UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Linquista White, *et al.*, Plaintiffs, v. Kevin Shwedo, *et al.*, Defendants.	Civil Action No. 2:19-cv-03083-RMG

DECLARATION OF AMREETA S. MATHAI

I, Amreeta S. Mathai, declare as follows:

1. I am a staff attorney in the American Civil Liberties Union Foundation's ("ACLU") Racial Justice Program and counsel for Plaintiffs in this case. I have personal knowledge of the facts set forth in this Declaration and can testify competently to them if called to do so.

2. Attached hereto as exhibits are true and correct copies of the following:

Document	**Exhibit**
South Carolina Department of Motor Vehicles Official Notice of Suspension for Janice Carter for Ticket # 20163070006917 (June 13, 2017)	A
Google Search Results for "South Carolina Section of Law 56-25-20," https://tinyurl.com/y2hezthk (last visited August 29, 2019)	B
Justia US Law, *2012 South Carolina Code of Laws*, https://bit.ly/322gRGt (last visited August 29, 2019)	C
Google Search Results for "South Carolina Section 56-1-390," https://tinyurl.com/y279fc44 (last visited August 29, 2019)	D
Justia US Law, *2017 South Carolina Code of Laws*, https://bit.ly/2PDs0e7 (last visited October 31, 2019)	E
Google Search Results for "South Carolina Financial Responsibility Act," https://tinyurl.com/y5nlawn3 (last visited October 31, 2019)	F

South Carolina Administrative Law Court,
Rules of Procedure for the Administrative Law Court,
https://scalc.net/pub/officialrules2019.pdf (last visited August 30, 2019) .....U

Google Home Page Search Result for "south carolina administrative procedures act,"
https://tinyurl.com/y2xcmb7v (last visited August 30, 2019).....V

South Carolina Legislature, *South Carolina Code of Laws: Title 1 - Administration of the Government*, https://bit.ly/36qQ4Hp
(last visited October 31, 2019) .....W

Identifying Whether There is a Redress Process to Contest a Driver's License Suspension for Failure to Pay a Traffic Ticket

3. Starting in late April 2019, I attempted to identify whether there is a process for my client, Janice Renee Carter, to contest the suspension of her driver's license for failure to pay a traffic ticket under South Carolina Code Section 56-25-20 ("Section 56-25-20").

4. I began by reading the Official Notice of Suspension ("Official Notice") that the South Carolina Department of Motor Vehicles ("DMV") sent to Ms. Carter. *See* Ex. A.

5. The Official Notice does not indicate what Ms. Carter can or should do if she is unable to pay the traffic ticket identified on the document or the reinstatement fee owed to the DMV. *See id.*

6. The Official Notice does not offer any information about a process for contesting a driver's license suspension for failure to pay a traffic ticket for any reason, including the recipient's inability to pay the ticket. *See id.*

Internet Research on South Carolina Code Section 56-25-20

7. The only South Carolina statute or rule referenced in the Official Notice is "Section of Law: 56-25-20." *See id.* I believe this refers to South Carolina Code Section 56-25-20.

8. To find and read Section 56-25-20, I typed "South Carolina Section of Law 56-25-20" into a Google search engine. I was directed to a page that listed several search results. *See* Ex. B.

9. The Google search results webpage identified several webpages that did not appear to be helpful. For example, a text box at the top of the page that purports to describe Section 56-25-20 might confuse an average person running this search. *See* Ex. B.

10. Below the text box at the top of the search page shown in Ex. B, is a webpage titled "Section 56-25-20 – Suspension of a license for failure to… - Justia." When I clicked on that link, I was directed to a page on the Justia US Law website setting forth the title and text of Section 56-25-20. *See* Ex. C.

11. Reading through the text on the page, I came across the following sentence: "The license must remain suspended until satisfactory evidence has been furnished to the department of compliance with the terms of the citation." *Id.*

12. The text of Section 56-25-20 on the Justia US Law website does not refer to any process for contesting a driver's license suspension for any reason, including inability to pay the ticket. *See id.*

13. The text of Section 56-25-20 on the Justia US Law website does not offer guidance on where to look to find a process to contest a driver's license suspension for any reason, including inability to pay the ticket. *See id.*

14. The only other laws mentioned in the text of Section 56-25-20 are "Section 56-1-390," which refers to South Carolina Code Section 56-1-390 and the "Financial Responsibility Act (Chapter 9 of Title 56)." *See id.*

15. I typed "South Carolina Section 56-1-390" into a Google search engine. *See* Ex. D.

16. The first link on the Google search results webpage is titled "Section 56-1-390. Fee for reinstatement of license." When I clicked on that link, I was directed to a page on the Justia US Law website setting forth the title and text of Section 56-1-390. *See* Ex. E.

17. The text of Section 56-1-390 does not describe a process to contest a driver's license suspension imposed by the DMV for failure to pay. *See id.*

18. I typed "South Carolina Financial Responsibility Act" into a Google search engine. *See* Ex. F.

19. The first link on the Google search results webpage is titled "Motor Vehicle Financial Responsibility Act – South Carolina . . . ." When I clicked on that link, I was directed to a page on the South Carolina Legislature website setting forth the entire text of Chapter 9 of Title 56 of the South Carolina Code of Laws. *See* Ex. G.

20. The webpage does not provide a table of contents or short reference page to assist with navigating through the text of Chapter 9 of Title 56. There are approximately fifty-one sections of law in Chapter 9 of Title 56 of the South Carolina Code of Laws. *See id.*

21. Scrolling down the same webpage, I read through the names and skimmed the text of the approximately fifty-one sections of law in Chapter 9 of Title 56. *See id.*

22. The text of Chapter 9 of Title 56 does not describe a process to contest a driver's license suspension imposed by the DMV for failure to pay. *See id.*

Internet Research on South Carolina Laws to Find a Process by Which to Contest the SC DMV's Suspension of a Driver's License

23. To determine whether there is a process to contest the SC DMV's suspension of a driver's license for failure to pay a traffic ticket, I conducted further internet research. I first typed "South Carolina Laws" into a Google search engine. *See* Ex. H.

