

From: Valenta, Val
To: Adams, Marcia S <Marcia.Adams@SCDMV.net>
Lake, Steven <Steven.Lake@scdmv.net>
Caldwell, John H <John.Caldwell@SCDMV.net>
Date: 4/27/2006 1:16:47 PM
Subject: FW: Amendments to 1231

FYI.

-----Original Message-----

From: Valenta, Val
Sent: Thursday, April 27, 2006 1:15 PM
To: 'Brad Hutto (Senate)'
Subject: FW: Amendments to 1231

Senator:

OOPS! Sloppy typing on my part. That was supposed to say 56-1-10 currently does not "define" conviction. It just says what the term "includes." It does not even list jury trials or bench trials. This change has been needed for decades, just be correct on criminal procedure.

I hope that makes sense.

Val

-----Original Message-----

From: Valenta, Val
Sent: Thursday, April 27, 2006 1:11 PM
To: 'BRADLEY HUTTO'
Subject: RE: Amendments to 1231

56-1-10 currently does not "define: conviction. It just says the term "includes" It does not even list jury trials or bench trials. This change has been needed for decades, just be correct on criminal procedure.

-----Original Message-----

From: BRADLEY HUTTO [mailto:CBH@SCSENATE.ORG]
Sent: Thursday, April 27, 2006 12:19 PM
To: Val.Valenta@scdmv.net
Subject: Re: Amendments to 1231

I am ok with everything except the 56-1-10 (11) definition change why do we need that if we make the changes in 790

>>> <Val.Valenta@scdmv.net> 04/27/06 12:11 PM >>>

Senator Hutto:

I have marked up the amendment with proposed changes to address the following. (My changes are in red, made with double-lined deletions and underscores.)

In Bill Section 1, Code Section 56-1-10(11), I have added back in the expanded definition of "Conviction," but without the words "or an authorized administrative tribunal." That cures the voids in the existing language that you spotted yesterday but avoids any misinterpretations about which you were concerned. The incomplete language was part of the problem spotted by USDOT last year and was part of their critique.

In Bill Section 4, the last sentence of Code Section 56-1-790(A) needs to be deleted. The FMCSA requires that drivers' records reflect violations that have occurred anywhere, even if the home jurisdiction does not take any action because of that type of violation. The reasoning is that when that driver moves to another state and wants a CDL, the new state needs to be able to see the person's entire record from across the country.

In Bill Section 8, I have added a sentence to Code Section 56-1-430 so that DMV will be informed of the outcome of the appeal process. Right now, only trial courts are required to report convictions. If a circuit court, the Court of Appeals, or the Supreme Court reverses a conviction, the driver informs the DMV, to get the conviction off his record. However, if an appellate court affirms a conviction, no one has a duty to notify DMV and no one does. This sentence will require that the relevant clerk of court tell DMV of the ultimate outcome.

In Bill Section 9, this proposed amendment to Code Section 56-5-2951(B)(1) would violate 49 CFR 384.210 and would put South Carolina out of FMCSA compliance. That would lead to decertification of South Carolina's CDL program and invalidate South Carolina CDLs for driving in other states.

The

DMV originally issued CDL temporary alcohol restricted licenses under 56-5-2951 but was explicitly told by FMCSA that this violated federal law

and had to stop.

Val

<<6883CM06 - Val's mark-up 04-27-06.DOC>>