio;

(3) the Director of the South Carolina Department of Health and Environmental Control, or a designee, who serves ex officio;

(4) the Director of the South Carolina Criminal Justice Academy, or a designee, who serves ex officio;

(5) the Chief of the South Carolina Law Enforcement Division, or a designee, who serves ex officio;

(6) the Director of the South Carolina Department of Alcohol and Other Drug Abuse Services, or a designee, who serves ex officio;

(7) the Director of the South Carolina Department of Mental Health, or a designee, who serves ex officio;

(8) a county coroner or medical examiner, appointed by the Governor on the recommendation of the South Carolina Criminal Justice Academy, who serves ex officio;

(9) a solicitor, appointed by the Governor on the recommendation of the Attorney General, who serves ex officio;

(10) a sheriff, appointed by the Governor on the recommendation of the Sheriffs' Association;

(11) a victim advocate, appointed by the Governor on the recommendation of the Office of the Attorney General, South Carolina Crime Victim Services Division;

(12) a physician with experience in treating victims of domestic violence, appointed by the Governor on the recommendation of the South Carolina Medical Association;

(13) two members of the public at large dedicated to the issue of domestic violence, appointed by the Governor;

(14) a police chief, appointed by the Governor on the recommendation of the Law Enforcement Officers' Association;

(15) one member of the South Carolina Senate, appointed by the Senate Judiciary Committee Chairman; and

(16) one member of the South Carolina House of Representatives, appointed by the House Judiciary Committee Chairman.

(B)(1) If an individual enumerated in subsection (A)(1) through (7) designates an employee to serve as the committee member, the designee must have administrative or program responsibilities for domestic violence.

(2) A member appointed by the Governor shall serve a term of four years and until a successor is appointed and qualifies.

(C) The members of the committee shall elect a chairman and vice chairman from among the membership by a majority vote. The chairman and vice chairman shall serve terms of two years.

(D) The committee shall hold meetings at least quarterly. A majority of the committee constitutes a quorum for the purpose of holding a meeting.

(E) Each ex officio member shall provide sufficient staff and administrative support to carry out the responsibilities of this article.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

Code Commissioner's Note

Pursuant to 2017 Act No. 96, Section 14, the reference to "State Office of Victim Assistance of the Office of the Governor" in (A)(11) was changed to "Office of the Attorney General, South Carolina Crime Victim Services Division".

SECTION 16-25-330.

Purpose of committee.

(A) The purpose of the Domestic Violence Advisory Committee is to decrease the incidences of domestic violence by:

(1) developing an understanding of the causes and incidences of domestic violence;

(2) developing plans for and implementing changes within the agencies represented on the committee which will prevent domestic violence; and

(3) advising the Governor and the General Assembly on statutory, policy, and practice changes which will prevent domestic violence.

(B) To achieve its purpose, the committee shall:

(1) undertake annual statistical studies of the incidences and causes of domestic violence in this State, including an analysis of:

- (a) community and public and private agency involvement with the victims and their families;
 - (b) whether the abuser has a previous criminal record involving domestic violence or assault and battery;
 - (c) recidivism rates;
 - (d) the presence of alcohol or drug use;
 - (e) whether the abuser has participated in a batterer treatment program or other similar treatment program and the name of the program;
 - (f) the success or failure rate of approved treatment programs;
 - (g) married versus unmarried rates of violence; and
 - (h) the rate of domestic violence per county;
- (2) consider training, including cross-agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;
- (3) determine the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee's annual report;
- (4) educate the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic violence, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;
- (5) develop and implement policies and procedures for its own governance and operation;
- (6) submit to the Governor and the General Assembly a publicly available annual written report and any other reports prepared by the committee including, but not limited to, the committee's findings and recommendations; and
- (7) review closed domestic violence cases selected by the Attorney General or solicitor's representative on the committee to provide the commission with the best opportunity to fulfill its duties under the section.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

SECTION 16-25-340.

Committee access to information and records.

Upon request of the committee and as necessary to carry out the committee's purpose and duties, the committee immediately must be provided:

- (1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the department pursuant to this article;
- (2) access to all information and records maintained by any state, county, or local government agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

SECTION 16-25-350.

Issuance of subpoena.

When necessary in the discharge of the duties of the committee and upon application of the committee, the clerks of court shall issue a subpoena or subpoena duces tecum to any state, county, or local agency, board, or commission or to a representative of any state, county, or local agency, board, or commission or to a provider of medical care to compel the attendance of witnesses and production of documents, books, papers, correspondence, memoranda, and other relevant records to the discharge of the department's duties.