24. When I clicked on the first link that appeared on the resulting Google search results webpage, I was directed to a webpage titled "South Carolina Legislature." *See* Ex. I.

25. That webpage lists sixty-three "Titles" of law. *See id.*

26. I had to read through the names of fifty-five Titles on this page before seeing "Title 56 – Motor Vehicles." *See id.*

27. I clicked on "Title 56 – Motor Vehicles," and was directed to a webpage that listed thirty-five chapters that fall within Title 56 of the South Carolina Code of Laws. *See* Ex. J.

28. Looking carefully through each of the thirty-five chapters of law, I saw that several might be relevant to Ms. Carter's ticket and the related suspension of her driver's license for failure to pay a traffic ticket. These include: "Chapter 1 – Driver's License," "Chapter 7 – Traffic Tickets," and "Chapter 25 – Nonresident Traffic Violators Compact." *See id.*

29. I started with Chapter 1 to review in numerical order the chapters of law that might be relevant to Ms. Carter's driver's license suspension.

30. After clicking on Chapter 1, I was directed to a webpage that contained the full text of Chapter 1 of Title 56 of the South Carolina Code of Laws. *See* Ex. K.

31. That webpage does not provide a table of contents or reference page to assist with navigating through the text of Chapter 1 of Title 56. There are approximately one hundred and seventy-four sections of law in Chapter 1 of Title 56 of the South Carolina Code of Laws. *See id.*

32. Scrolling down the same webpage, I read through the names and skimmed the text of approximately sixty-eight sections of Chapter 1 of Title 56 of the South Carolina Code of Laws before I saw "Section 56-1-370. Review of cancellation, suspension, or revocation of license." *See* Ex. K at 19.

33. The Official Notice provided to Ms. Carter does not refer to Section 56-1-370. *See* Ex. A. Nor does the text of Section 56-25-20 (the only statute that was explicitly mentioned in the original Official Notice) refer to section 56-1-370. *See* Ex. C.

34. Section 56-1-370 provides a ten-day timeframe to "request in writing an administrative hearing with the Division of Motor Vehicle Hearings in accordance with the rules of procedure of the Administrative Law Court and the State Administrative Procedures Act." *See* Ex. K at 19-20.

35. Section 56-1-370 does not explain how an individual should request a hearing with the Division of Motor Vehicle Hearings or what rules or procedures would govern such a hearing, including: (i) what form a written request for a hearing should take; (ii) how to represent oneself in a hearing; (iii) which of the rules and laws cited in Section 56-1-370, including the Administrative Law Court Rules of Procedure ("ALC Rules") and the State Administrative Procedures Act ("SC APA"), apply to the hearing; and (iv) what issues may be considered at a hearing. *See id.*

36. Section 56-1-370 also fails to mention the Rules of Procedure of the Office of Motor Vehicle Hearings ("OMVH Rules"), which are discussed below. *See id.*

37. The immediate questions I began to formulate upon reading Section 56-1-370 were: (i) Does the "request in writing" have to take a particular form? (ii) How does one contact the "Division of Motor Vehicle Hearings" to make this request? (iii) What are the rules of procedure of the Administrative Law Court? (iv) Where do I find the rules of procedure of the Administrative Law Court? (v) What is the State Administrative Procedures Act? (vi) Where do I find the State Administrative Procedures Act? (vii) What is the relationship between the rules of procedure of the Administrative Law Court and the State Administrative Procedures Act?

Internet Research to Determine How to Invoke the Administrative Redress Process Described in Section 56-1-370

(A) South Carolina Office of Motor Vehicle Hearings and OMVH Rules

38. Because the South Carolina Code of Laws does not provide an explanation of how the administrative hearing process for contesting driver's license suspensions works, one would have to do additional research to try to understand and access this process even after reading the text of the statutes described above.

39. In order to accomplish that goal, I typed "South Carolina Division of Motor Vehicle Hearings" into a Google search engine because Section 56-1-370 refers to the "Division of Motor Vehicle Hearings." *See* Ex. L.

40. I clicked on the first link on the Google search result webpage which directed me to the home page for the South Carolina Office of Motor Vehicle Hearings ("OMVH"). *See* Ex. M.

41. It was not clear whether the "Division of Motor Vehicle Hearings" mentioned in Section 56-1-370, and the "Office of Motor Vehicle Hearings" identified on the webpage referred to the same entity or type of hearing. I assumed they are the same entity and type of hearing and proceeded with the research.

42. The OMVH home page states that the OMVH provides a forum for "hearings for persons affected by an action or proposed action of the South Carolina Department of Motor Vehicles." Ex. M. The OMVH home page also states that the OMVH is "an office within the South Carolina Administrative Law Court." *Id.*

43. The OMVH home page also states: "FILING FEE FOR OMVH IS $200." *Id.*

44. The OMVH home page does not address how to seek waiver or reduction of the $200 filing fee on the basis of financial hardship or whether such requests are granted. *See id.*

45. The OMVH homepage has a link titled "OMVH Rules." *Id.*

46. When I clicked on that link, I was directed to another webpage that says: "The below Rules of Procedure for the Office of Motor Vehicle Hearings have been promulgated in accordance with S.C. Code Ann. 1-23-660." Ex. N.

