

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

**SECTION 56-5-120.** Vehicle defined.

Reserved by 2017 Act No. 89, Section 17, effective November 19, 2018.

Every device in, upon or by which any 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, is a “vehicle.”

HISTORY: 1962 Code Section 46-211; 1952 Code Section 46-211; 1949 (46) 466.

**SECTION 56-5-130.** Motor vehicle defined.

Reserved by 2017 Act No. 89, Section 18, effective November 19, 2018.

Every vehicle which is self-propelled, except mopeds, and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, is a “motor vehicle”.

HISTORY: 1962 Code Section 46-212; 1952 Code Section 46-212; 1949 (46) 466; 1986 Act No. 528, Section 6.

**SECTION 56-5-140.** Motorcycle defined.

Reserved by 2017 Act No. 89, Section 19, effective November 19, 2018.

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, is a “motorcycle”.

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.

**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.** Motor-driven cycle defined.

Reserved by 2017 Act No. 89, Section 20, effective November 19, 2018.

Every motorcycle, including every motor scooter, with a motor which produces not to exceed five horsepower is a “motor-driven cycle”.

HISTORY: 1962 Code Section 46-214; 1952 Code Section 46-214; 1949 (46) 466; 1986 Act No. 528, Section 5.

**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 childrens’ 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.** Moped defined.

Reserved by 2017 Act No. 89, Section 22, effective November 19, 2018.

Notwithstanding the provisions of Section 56-5-160, every cycle with pedals to permit propulsion by human power or without pedals and with a motor of not more than fifty cubic centimeters which produces not to exceed two brake horsepower and which is not capable of propelling the vehicle at a speed in excess of thirty miles an hour on level ground is a moped. 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.

HISTORY: 1986 Act No. 528, Section 9; 1991 Act No. 94, Section 3.

**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; and
- (11) federal law enforcement, military, and emergency vehicles.

(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.

**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 combustive 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.

Section effective until November 19, 2018. See, also, section 56-5-361 effective November 19, 2018.

Every motor vehicle except motorcycles and motor-driven cycles, 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.

**SECTION 56-5-361.** Passenger car defined.

Section effective November 19, 2018. See, also, section 56-5-361 effective until November 19, 2018.

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.** Owner defined.

Reserved by 2017 Act No. 89, Section 24, effective November 19, 2018.

An “owner” is a person, other than a lienholder, having the property 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.

HISTORY: 1962 Code Section 46-245; 1952 Code Section 46-245; 1949 (46) 466; 1978 Act No. 461 Section 4.

**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.

(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 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.

**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.

**SECTION 56-5-1550.** Speed limitation on motor-driven cycles.

Reserved by 2017 Act No. 89, Section 25, effective November 19, 2018.

No person shall operate any motor-driven cycle at any time mentioned in Section 56-5-4450 at a speed greater than thirty-five miles per hour unless such motor-driven cycle is equipped with head lamps which are adequate to reveal a person or vehicle at a distance of three hundred feet ahead.

HISTORY: 1962 Code Section 46-364; 1952 Code Section 46-364; 1949 (46) 466; 1966 (54) 2244.

**SECTION 56-5-1555.** Speed limitation on mopeds.

Reserved by 2017 Act No. 89, Section 26, effective November 19, 2018.

No person may operate a moped at a speed in excess of twenty-five miles an hour. 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: 1986 Act No. 528, Section 10; 1991 Act No. 94, Section 4.

**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 56-5-1890.** 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 cross-walk 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 situated 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.

## Required Stops

### **SECTION 56-5-2710.** Obedience to signal indicating approach of train.

(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.

(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.

(3) A railroad train 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 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.

### **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.** Certain vehicles shall stop at all railroad grade crossings; gears shall not be changed while crossing grade.

(A) Except as provided in subsection (B), the driver of a school bus or a motor vehicle with a capacity of sixteen or more persons, a vehicle permitted by the Department of Health and Environmental Control to carry hazardous waste and a vehicle described in regulations issued pursuant to subsection (C), 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) Except for school buses, the provisions of this section do not apply at:

(1) a railroad grade crossing where traffic is controlled by a police officer or human flagman;

- (2) a railroad grade crossing where traffic is regulated by a traffic-control signal;
- (3) a railroad grade crossing protected by crossing gates or an alternately flashing light signal intended to give warning of the approach of a railroad train when the gate or flashing signal does not indicate the approach of a train;
- (4) a railroad grade crossing where an official traffic-control device gives notice that the stopping requirement imposed by this section does not apply.