Failure to obey a subpoena or subpoena duces tecum issued pursuant to this section may be punished as contempt.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

SECTION 16-25-360.

Confidentiality of meetings; penalty.

(A) Meetings of the committee are closed to the public and are not subject to Chapter 4, Title 30, the Freedom of Information Act, when the committee and department are discussing an individual case of domestic violence.

(B) Except as provided in subsection (C), meetings of the committee are open to the public and subject to the Freedom of Information Act when the committee is not discussing an individual case of domestic violence.

(C) Information identifying a victim or a household member, guardian, or caretaker of a victim, or an alleged or suspected perpetrator of domestic violence may not be disclosed during a public meeting, and information regarding the involvement of any agency with the victim, alleged perpetrator, and other household members may not be disclosed during a public meeting.

(D) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

SECTION 16-25-370.

Confidentiality of information; penalty.

(A) All information and records acquired by the committee in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under Chapter 4, Title 30, the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee's and department's duties and purposes.

(B) Statistical compilations of data which do not contain information that would permit the identification of a person to be ascertained are public records.

(C) Reports of the committee which do not contain information that would permit the identification of a person to be ascertained are public information.

(D) Except as necessary to carry out the committee's purposes and duties, members of the committee and persons attending their meeting may not disclose what transpired at a meeting which is not public under Section 16-25-360 and may not disclose information, the disclosure of which is prohibited by this section.

(E) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or department or because it is maintained by the committee or department. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(F) Information, documents, and records of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or department or because they are maintained by the committee or department.

(G) Violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 20, eff June 4, 2015.

ARTICLE 5

Community Domestic Violence Coordinating Councils

SECTION 16-25-510.

Development of community domestic violence coordinating councils.

The circuit solicitor shall facilitate the development of community domestic violence coordinating councils in each county or judicial circuit based upon public-private sector collaboration.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 21, eff June 4, 2015.

SECTION 16-25-520.

Purpose of community domestic violence coordinating council.

The purpose of a community domestic violence coordinating council is to:

- (1) increase the awareness and understanding of domestic violence and its consequences;
- (2) reduce the incidence of domestic violence in the county or area served; and
- (3) enhance and ensure the safety of battered individuals and their children.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 21, eff June 4, 2015.

SECTION 16-25-530.

Duties and responsibilities.

The duties and responsibilities of a community domestic violence coordinating council include, but are not limited to:

- (1) promoting effective strategies of intervention for identifying the existence of domestic violence and for intervention by public and private agencies;
- (2) establishing interdisciplinary and interagency protocols for intervention with survivors of domestic violence;
- (3) facilitating communication and cooperation among agencies and organizations that are responsible for addressing domestic violence;
- (4) monitoring, evaluating, and improving the quality and effectiveness of domestic violence services and protections in the community;
- (5) providing public education and prevention activities; and
- (6) providing professional training and continuing education activities.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 21, eff June 4, 2015.

SECTION 16-25-540.

Membership.

Membership on a community domestic violence coordinating council may include, but is not limited to, representatives from magistrates court, family court, law enforcement, solicitor's office, probation and parole, batterer intervention programs or services, nonprofit battered individual's program advocates, counseling services for children, legal services, victim assistance programs, the medical profession, substance abuse counseling programs, the clergy, survivors of domestic violence, local department of social services, and the education community. Members on the council shall develop memoranda of agreement among and between themselves to ensure clarity of roles and responsibilities in providing services to victims of domestic violence.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 21, eff June 4, 2015.

SECTION 16-25-550.

Revenue generation for operation and administration.

Each community domestic violence coordinating council is responsible for generating revenue for its operation and administration.

HISTORY: 2015 Act No. 58 (S.3), Pt IV, Section 21, eff June 4, 2015.

ARTICLE 7

Domestic Violence Fatality Review Committees

SECTION 16-25-710.

Short title.

This article may be cited as the "Domestic Violence Fatality Review Committees".

HISTORY: 2016 Act No. 147 (H.4666), Section 1, eff March 15, 2016.

SECTION 16-25-720.

Establishment of interagency circuit-wide committees; protocols; membership of committees; confidential information; limitation in investigations; access to information.

(A) Each Circuit Solicitor shall establish an interagency circuit-wide Domestic Violence Fatality Review Committee to assist local agencies in identifying and reviewing domestic violence deaths, including homicides and suicides, and facilitating communication among the various agencies involved in domestic violence cases pursuant to the provisions of this chapter or any other relevant provision of law.