47. This webpage also provides links to the following: (i) "Official Rules – Effective May 1, 2011"; (ii) "OMVH Guide"; and (iii) "Subpoena instructions." *See id.*

48. When I clicked on the first link ("Official Rules"), I was directed to a thirteen-page document entitled "Rules of Procedure for the Office of Motor Vehicle Hearings" ("OMVH Rules"). *See* Ex. O.

49. The second and third pages of the OMVH Rules provide a table of contents that contains twenty-two subheadings. *See id.* at 2-3.

50. After skimming the twenty-two subheadings, I focused on the fourth subheading in the OMVH Rules entitled "Filing; Request for a Contested Case Hearing." *See id.*

51. I did not know what a "contested case hearing" was. In order to understand this term, I looked at the "Definitions" section of the OMVH Rules, which defines a "Contested Case" as "a case for which an administrative hearing is conducted pursuant to the Administrative Procedures Act, and includes hearings conducted by the Office of Motor Vehicle Hearings." *Id.* at Rule 2(F).

52. When I turned back to OMVH Rule 4, I read Rule 4(A) which states: "A request for a contested case hearing, accompanied by a filing fee as provided by Rule 21, must be filed with the Office." *Id.* at Rule 4(A).

53. OMVH Rule 21, which is referenced in OMVH Rule 4, states: "Each request for a contested case hearing before the Office must be accompanied by a filing fee in the amount established by law. A case will not be assigned to a hearing officer until the filing fee has been paid." *Id.* at Rule 21.

54. I reviewed the OMVH Rules for a rule that would address the timeline for requesting an OMVH hearing.

55. OMVH Rule 4(B) states: "Unless otherwise provided by statute, a request for a contested case hearing must be filed within thirty days after actual notice of the Department of Motor Vehicles' determination." *Id.* at Rule 4(B).

56. Upon reading OMVH Rule 4(B), I remembered that I had read a different rule about the timeline for requesting a hearing in Section 56-1-370. I went back to review Section 56-1-370, and saw that that statute requires a ten-day timeframe to request a hearing to contest a

DMV driver's license suspension, rather than the thirty-day timeframe referenced in the OMVH Rules. *See* Ex. K at 19.

57. OMVH Rule 4(C) states: "The request for a contested case hearing may be submitted on a form prescribed by the Office." But the OMVH Rules do not provide any instructions on where to find the referenced form. *See* Ex. O at Rule 4(C).

58. In order to look for an OMVH hearing request form, I went back to the South Carolina Office of Motor Vehicle Hearings website. *See* Ex. M.

59. This website does not have links to any forms and provides no information about how to proceed with internet research to find the forms necessary to request an OMVH hearing. *See id.*

60. Because there were no forms on the South Carolina Office of Motor Vehicle Hearings website, I determined that the only way the average person can find out whether there is a form to request a contested case hearing is to call the OMVH for more information or to go to the OMVH in person. The OMVH is located in Columbia, South Carolina. Because of my position in the legal profession, I also had the option to call my co-counsel, who practices law in South Carolina, for advice.

61. I called Adam Protheroe, an attorney at South Carolina Appleseed Legal Justice Center and co-counsel in this action, to ask if he was aware of where to get more information about how to request an OMVH hearing. Mr. Protheroe connected me with Jack Cohoon, an attorney at South Carolina Legal Services, to discuss this question.

62. I spoke with Mr. Cohoon. He suggested that I use the forms available on the South Carolina Administrative Law Court ("ALC") website.

(B) South Carolina Administrative Law Court and ALC Rules

63. In order to follow Mr. Cohoon's suggestion, and because Section 56-1-370 mentions the ALC, I typed "South Carolina Administrative law court" into a Google search engine and clicked on the first link on the results webpage. *See* Ex. P.

64. The ALC webpage has numerous links including the following: (i) "ALC Rules," (ii) "Forms," (iii) "Decisions," and (iv) "OMVH." *See* Ex. Q.

65. I clicked on the link titled "Forms" and was directed to a webpage titled "ALC Forms." This webpage contained several links, including the following: (i) "Request for Contested Case Hearing Form," (ii) "Request to Waive Filing Fee," (iii) "Request for Waiver and Affidavit," and (iv) "Financial Statement." *See* Ex. R.

66. The links referencing filing a fee waiver seemed at odds with the OMVH Rules I had previously read, which said that a request for a contested case hearing had to be accompanied by a filing fee. *See* Ex. O at Rule 21. The OMVH Rules do not refer to a filing fee waiver. *See* Ex. O.

67. The "Request for a Contested Case Hearing Form" link led to a PDF of what appeared to be a form for requesting a hearing to contest a driver's license suspension. *See* Ex. S. But this form was also titled "South Carolina Administrative Law Court." *Id.*

68. Although I had found a form to request a contested case hearing, it still seemed unclear whether the OMVH Rules, the ALC Rules, or some combination of both should apply to a redress process for a driver's license suspension for failure to pay a traffic ticket. Section 56-1-370 explicitly mentioned the ALC Rules. But it seemed to make more sense that the OMVH Rules would apply since the OMVH webpage describes the OMVH as the forum for hearings on actions of the South Carolina Department of Motor Vehicles. *See* Ex. O.

69. Seeking more information about the ALC, I went back to the ALC home page and clicked on the "ALC Rules" link. I was directed to another webpage that offered several links. *See* Ex. T.

70. This webpage included links to the "ALC Rules" and the "South Carolina Judicial Department." *Id.*

71. When I clicked on the ALC Rules, I was directed to a thirty-six-page PDF titled "Rules of Procedure for the Administrative Law Court," which is dated May 2, 2019. Ex. U.

72. Pages two through five of the ALC Rules provide a table of contents that contains seventy-three sections. *See* Ex. U at 2–5.