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.

**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 11-35-50.

(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.

Text of (A) effective until November 19, 2018.

(A) The Department of Motor Vehicles shall require a person who is a resident of this State and who is convicted of violating the provisions of Section 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, to have installed on any motor vehicle the person drives an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This section does not apply to a person convicted of a first offense violation of Section 56-5-2930 or 56-5-2933, unless the person submitted to a breath test pursuant to Section 56-5-2950 and had an alcohol concentration of fifteen one-hundredths of one percent or more. 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. 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 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.

The length of time that a device is required to be affixed to a motor vehicle as set forth in Sections 56-1-286, 56-5-2945, 56-5-2947 except if the conviction was for Sections 56-5-750, 56-5-2951, and 56-5-2990.

Text of (A) effective November 19, 2018.

(A) The Department of Motor Vehicles shall require a person who is a resident of this State and 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, to have installed on any motor vehicle the person drives, except a moped, an ignition interlock device designed to prevent driving of the motor vehicle if the person has consumed alcoholic beverages. This section does not apply to a person convicted of a first offense violation of Section 56-5-2930 or 56-5-2933, unless the person submitted to a breath test pursuant to Section 56-5-2950 and had an alcohol concentration of fifteen one-hundredths of one percent or more. 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. 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 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.

The length of time that a device is required to be affixed to a motor vehicle as set forth in Sections 56-1-286, 56-5-2945, 56-5-2947 except if the conviction was for Sections 56-5-750, 56-5-2951, and 56-5-2990.

(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, 56-5-2930, 56-5-2933, 56-5-2945, 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2950, or 56-5-2951.

(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, 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 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.

(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.

(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. 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. 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.

(2) 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.

(3) 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. 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.

Effect of Amendment

2017 Act No. 89, Section 34, in (A), inserted “, except a moped” twice, and made a nonsubstantive change.

**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.

**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; 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) Within thirty days of the issuance of the notice of suspension, the person may:

(1) 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 by the Department of Motor Vehicles 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 without any restrictive conditions pending the outcome of the contested case hearing provided for in subsection (F) 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 that the person is eligible to receive a restricted license pursuant to subsection (H); and

(2) request a contested case hearing before the Office of Motor Vehicle Hearings in accordance with the Office of Motor Vehicle Hearings' rules of procedure.

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;

(b) the suspension is overturned, the person must have the person's driver's license, permit, or nonresident operating privilege reinstated.

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) 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 waives the person's right to the contested case hearing, and the suspension continues for the period provided for in subsection (I); and

(3) the notice of suspension also must advise the person 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) 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:

(1) was lawfully arrested or detained;

(2) was given a written copy of and verbally informed of the rights enumerated in Section 56-5-2950;

(3) refused to submit to a test pursuant to Section 56-5-2950; or

(4) consented to taking a test pursuant to Section 56-5-2950, and the:

(a) reported alcohol concentration at the time of testing was fifteen 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

(d) machine was working properly.

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.

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.

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)(1) 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, and may apply for a restricted license if the person is employed or enrolled in a college or university. The restricted license permits the person to drive only to and from work and the person's place of education and in the course of the person's employment or education during the period of suspension. The restricted license also permits the person to drive to and from the Alcohol Drug Safety Action Program classes or to a court-ordered drug program. The department may issue the restricted license only upon showing by the person that the person is employed or enrolled in a college or university, that the person lives further than one mile from the person's place of employment, place of education, or location of the person's Alcohol and Drug Safety Action Program classes, or the location of the person's court-ordered drug program, and that there is no adequate public transportation between the person's residence and the person's place of employment, the person's place of education, the location of the person's Alcohol and Drug Safety Action Program classes, or the location of the person's court-ordered drug program.

(2) If the department issues a restricted license pursuant to this subsection, the department shall designate reasonable restrictions on the times during which and routes on which the person may drive a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance of Alcohol and Drug Safety Action Program classes, status of

attendance of the person's court-ordered drug program, or residence must be reported immediately to the department by the person.

(3) The fee for a restricted license is one hundred dollars, but no additional fee may be charged because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state's 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) Driving a motor vehicle outside the time limits and route imposed by a restricted license is a violation of Section 56-1-460.