(B) The South Carolina Commission on Prosecution Coordination shall:

(1) develop a protocol for domestic violence fatality reviews; and

(2) develop a protocol that must be used as a guideline to assist coroners and other persons who perform autopsies on domestic violence victims in the identification of domestic violence, in the determination of whether domestic violence contributed to the death or whether domestic violence occurred prior to death but was not the actual cause of death, and in the proper written reporting procedures for domestic violence, including the designation of the cause and mode of death.

(C) Domestic violence fatality review committees may be comprised of, but not limited to, the following:

(1) experts in the field of forensic pathology;

(2) medical personnel with expertise in domestic violence;

(3) coroners and medical examiners;

(4) criminologists;

(5) assistant solicitors;

(6) domestic violence abuse organization staff;

(7) legal aid attorneys who represent victims of abuse;

(8) a representative of the local bar associations;

(9) local and state law enforcement personnel;

(10) representatives of local agencies that are involved with domestic violence abuse reporting;

(11) county health department staff who deal with domestic violence victims' health issues;

(12) representatives of local child abuse agencies; and

(13) local professional associations of persons described in this subsection.

(D) An oral or written communication or a document shared within or produced by a domestic violence fatality review committee related to a domestic violence death is confidential and not subject to disclosure pursuant to Chapter 4, Title 30, the Freedom of Information Act, or discoverable by a third party. An oral or written communication or a document provided by a third party to a domestic violence fatality review committee is confidential and not subject to disclosure pursuant to the Freedom of Information Act or discoverable by a third party. However, recommendations of a domestic violence fatality review committee upon the completion of a review may be disclosed at the discretion of a majority of the members of the committee.

(E) Only deaths in which the investigation is closed and there is not a pending prosecution may be reviewed by a domestic violence fatality review committee.

(F) Upon request of the domestic violence fatality review committee and as necessary to carry out the committee's purpose and duties, as allowed by law, the committee immediately must be provided:

(1) by a provider of medical care, access to information and records regarding a person whose death is being reviewed by the committee pursuant to this article;

(2) access to all information and records maintained by any state, county, or local governmental agency including, but not limited to, birth certificates, law enforcement investigation data, county coroner or medical examiner investigation data, parole and probation information and records, and information and records of social services and health agencies that provided services to the victim, alleged perpetrator, and other household members.

HISTORY: 2016 Act No. 147 (H.4666), Section 1, eff March 15, 2016.

SECTION 16-25-730.

Certain meetings closed to public; penalties.

Meetings of the committee are closed to the public and are not subject to the provisions of the Freedom of Information Act when the committee is discussing an individual case. A violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

HISTORY: 2016 Act No. 147 (H.4666), Section 1, eff March 15, 2016.

SECTION 16-25-740.

Confidential information and records.

(A) All information and records acquired by the committee in the exercise of their purposes and duties pursuant to this article are confidential, exempt from disclosure under the Freedom of Information Act, and only may be disclosed as necessary to carry out the committee's duties and purposes.

(B) Except as necessary to carry out the committee's purposes and duties, members of the committee and persons attending their

meeting may not disclose what transpired at a meeting which is not public under the Freedom of Information Act, and may not disclose information, the disclosure of which is prohibited by this section.

(C) Members of the committee, persons attending a committee meeting, and persons who present information to the committee may not be required to disclose in any civil or criminal proceeding information presented in or opinions formed as a result of a meeting, except that information available from other sources is not immune from introduction into evidence through those sources solely because it was presented during proceedings of the committee or because it is maintained by the committee. Nothing in this subsection prevents a person from testifying to information obtained independently of the committee or which is public information.

(D) Information, documents, and records of the committee are not subject to subpoena, discovery, or the Freedom of Information Act, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or the Freedom of Information Act through those sources solely because they were presented during proceedings of the committee or because they are maintained by the committee.

(E) Except as necessary to carry out the committee's purposes and duties, members of the committee are not to keep in their possession copies of information, documents, and records subpoenaed or otherwise obtained by or created by the committee. Upon the completion of an investigation, all information, documents, and records subpoenaed or otherwise obtained by or created by the committee shall remain with the Office of the Circuit Solicitor and retained pursuant to that office's policies.

(F) A violation of this section is a misdemeanor and, upon conviction, a person must be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

HISTORY: 2016 Act No. 147 (H.4666), Section 1, eff March 15, 2016.

SECTION 16-25-750.

Recommendations.