(C) South Carolina Administrative Procedures Act

73. As discussed, because Section 56-1-370 references the ALC Rules and the SC APA, I also researched the SC APA.

74. To accomplish that goal, I typed "south carolina administrative procedures act" into a Google search engine. *See* Ex. V.

75. I clicked on the first link on the Google search result webpage, which directed me to a South Carolina Legislature webpage containing the full text of Chapter 23 of Title 1 of the South Carolina Code of Laws. *See* Ex. W.

76. That webpage does not provide a table of contents or short reference page to assist with navigating through the text of Chapter 23 of Title 1. *See id.* There are approximately fifty-one sections of law in Chapter 23 of Title 1 of the South Carolina Code of Laws. *See id.*

77. I reviewed the OMVH Rules, the ALC Rules, and the SC APA before coming to the conclusion that the SC APA does not provide guidance on how to request and proceed with a

contested case hearing to challenge the SC DMV's suspension of a driver's license for failure to pay traffic tickets.

78. The entire process of doing research to find a redress process for a driver's license suspension for failure to pay a traffic ticket, starting with reading an Official Notice and ending with a review of the SC APA, took me at least 19 hours.

I declare under penalty of perjury that the foregoing is true and correct and that this Declaration was executed on November 1, 2019 in New York.

Amreeta Mathai

Amreeta Susy Mathai**, NY Reg. No. 5169479

**Applications for pro hac vice submitted.

EXHIBIT A

South Carolina
Department of Motor Vehicles

06/13/2017

CARTER, JANICE RENEE
[redacted]
NORTH CHARLESTON, SC 29418-3499

CUSTOMER NO: [redacted]
FILE NO:
DL NO:

OFFICIAL NOTICE

You may not drive commercial or non-commercial motor vehicles.

REASON: FAILURE TO PAY TRAFFIC TICKET SECTION OF LAW: 56-25-20

VIOL DATE	TICKET#	VIOLATION
12/07/2016	20163070006917	Speeding - Over 10 MPH

COURT:
YEMASSEE MUNICIPAL COURT
101 TOWN CIRCLE / PO BOX
YEMASSEE, SC 29945
843-589-6315

BEGINNING DATE: 12:01 AM 07/03/2017

ENDING DATE: When you receive notice from the Department that this action has been cleared.

SPECIAL DRIVING PRIVILEGES:
There are no special driving privileges available to you. You may not drive until you have done the following:

COMPLIANCE:
Pay the fine for the ticket to the court. When the fine is paid, the court will give you a compliance notice which shows the description of the violation, the date of the violation, the date the ticket was paid, and the ticket number. YOU MUST BRING THIS COMPLIANCE TO YOUR LOCAL DMV OFFICE OR MAIL IT TO DRIVER RECORDS, POST OFFICE BOX 1498, BLYTHEWOOD, SC 29016-0028. NOTE: IT IS YOUR RESPONSIBILITY TO GIVE THE DEPARTMENT PROOF THAT THIS TICKET HAS BEEN PAID OR THE SUSPENSION MAY REMAIN IN EFFECT.

REINSTATEMENT FEE:
You must pay a $100.00 reinstatement fee if your compliance notice shows payment on or after the suspension date. This fee can be paid at any DMV Office, mailed to Driver Records, PO Box 1498, Blythewood, SC 29016-0028 or paid by credit card online at www.scdmvonline.com. Make checks and money orders payable to SCDMV. Do not send cash through the mail.

Your license must be returned to any DMV Office or mailed to Driver Records if this suspension is not cleared before the suspension date listed above.

THIS NOTICE CONCERNS ONLY THE ACTION LISTED ABOVE AND DOES NOT CHANGE ANY OTHER NOTICES WE HAVE SENT TO YOU.

Driver Records Manager

EXHIBIT B

gle South Carolina Section of Law 56-25-20

All Maps News Shopping Images More Settings Tools

About 43,100 results (0.83 seconds)

§ **56-25-20** provides that within twelve (12) months from the date a citation was issued, a court must notify the SCDMV that a defendant is a resident of a NRVC member-jurisdiction, the SCDMV must notify the defendant's home jurisdiction of his failure to comply with the terms of a citation.

Traffic Ticket - SC Judicial Department

https://www.sccourts.org › summaryCourtBenchBook › displaychapter › cha...

About Featured Snippets Feedback

Section 56-25-20 - Suspension of license for failure to ... - Justia ...

https://law.justia.com › codes › south-carolina › title-56 › chapter-25 › sect...

2012 **South Carolina** Code of **Laws** Title 56 - Motor Vehicles **Chapter** 25 - NONRESIDENT TRAFFIC VIOLATOR COMPACTS **Section 56-25-20** - Suspension of ...

SECTION 56-25 - South Carolina Legislature Online

https://www.scstatehouse.gov › code

SECTION 56-25-10. Compacts enacted as **law**; duty of Department of Motor Vehicles ... 181, **Section** 1498; 1996 **Act** No. 459, **Section** 240. **SECTION 56-25-20**.

EXHIBIT C

2012 South Carolina Code of Laws
Title 56 - Motor Vehicles
Chapter 25 - NONRESIDENT TRAFFIC VIOLATOR COMPACTS
Section 56-25-20 - Suspension of license for failure to comply with traffic citation or summons for litter violation; notification of licensing authority in compact jurisdiction.

Universal Citation: SC Code § 56-25-20 (2012)

When a South Carolina court or the driver licensing authority of a compact jurisdiction notifies the Department of Motor Vehicles that a resident of South Carolina or person possessing a valid South Carolina driver's license has failed to comply with the terms of a traffic citation or an official Department of Natural Resources summons for a littering violation issued in this or any compact jurisdiction, the department may suspend or refuse to renew the person's driver's license if the notice from a South Carolina court or the driver licensing authority of a compact jurisdiction is received no more than twelve months from the date on which the traffic citation or an official Department of Natural Resources summons for a littering violation was issued or adjudicated. The license must remain suspended until satisfactory evidence has been furnished to the department of compliance with the terms of the citation or an official Department of Natural Resources summons for a littering violation and any further order of the court having jurisdiction in the matter and until a reinstatement fee as provided in Section 56-1-390 is paid to the department. A person whose license is suspended under this section is not required to file proof of financial responsibility as required by the Financial Responsibility Act (Chapter 9 of Title 56) as a condition for reinstatement.