(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) 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. 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) If a person does not request a contested case hearing within the thirty-day period as authorized pursuant to this section, the person may file with the department a form after enrolling in a certified Alcohol and Drug Safety Action Program to apply for a restricted license. The restricted license permits him to drive only to and from work and his place of education and in the course of his employment or education during the period of suspension. The restricted license also permits him to drive to and from Alcohol and Drug Safety Action Program classes or a court-ordered drug program. The department may issue the restricted license at any time following the suspension upon a showing by the individual that he is employed or enrolled in a college or university, that he lives further than one mile from his place of employment, place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court-ordered drug program, and that there is no adequate public transportation between his residence and his place of employment, his place of education, the location of his Alcohol and Drug Safety Action Program classes, or the location of his court-ordered drug program. The department must designate reasonable restrictions on the times during which and routes on which the individual may drive a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance of Alcohol and Drug Safety Action Program classes, status of his court-ordered drug program, or residence must be reported immediately to the department by the licensee. The route restrictions, requirements, and fees imposed by the department for the issuance of the restricted license issued pursuant to this item are the same as those provided in this section had the person requested a contested case hearing.

A restricted license is valid until the person successfully completes a certified Alcohol and Drug Safety Action Program, unless the person fails to complete or make satisfactory progress to complete the program.

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.

**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) If a person is found to have refused to submit to a breath test pursuant to Section 56-5-2950 and is convicted of Section 56-5-2930 or 56-5-2933, the person's driver's license must be suspended six months. The person is not eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56. In lieu of serving the remainder of the suspension, the person may 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 equal to the length of time remaining on the person's suspension. 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.

(b) If a person submitted to a breath test pursuant to Section 56-5-2950 and is convicted of having an alcohol concentration of less than fifteen one-hundredths of one percent, the person's driver's license must be suspended six months. The person is eligible for a provisional license pursuant to Article 7, Chapter 1, Title 56. In lieu of serving the remainder of the suspension, the

person may 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 equal to the length of time remaining on the person's suspension. 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.

(c) If a person submitted to a breath test pursuant to Section 56-5-2950 and is convicted of having an alcohol concentration of fifteen one-hundredths of one percent or more, 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 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. A person who must complete an Alcohol and Drug Safety Action Program as a condition of reinstatement of his driving privileges or a court-ordered drug program may use the route restricted or special 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 a route restricted driver's license or a special restricted driver's license. 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.

(F) Except as provided for in Section 56-1-365(D) and (E), the driver's license suspension periods under this section begin on the date the person is convicted, receives sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for the a violation of Section 56-5-2930, 56-5-2933, or for the violation of any other a law of this State or ordinance of a county or municipality of this State that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, or narcotics; however, a person is not prohibited from filing a notice of appeal and receiving a certificate which entitles him to operate a motor vehicle

for a period of sixty days after the conviction, plea of guilty or nolo contendere, or bail forfeiture pursuant to Section 56-1-365(F).

**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.

**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.

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

ARTICLE 30, Chapter 5, Title 56 of the 1976 Code is repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

**SECTION 56-5-3710.** Limitations as to riding position and number of riders.

Repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

No person may ride upon a moped other than upon or astride a permanent and regular seat attached to the moped. No moped may be used to carry more persons at one time than the number for which it is designed and equipped.

HISTORY: 1986 Act No. 528, Section 11.

**SECTION 56-5-3720.** Required equipment.

Repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

It is unlawful for a person to sell a moped for use on the public highways and streets of this State or operate a moped upon the public highways and streets of this State without operable pedals if the moped is equipped with pedals, at least one rearview mirror, operable running lights, and brake lights which are operable when either brake is deployed. 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: 1986 Act No. 528, Section 11; 1991 Act No. 94, Section 5.

**SECTION 56-5-3730.** Use of operating lights.

Repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

The operator of a moped must have the operating lights turned on at all times while the moped is in operation on the public highways and streets of this State.

HISTORY: 1986 Act No. 528, Section 11.

**SECTION 56-5-3740.** Modification of equipment to increase horsepower or speed.  
Repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

It is unlawful for a person to modify or change the equipment of a moped so that the vehicle exceeds two brake horsepower and produces speeds in excess of thirty miles an hour on level ground. 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: 1986 Act No. 528, Section 11; 1991 Act No. 94, Section 6.