Each domestic fatality review committee shall make recommendations, when appropriate to, but not limited to, the Domestic Violence Advisory Committee created pursuant to Section 16-25-310 regarding:

- (1) training, including cross-agency training, consultation, technical assistance needs, and service gaps that would decrease the likelihood of domestic violence;
- (2) the need for changes to any statute, regulation, policy, or procedure to decrease the incidences of domestic violence and include proposals for changes to statutes, regulations, policies, and procedures in the committee's annual report;
- (3) education of the public regarding the incidences and causes of domestic violence, specific steps the public can undertake to prevent domestic violence, and the support that civic, philanthropic, and public service organizations can provide in assisting the committee to educate the public;
- (4) training of medical examiners, coroners, law enforcement, and other emergency responders on the causes and identification of domestic violence incidents, indicators, and injuries; and
- (5) the development and implementation of policies and procedures for its own governance and operation.

HISTORY: 2016 Act No. 147 (H.4666), Section 1, eff March 15, 2016.

Title 16 - Crimes and Offenses

CHAPTER 27

Animal Fighting and Baiting Act

SECTION 16-27-10.

Short title.

This chapter is known and may be cited as "The Animal Fighting and Baiting Act".

HISTORY: 1986 Act No. 491, Section 1.

SECTION 16-27-20.

Definitions.

As used in this chapter:

(a) "Animal" means any live vertebrate creature, domestic or wild.

(b) "Fighting" means an attack with violence by an animal against another animal or a human.

(c) "Baiting" means to provoke or to harass an animal with one or more animals with the purpose of training an animal for, or to cause an animal to engage in, fights with or among other animals or between animals and humans.

(d) "Person" means every natural person or individual and any firm, partnership, association, or corporation.

HISTORY: 1986 Act No. 491, Section 2.

SECTION 16-27-30.

Acts or omissions constituting felonies; penalties.

Any person who:

(a) owns an animal for the purpose of fighting or baiting;

(b) is a party to or causes any fighting or baiting of any animal;

(c) purchases, rents, leases, or otherwise acquires or obtains the use of any structure, facility, or location for the purpose of fighting or baiting any animal; or

(d) knowingly allows or permits or makes available any structure, facility, or location to be used for the purpose of fighting or baiting any animal is guilty of a felony and upon conviction must be punished by a fine of five thousand dollars or imprisoned for five years, or both.

HISTORY: 1986 Act No. 491, Section 3.

SECTION 16-27-40.

Acts constituting misdemeanors upon conviction of first or second offense and constituting felonies upon conviction of third or subsequent offense; penalties.

Any person who:

(a) is present at any structure, facility, or location where preparations are being made for the purpose of fighting or baiting any animal with knowledge that those preparations are being made, or

(b) is present at any structure, facility, or location with knowledge that fighting or baiting of any animal is taking place or is about to take place there is guilty of a misdemeanor and upon conviction for a first offense must be punished by a fine of five hundred dollars or imprisonment for six months, or both, and for a second offense by a fine of one thousand dollars or imprisonment for one year, or both. Any person convicted of a third or subsequent offense is guilty of a felony and must be punished by a fine of five thousand dollars or imprisonment for five years, or both.

HISTORY: 1986 Act No. 491, Section 4.

SECTION 16-27-50.

Applicability of cruelty provisions; presumption of cruelty.

(A) The provisions of Section 47-1-150 apply to this chapter.

(B) For purposes of a hearing to determine whether the owner is able to provide adequately for the animal and is fit to have custody of the animal, any animal found to be owned, trained, possessed, purchased, sold, transported, or bred in violation of this chapter must be considered cruelly treated and the owner must be deemed unfit.

HISTORY: 1986 Act No. 491, Section 5; 2006 Act No. 345, Section 2, eff June 12, 2006.

SECTION 16-27-55.

Forfeiture of property of one found in violation of act.

(A) A person who violates a provision of this chapter is subject to forfeiture of:

(1) property, both real and personal, which is knowingly used to engage in a violation or to further a violation of this chapter; and

(2) monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by a person to engage in or further a violation of this chapter.

(B) Property subject to forfeiture pursuant to the provisions of this chapter may be seized by the appropriate law enforcement agency with a warrant properly issued by a court with jurisdiction over the property. Property may be seized without a warrant if the:

(1) seizure is incident to an arrest or a search with a search warrant or an inspection under an administrative inspection warrant;

(2) property subject to seizure was the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding pursuant to the provisions of this chapter;

(3) law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of the

provisions of this chapter.

(C) Forfeiture proceedings instituted pursuant to the provisions of this section are subject to the procedures and requirements for forfeiture as set out in Section 44-53-530.