Upon notification by a South Carolina court that a nonresident licensed in a compact jurisdiction has failed to comply with the terms of a traffic citation or an official Department of Natural Resources summons for a littering violation, the department shall notify the licensing authority in the compact jurisdiction for such action as appropriate under the terms of the compacts.

HISTORY: 1980 Act No. 461; 1990 Act No. 596, Section 2; 1996 Act No. 459, Section 241; 2004 Act No. 306, Section 2.

EXHIBIT D

All Maps Shopping News Images More Settings Tools

About 11,400 results (0.41 seconds)

Code § **56-1-390**(1).) If your license was permanently revoked, you may be eligible in some circumstances to apply for reinstatement. In addition to other requirements, you may be assessed a $200 court filing fee. (**S.C.**

Driving on a Suspended License in South Carolina ...
https://www.criminaldefenselawyer.com › criminal-defense › crime-penalties

About Featured Snippets Feedback

People also ask

What is the fine for DUS in SC?

What happens if you get caught driving with a permit in South Carolina?

How do I get my suspended license back in SC?

Is driving under suspension a misdemeanor in South Carolina?

Feedback

Section 56-1-390. Fee for reinstatement of license; disposition ...
https://law.justia.com › codes › south-carolina › title-56 › chapter-1 › secti...

EXHIBIT E

2017 South Carolina Code of Laws
Title 56 - Motor Vehicles
CHAPTER 1 - DRIVER'S LICENSE
Section 56-1-390. Fee for reinstatement of license; disposition of fee proceeds.

Universal Citation: SC Code § 56-1-390 (2017)

(1) Whenever the Department of Motor Vehicles suspends or revokes the license of a person under its lawful authority, the license remains suspended or revoked and must not be reinstated or renewed nor may another license be issued to that person until he also remits to the department a reinstatement fee of one hundred dollars for each suspension on his driving record that has not been reinstated. The reinstatement fee may be paid to the clerk of court or magistrate at the time of the verdict, guilty plea, or plea of nolo contendere for the offense for which the license is suspended or revoked. If the fee is paid at the time of the verdict, guilty plea, or plea of nolo contendere, the clerk or magistrate shall remit the fee to the department pursuant to the procedures set forth in Section 56-1-365(B). The director or his designee may waive or return the reinstatement fee if it is determined that the suspension or revocation is based upon a lack of notice being given to the department or other similar error.

(2) The fees collected by the Department of Motor Vehicles under this provision must be distributed as follows: seventy dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, and one dollar must be credited to the "Keep South Carolina Beautiful Fund" established pursuant to Section 56-3-3950. From the "Keep South Carolina Beautiful Fund", the Department of Transportation shall expend funds necessary to employ, within the Department of Transportation, a person with training in horticulture to administer a program for beautifying the rights-of-way along state highways and roads. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1962 Code Section 46-185.1; 1970 (56) 1911. 1990 Act No. 596, Section 1; 1993 Act No. 181, Section 1317; 1994 Act No. 497, Part II, Section 86A; 1996 Act No. 459, Section 90; 1999 Act No. 100, Part II, Section 104; 2001 Act No. 79, Section 2.D; 2005 Act No. 176, Section 8, eff June 14, 2005; 2016 Act No. 275 (S.1258), Section 18, eff July 1, 2016.

EXHIBIT F

South Carolina Financial Responsibility Act

All News Images Maps Shopping More Settings Tools

About 22,700,000 results (0.84 seconds)

Motor Vehicle Financial Responsibility Act - South Carolina ...

https://www.scstatehouse.gov › code

Within sixty days of receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to the property of any one person in the amount of two hundred dollars or more, the Department of Motor Vehicles shall suspend the license of each operator or driver if he is the ...

MOTOR VEHICLE FINANCIAL RESPONSIBILITY ACT

https://law.justia.com › codes › south-carolina › title-56 › chapter-9

2012 **South Carolina** Code of Laws Title 56 - Motor Vehicles Chapter 9 - MOTOR VEHICLE **FINANCIAL RESPONSIBILITY ACT**. ARTICLE 1 GENERAL ...

2012 South Carolina Code of Laws Title 56 ... - Justia Law

https://law.justia.com › codes › title-56 › chapter-9 › section-56-9-351

2012 **South Carolina** Code of Laws. Title 56 - Motor Vehicles. Chapter 9 - MOTOR VEHICLE **FINANCIAL RESPONSIBILITY ACT**. Section 56-9-351 - Deposit of security by owner following accident; suspension of license and registrations and notice thereof.

[PDF] South Carolina Department of Motor Vehicles ... - scdmv

scdmvonline.com › media › Forms

FINANCIAL. REPSONSIBILITY ... I authorize the **South Carolina** Department of Motor Vehicles to accept ... Carolina Motor Vehicle **Financial Responsibility Act**.

South Carolina Financial Responsibility regulations ...

https://www.blr.com › Environmental › EHS-Management › Financial-Res...

South Carolina Financial Responsibility federal, national and state ... Response Bank (SUPERB)

EXHIBIT G

South Carolina Code of Laws
Unannotated

Title 56 - Motor Vehicles

CHAPTER 9

Motor Vehicle Financial Responsibility Act

ARTICLE 1

General Provisions

SECTION 56-9-10. Short title.