**SECTION 56-5-3750.** Labeling requirements; violations and penalties.  
Repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

(A) A person who sells, solicits, or advertises the sale of mopeds clearly and conspicuously shall label each moped with its specifications including, but not limited to, the brake horsepower of the motor and the maximum speed of the vehicle on level ground. The seller also shall attach a metal identification plate to each moped without pedals identifying the vehicle as a moped. This plate must be designed by the Department of Motor Vehicles and must display information the department considers necessary for enforcement purposes. The plate must be displayed permanently on each moped without pedals and must not be removed. A seller of mopeds who fails to label a moped, fails to attach a metal identification plate to a moped without pedals, knowingly labels a motorcycle or motor-driven cycle as a moped, or attaches a metal identification plate to a motorcycle or motor-driven cycle identifying the vehicle as a moped 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 operate a moped without pedals upon the public highways and streets of this State without displaying the metal identification plate which must be attached to the vehicle. 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 not more than thirty days.

(C) Each vehicle which is incorrectly labeled or plated and each moped which is not labeled or plated is a separate violation of this section.

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.

**SECTION 56-5-3760.** Sign to be posted by persons selling mopeds.  
Repealed by 2017 Act No. 89, Section 35, effective November 19, 2018.

The Department of Motor Vehicles shall design a sign which contains a brief explanation of the provisions of law governing the operation of mopeds. Persons selling mopeds shall post the sign in a conspicuous place in their place of business.

HISTORY: 1986 Act No. 528, Section 11.

**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 driveaway 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 56-5-4075.** 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) 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.

(E) Any person who violates the provisions of subsections (B), (C), or (D), is guilty of a misdemeanor and, upon conviction, must be fined one hundred dollars.

(F) The provisions contained in subsections (A), (B), and (C) 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.

**SECTION 56-5-4110.** Loads and covers must be firmly attached.

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.

HISTORY: 1962 Code Section 46-661; 1952 Code Section 46-661; 1949 (46) 466.

**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.
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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 load permitted for a single axle. The load imposed on the highway by two consecutive axles, individually attached 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 consecutive axles shall exceed the load permitted for a single axle.

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).

(2) Enforcement tolerance is fifteen percent for a vehicle or trailer transporting unprocessed forest products only on noninterstate routes.

(3) Enforcement tolerance is fifteen percent for a vehicle or trailer transporting sod only on noninterstate routes.

(4) Vehicles with an overall maximum gross weight in excess of 75,185 pounds may operate upon any section of highway in the Interstate System up to an overall maximum of 80,000 pounds in accordance with the following:

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:

$$W = 500 (LN/N-1 + 12N + 36)$$

In the formula W equals overall gross weight on any group of two or more consecutive axles to the nearest 500 pounds, L equals distance in feet between the extreme of any group of two or more consecutive axles, and N equals number of axles in the group under consideration.

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:

Distance in feet between the extremes of any group of 2 or more consecutive axles	Maximum load in pounds carried on any group of 2 of 2 or more consecutive axles					
	2 axles	3 axles	4 axles	5 axles	6 axles	7 axles
4	35,200					
5	35,200					
6	35,200					
7	35,200					
8 and less	35,200	35,200				
more than 8	38,000	42,000				
9	39,000	42,500				
10	40,000	43,500				
11		44,000				
12		45,000	50,000			
13		45,500	50,500			
14		46,500	51,500			
15		47,500	52,000			
16		48,000	52,500	58,000		

17		48,500	53,500	58,500		
18		49,500	54,000	59,000		
19		50,500	54,500	60,000		
20		51,000	55,500	60,500	66,000	
21		51,500	56,000	61,000	66,500	
22		52,500	56,500	61,500	67,000	
23		53,000	57,500	62,500	68,000	
24		54,000	58,000	63,000	68,500	74,000
25		54,500	58,500	63,500	69,000	74,500
26		55,500	59,500	64,000	69,500	75,000
27		56,000	60,000	65,000	70,000	75,500
28		57,000	60,500	65,500	71,000	76,500
29		57,500	61,500	66,000	71,500	77,000
30		58,500	62,000	66,500	72,000	77,500
31		59,000	62,500	67,500	72,500	78,000
32		60,000	63,500	68,000	73,000	78,500
33			64,000	68,500	74,000	79,000
34			64,500	69,000	74,500	80,000
35			65,500	70,000	75,000	
36			68,000	70,500	75,500	
37			68,000	71,000	76,000	
38			68,000	71,500	77,000	
39			68,000	72,500	77,500	
40			68,500	73,000	78,000	
41			69,500	73,500	78,500	
42			70,000	74,000	79,000	
43			70,500	75,000	80,000	
44			71,500	75,500		
45			72,000	76,000		
46			72,500	76,500		
47			73,500	77,500		
48			74,000	78,000		
49			74,500	78,500		
50			75,500	79,000		
51			76,000	80,000		
52			76,500			
53			77,500			
54			78,000			
55			78,500			
56			79,500			
57			80,000			

(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.