(D) Property taken or detained pursuant to the provisions of this section is not subject to replevin but is considered to be in the custody of the law enforcement agency making the seizure subject only to an order of the court having jurisdiction over the forfeiture proceedings.

(E) For purposes of this section, when the seizure of property subject to forfeiture is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

(F) A law enforcement agency seizing property pursuant to the provisions of this section shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for appropriate security in another manner.

(G) When property, monies, negotiable instruments, securities, or other things of value are seized pursuant to the provisions of subsection (A), the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecuting agency.

(1) The report must include the following information:

- (a) a description of the property seized;
- (b) the circumstances of the seizure;
- (c) the present custodian and where the property is being stored or its location;
- (d) the name of the owner of the property;
- (e) the name of any lienholders of the property; and
- (f) the seizing agency.

(2) If the property is a conveyance, the report must include the:

- (a) make, model, serial number, and year of the conveyance;
- (b) person in whose name the conveyance is registered; and
- (c) name of any lienholders.

(3) In addition to the report provided for in items (1) and (2) of this subsection, the appropriate law enforcement agency shall prepare for dissemination to the public, upon request, a report providing the following information:

- (a) a description of the quantity and nature of the property and money seized;
- (b) the seizing agency;
- (c) the make, model, and year of a conveyance; and
- (d) the law enforcement agency responsible for the property or conveyance seized.

(H) Property or conveyances seized by a law enforcement agency may not be used by officers or employees of the agency for personal purposes.

(I)(1) An innocent owner or a manager or owner of a licensed rental agency or a common carrier or carrier of goods for hire may apply to the court of common pleas for the return of an item seized pursuant to the provisions of this chapter. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice as provided in Section 44-53-530. If the court denies the application, the hearing may proceed as a forfeiture hearing held pursuant to the provisions of Section 44-53-530.

(2) The court may return a seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

- (a) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture; or
- (b) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that an agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(3) If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(4) The lien of an innocent person or other legal entity, recorded in public records, continues in force upon transfer of title of a forfeited item, and a transfer of title is subject to the lien if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

HISTORY: 2006 Act No. 345, Section 3, eff June 12, 2006.

SECTION 16-27-60.

Inapplicability of chapter to certain activities and to game fowl.

(a) The provisions of Section 16-27-30 do not apply to any person:

- (1) using any animal to pursue or take wildlife or to participate in hunting in accordance with the game and wildlife laws of this State and regulations of the South Carolina Department of Natural Resources;

(2) using any animal to work livestock for agricultural purposes;

(3) properly training or using dogs for law enforcement purposes or protection of persons and private property.

(b) The provisions of this chapter do not apply to game fowl.

HISTORY: 1986 Act No. 491, Section 6; 1993 Act No.181, Section 275.

Editor's Note

2024 Act No. 199, Section 4, provides as follows:

"SECTION 4. Nothing in this act may be applied in contradiction to the exemptions and protections provided to hunting dogs, sporting dogs, or working dogs under Section 47-1-40, Section 16-27-60, and Section 16-27-80."

SECTION 16-27-70.

Relationship to other laws.

The provisions of this chapter are cumulative and not in lieu of any other provision of law.

HISTORY: 1986 Act No. 491, Section 8.

SECTION 16-27-80.

Applicability of chapter to hunting dogs and certain events.

(A) This chapter does not apply to dogs used for the purpose of hunting, including, but not limited to, hunting on shooting preserves or wildlife management areas authorized pursuant to Title 50, or to dogs used in field trials, including events more commonly known as "water races", "treeing contests", "coon-on-a-log", "bear-baying", or "fox-pen-trials". Such "fox-pen-trials" must be approved by permit for field trials by the South Carolina Department of Natural Resources.

(B) Except as otherwise provided in Section 16-27-60, this chapter applies to events more commonly known as "hog-dog fights", "hog-dog rodeos", or "hog-dogging" in which bets are placed, or cash, points, titles, trophies, or other awards are given based primarily on the ability of a dog to catch a hog using physical contact in the controlled environment of an enclosure.

HISTORY: 1986 Act No. 491, Section 9; 1993 Act No.181, Section 276; 2006 Act No. 345, Section 4, eff June 12, 2006.

Editor's Note

2024 Act No. 199, Section 4, provides as follows:

"SECTION 4. Nothing in this act may be applied in contradiction to the exemptions and protections provided to hunting dogs, sporting dogs, or working dogs under Section 47-1-40, Section 16-27-60, and Section 16-27-80."