This chapter may be cited as the "Motor Vehicle Financial Responsibility Act".

HISTORY: 1962 Code Section 46-701; 1952 (47) 1853; 1974 (58) 2718.

SECTION 56-9-20. Definitions.

The following words and phrases when used in this chapter shall, for the purposes of this chapter have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(1) "Insured motor vehicle": A motor vehicle as to which there is bodily injury liability insurance and property damage liability insurance, meeting all of the requirements of item (7) of this section, or as to which a bond has been given or cash or securities delivered in lieu of such insurance or as to which the owner has qualified as a self-insurer in accordance with the provisions of Section 56-9-60;

(2) "Judgment": Any judgment which shall have become final by expiration without appeal of the time within which an appeal might have been perfected or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of service, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages;

(3) "License": Any license, temporary instruction permit or temporary license issued under the laws of this State pertaining to the licensing of persons to operate vehicles;

(4) "Motor vehicle": Every self-propelled vehicle which is designed for use upon a highway, including trailers and semitrailers designed for use with such vehicles but excepting traction engines, road rollers, farm tractors, tractor cranes, power shovels, mopeds, and well drillers, and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails;.

(5) "Motor vehicle liability policy": An owner's or an operator's policy of liability insurance that fulfills all the requirements of Sections 38-77-140 through 38-77-230, certified as provided in Section 56-9-550 or 56-9-560 as proof of financial responsibility and issued, except as otherwise provided in Section 56-9-560, by an insurance carrier duly authorized to transact business in this State, to or for the benefit of the person or persons named therein as insured, and any other person, as insured, using the vehicle described therein with the express or implied permission of the named insured, and subject to the following special conditions:

(a) Contents of motor vehicle liability policy. The motor vehicle liability policy shall state the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period, and the limits of liability and shall contain an agreement or be endorsed that insurance is provided thereunder in accordance with the coverage defined in this chapter as respects bodily injury and death or property damage, or both, and is subject to all of the provisions of this chapter.

(b) Provisions deemed incorporated in such policy. Every motor vehicle liability policy is subject to the following provisions, which need not be contained therein:

(1) The liability of the insurance carrier with respect to the insurance required by this chapter shall become absolute whenever injury or damage covered by the motor vehicle liability policy occurs;

(2) The policy may not be cancelled or annulled as to the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage;

(3) No Statement made by the insured or on his behalf and no violation of the policy shall defeat or void the policy;

(4) The satisfaction by the insured of a judgment for the injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage;

(5) The insurance carrier shall have the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount thereof shall be deductible from the limits of liability specified in Section 38-77-140; and

(6) The policy, written application therefor, if any, and any rider or endorsement which does not conflict with the provisions of this chapter shall constitute the entire contract between the parties.

(c) What policy need not cover. The motor vehicle liability policy need not insure any liability under the Workers' Compensation Law nor any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured, or while engaged in the operation, maintenance, or repair of the motor vehicle, nor any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(d) Additional coverage permitted. Any policy which grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy and the excess or additional coverage shall not be subject to the provisions of this chapter. With respect to a policy which grants this excess or additional coverage, the term "motor vehicle liability policy" shall apply only to that part of the coverage which is required by this article.

(e) Additional permissible provisions. Any motor vehicle liability policy may provide:

(1) That the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this chapter; and

(2) For the prorating of the insurance thereunder with other valid and collectible insurance.

(f) Requirements may be met by several policies. The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements.

(g) Legal binder deemed to meet requirements. Any legal binder issued pending the issuance of a motor vehicle liability policy shall be considered as fulfilling the requirements for such policy.

(h) Notice required to cancel certified policy; cancellation by subsequent policy. When an insurance carrier has certified a motor vehicle liability policy under Sections 56-9-550 or 56-9-560, the insurance so certified shall not be cancelled or terminated until at least ten days after a notice of cancellation or termination of the insurance certified shall be filed with the Department of Motor Vehicles, except that a policy subsequently procured and certified shall at 12:01 A. M., on the effective date of its certification, terminate the insurance previously certified with respect to any motor vehicle designated in both certificates.

(i) Other required policies unaffected. This chapter shall not be held to apply to or affect policies of automobile insurance against liability insuring public carriers or policies which may be required by any other law of this State, any law or ordinance of any municipality or any law or regulation of the United States or any of its agencies, and those policies, if they contain an agreement or are endorsed to conform with the requirements of this chapter, may be certified as proof of financial responsibility under this chapter.

(j) Chapter inapplicable to policies covering use by employees, etc., of vehicles not owned by insured. This chapter shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance or use by the persons in the insured's employ or on his behalf of motor vehicles not owned by the insured;

(6) "Nonresident": Every person who is not a resident of this State;

(7) "Nonresident operating privilege": The privilege conferred upon a nonresident by the laws of this State pertaining to the operation by him of a motor vehicle or the use of a motor vehicle owned by him in this State;

(8) "Operator": Every person who is in actual physical control of a motor vehicle, whether or not licensed as an operator or chauffeur under the laws of this State;

(9) "Owner": A person who holds the legal title of a motor vehicle, or, in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be considered the owner for the purposes of this chapter;

(10) "Person": Every natural person, firm, copartnership, association or corporation;

(11) "Proof of financial responsibility": Proof of ability to respond to damages for liability, as provided in Section 38-77-150, or, on account of accidents occurring after the effective date of this proof, arising out of the ownership, maintenance, or use of a motor vehicle in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to this limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(12) "Registration": Registration certificates and registration or license plates issued under the laws of this State pertaining to the license and registration of motor vehicles;

(13) "State": Any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada; and

(14) "Uninsured motor vehicle": Any motor vehicle which is not an insured motor vehicle as defined in item (3) of this section.