(C) Except on the interstate highway system:

(1) Dump trucks, dump trailers, trucks carrying agricultural products, concrete mixing trucks, fuel oil trucks, line trucks, and trucks designated and constructed for special type work or use are not required to conform to the axle spacing requirements of this section. However, the vehicle is limited to a weight of twenty thousand pounds for each axle plus scale tolerances and the maximum gross weight of these vehicles may not exceed the maximum weight allowed by subsection (A)(1) for the appropriate number of axles, plus allowable scale 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.

(3) Well-drilling, boring rigs, and tender trucks are not required to conform to the axle spacing requirements of this section. However, the vehicle is limited to seventy thousand pounds gross vehicle weight and twenty-five thousand pounds for each axle plus scale tolerances.

HISTORY: 1962 Code Section 46-664; 1952 Code Section 46-664; 1949 (46) 466; 1963 (53) 76, 122; 1967 (55) 561, 1024; 1970 (56) 2041; 1976 Act No. 569 Section 1; 1980 Act No. 500, Section 2; 1983 Act No. 151 Part III Section 28B; 1985 Act No. 199, Section 2; 1986 Act No. 373, Section 3; 1993 Act No. 164, Part II, Section 92; 1993 Act No. 181, Section 1433; 1996 Act No. 459, Section 192; 1996 Act No. 461, Section 5; 2008 Act No. 234, Section 3, eff upon approval (became law without the Governor's signature on May 22, 2008); 2009 Act No. 60, Section 1, eff June 2, 2009; 2016 Act No. 188 (H.4932), Section 3, eff May 25, 2016.

**SECTION 56-5-4145.** Limitations as to weight, width, and vehicle combinations on Grace Memorial Bridge.

(a) The weights stated in Sections 56-5-4070, 56-5-4075 and 56-5-4140 are applicable to all roads and bridges as designated except the Grace Memorial Bridge in Charleston County on which trucks of no greater weight than ten tons are allowed.

(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 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”.

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 either in front or back 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 shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than twenty-five dollars nor more than fifty dollars. Provided, however, this shall not apply to motor vehicles commonly called “pickup trucks”.

HISTORY: 1978 Act No. 447.

**SECTION 56-5-4450.** Times when vehicles must be equipped with lights.

Section effective until November 19, 2018. See, also, section 56-5-4450 effective November 19, 2018.

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.

Until January 1, 1989, any person who fails to display the lights of a vehicle he is operating when lights are required by this section due to inclement weather or environmental factors may be issued only a warning ticket.

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.

**SECTION 56-5-4450.** Times when vehicles must be equipped with lights.

Section effective November 19, 2018. See, also, section 56-5-4450 effective until November 19, 2018.

(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.

**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.

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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 suncreening 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.

Storage costs for those vehicles in custody at the time of the enactment of this section must not exceed sixty days.

(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 certified or registered mail, return receipt requested, 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, return receipt requested, upon payment of all towing, preservation, storage charges, 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 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) storage costs that accrue beginning seven days after the vehicle was towed.

The law enforcement agency must, within two 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 will begin to accrue if the vehicle is not reclaimed within seven days of the towing date.

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.

**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. A person who fails to provide the law enforcement agency with this list forfeits recovery of any

storage fees that have accrued from the date of towing until the day after the mailing of the notification to the owner and all lienholders by certified or registered mail, return receipt requested, pursuant to Section 29-15-10. 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, the last known registered owner and all lienholders of record that the vehicle has been taken into custody.

(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) 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 including, but not limited to, the Department of Motor Vehicles or the Department of Natural Resources for the name and address of any owner or lienholder. 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 storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold. Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the vehicle. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner's and lienholders' identities from the appropriate law enforcement agency. If the notice is not mailed within this period, storage costs after the five-day period must not be charged until the notice is mailed. If the vehicle is not reclaimed within thirty days after the day

the notice is mailed, return receipt requested, the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in Section 29-15-10.

(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.

**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 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.

**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.

## 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).