(15) "Uninsured Motorist Fund" means a fund established for fees collected by the director of the Department of Motor Vehicles from registration of uninsured vehicles.

HISTORY: 1962 Code Section 46-702; 1952 (47) 1853; 1959 (51) 567; 1963 (53) 523; 1977 Act No. 80 Section 1; 1986 Act No. 528, Section 12; 1987 Act No. 155, Sections 18-21; 1993 Act No. 181, Section 1472; 1996 Act No. 459, Section 246A; 1997 Act No. 154, Section 1; 2003 Act No. 73, Section 18; 2013 Act No. 47, Section 2, eff January 1, 2014.

SECTION 56-9-30. Chapter inapplicable to certain motor vehicles.

This chapter does not apply with respect to any motor vehicle owned by the United States, this State, or any political subdivision of this State or any municipality therein, nor, except for Section 56-9-590, does it apply with respect to any motor vehicle which is subject to other laws of this State which require their owners to carry insurance or to place security in a manner which would make those owners carry insurance or place security in addition to the amounts required by this chapter.

HISTORY: 1962 Code Section 46-704; 1952 (47) 1853; 1977 Act No. 80 Section 2; 1987 Act No. 155, Section 16.

SECTION 56-9-40. Rights of conditional vendors, chattel mortgagees, or lessors not affected.

This chapter shall not affect the rights of any conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the name of another as owner who becomes subject to the provisions of this chapter.

HISTORY: 1962 Code Section 46-705; 1952 (47) 1853.

SECTION 56-9-50. Sale of vehicle when registration suspended not affected.

This chapter shall not prevent the owner of a motor vehicle, the registration of which has been suspended under this chapter, from effecting a bona fide sale of the motor vehicle to another person whose rights or privileges are not suspended under this chapter nor prevent the registration of the motor vehicle by the transferee.

HISTORY: 1962 Code Section 46-706; 1952 (47) 1853.

SECTION 56-9-60. Self-insurers for motor vehicles; determination of financial responsibility.

(A) A person or company who has more than twenty-five motor vehicles registered in his name may qualify as a self-insurer provided that the department is satisfied that the person or company is able to pay any judgments obtained against the person or company. Upon not less than ten days' notice, the department may issue a staff determination canceling self-insurer status when the requirements for the status no longer are met. The notice must provide that a person aggrieved by the staff determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The person or company must submit the following information to the department for it to determine financial responsibility:

(1) a copy of the applicant's latest financial statement prepared by a certified public accountant licensed to do business in South Carolina, indicating that the applicant has a positive net worth;

(2) a current list of all vehicles registered in applicant's name;

(3) the applicant's procedural guidelines for processing claims; and

(4) the applicant must have a net worth of at least twenty million dollars or the department may require the applicant to deposit in a segregated self-insured claims account the sum of three thousand dollars for each vehicle to be covered by the self-insurer's certificate. Eighty percent must be cash or an irrevocable letter of credit issued by a bank chartered in this State or a member bank of the federal reserve system, and the remaining twenty percent may be satisfied by the "quick sale" appraised value of real

estate located in the State, as certified by a licensed appraiser. The three thousand dollar a vehicle amount may not decrease more than thirty percent in any given certificate year.

(B) A person or company that qualifies as a self-insurer, pursuant to this section, may issue certificates of insurance only on the vehicles registered in the applicant's name.

HISTORY: 1962 Code Section 46-709; 1952 (47) 1853; 1992 Act No. 492, Section 1; 1996 Act No. 331, Section 1; 2006 Act No. 241, Section 1, eff March 15, 2006; 2008 Act No. 279, Section 8, eff October 1, 2008.

SECTION 56-9-80. General penalties for violations of chapter.

Any person who shall violate any provision of this chapter, for which no penalty is otherwise provided, shall be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 46-712; 1952 (47) 1853.

SECTION 56-9-90. Chapter as no bar to other remedies.

Nothing in this chapter shall be construed as preventing the plaintiff in any action at law from relying for relief upon the other processes provided by law.

HISTORY: 1962 Code Section 46-707; 1952 (47) 1853.

SECTION 56-9-100. Chapter is supplemental and cumulative.

This chapter shall in no respect be considered as a repeal of any other provision contained in this Title or the motor vehicle laws of this State but shall be construed as supplemental and cumulative thereto.

HISTORY: 1962 Code Section 46-708; 1952 (47) 1853; 1959 (51) 567.

SECTION 56-9-110. Reserved.

HISTORY: Former Section, titled Retroactive application of chapter, had the following history: 1962 Code Section 46-713; 1952 (47) 1853. Reserved by 2017 Act No. 89, Section 28, eff November 19, 2018.

SECTION 56-9-120. Construction.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states which enact substantially identical legislation.

HISTORY: 1962 Code Section 46-703; 1952 (47) 1853.

ARTICLE 3

Administration and Enforcement

SECTION 56-9-330. Department of Motor Vehicles shall furnish abstracts of operating records; abstracts inadmissible as evidence.

(1) The Department of Motor Vehicles, upon request and the payment of a fee, shall furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, which abstract must also fully designate the motor vehicles, if any, registered in the name of that person, and, if there is no record of any conviction of that person for violating any laws relating to the operation of a motor vehicle or of any injury or damage caused by that person, the department shall so certify. The department, upon request and the payment of a reasonable fee, shall furnish a monthly listing by magnetic or other electronic media of all driver's license numbers that had driving violations posted on their records during the previous month. These abstracts are not admissible as evidence in any action for damages or criminal proceedings arising out of motor vehicle accidents.

(2) The department shall, upon request, and the payment of a fee furnish any person a copy of a vehicle accident report. Revenue generated by the fee imposed pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1962 Code Section 46-717; 1952 (47) 1853; 1976 Act No. 738 Section 9; 1985 Act No. 201, Part II, Section 57; 1989 Act No. 148, Section 2; 1996 Act No. 459, Section 216; 2016 Act No. 275 (S.1258), Section 77.A, eff July 1, 2016.

SECTION 56-9-340. Surrender of license and registration; failure to surrender.

Any person (a) whose license and registration has been suspended as provided in this chapter, (b) whose policy of insurance or bond, when required under this chapter, has been canceled or terminated, or (c) who has neglected to furnish other proof upon request of the Department of Motor Vehicles shall immediately return his license and registration to the department. If any person fails to return to the department his license or registration as provided in this section, the department may secure possession by a commissioned highway patrolman.

Any person wilfully failing to return his license or registration as required in this section must be fined not less than one hundred dollars nor more than two hundred dollars or imprisoned for thirty days and, upon conviction if a second offense, be fined two hundred dollars or imprisoned for thirty days, or both, and for a third and subsequent offenses must be imprisoned for not less than forty-five days nor more than six months.

Only convictions which occurred within five years including and immediately preceding the date of the last conviction constitute prior convictions within the meaning of this section.

HISTORY: 1962 Code Section 46-718; 1952 (47) 1853; 1988 Act No. 532, Section 20.

ARTICLE 4

Security Following Motor Vehicle Accidents

SECTION 56-9-350. Verification of insurance coverage form to be issued following certain accidents; effect of failure to return form; uninvestigated accidents.

The operator or owner of a motor vehicle involved in an accident resulting in property damage of four hundred dollars or more, or in bodily injury or death, must be furnished a written request form at the time of the accident, or as soon after the accident as possible, by the investigating officer for completion and verification of liability insurance coverage, the form to be in a manner prescribed by the Department of Motor Vehicles and the Department of Public Safety.

The completed and verified form must be returned by the operator or owner to the Department of Motor Vehicles within fifteen days from the date the form was delivered by the officer. Failure to return the form, verified in the proper manner, is prima facie evidence that the vehicle was uninsured.

The operator or owner of a motor vehicle involved in an accident resulting in property damage of four hundred dollars or more, or in bodily injury or death, which was not investigated by a law enforcement officer shall furnish to the Department of Motor Vehicles a written report and verification of liability insurance coverage, the proof to be in a manner prescribed by the Department.

HISTORY: 1978 Act No. 467 Section 1; 1988 Act No. 665, Section 2.

SECTION 56-9-351. Deposit of security by owner following accident; suspension of license, registrations, and notice.

Within sixty days of receipt of a report of a motor vehicle accident within this State which has resulted in bodily injury or death or damage to the property of any one person in the amount of two hundred dollars or more, the Department of Motor Vehicles shall suspend the license of each operator or driver if he is the owner of the motor vehicle involved in the accident and all registrations of each owner of a motor vehicle involved in the accident. If the operator or driver is a nonresident, the privilege of operating a motor vehicle within this State and the privilege of the use within this State of a motor vehicle owned by him is suspended unless the operator, driver or owner, or both, deposits security in a sum not less than two hundred dollars or an additional amount as the department may specify that will be sufficient to satisfy a judgment that may be recovered for damages resulting from the accident which may be recovered against the operator or owner. Notice of the suspension must be sent by the department to the operator and owner at least ten days before the effective date of the suspension and shall state the amount required as security.

HISTORY: 1978 Act No. 467 Section 1; 1992 Act No. 510, Section 1.

SECTION 56-9-352. Exceptions.

Section 56-9-351 shall not apply to any of the following:

(1) The operator or owner if the owner had in effect at the time of the accident an automobile liability policy with respect to the motor vehicle involved in the accident;

(2) The operator, if not the owner of the motor vehicle, if there was in effect at the time of the accident an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him;

(3) The operator or owner if the liability of the operator or owner for damages resulting from the accident is, in the judgment of the Department of Motor Vehicles, covered by any other form of liability insurance policy or bond;

(4) Any person qualifying as a self-insurer under Section 56-9-60 of this chapter;

(5) The operator or owner of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such owner or operator;

(6) The owner of a motor vehicle if at the time of the accident the vehicle was being operated without his permission, express or implied, or was parked by a person who had been operating the motor vehicle without his permission, express or implied;

(7) If, before the date that the Department would otherwise suspend the license and registration or nonresident's operating privilege under Section 56-9-351, there shall be filed with the Department evidence satisfactory to it that the person who would otherwise have to file security (a) has been released from liability, (b) has been finally adjudicated not to be liable, (c) has executed a warrant for confession of judgment, payable when and in such installments as the parties have agreed to or (d) has executed a duly acknowledged written agreement, providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accidents;

(8) The owner of any legally parked vehicle when struck by another vehicle;

(9) Any person operating a motor vehicle owned by his employer while he is operating the vehicle in the scope of his employment.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-353. Type and terms of policy or bond.

No policy or bond shall be effective under Sections 56-9-351 and 56-9-352 unless issued by an insurance company or surety company licensed and authorized by the South Carolina Department of Insurance to do business in this State, except that if the motor vehicle was not registered in this State or was a motor vehicle which was registered elsewhere than in this State at the effective date of the policy or bond or the most recent renewal thereof, the policy or bond shall not be effective under Sections 56-9-351 and 56-9-352 unless the insurance company or surety company if not authorized to do business in this State shall execute a power of attorney authorizing the Department of Motor Vehicles to accept service on its behalf of notice of process in any action upon the policy or bond arising out of the accident. Every policy or bond must be subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and subject to this limit for one person, to a limit of not less than fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

HISTORY: 1978 Act No. 467 Section 1; 2013 Act No. 47, Section 3, eff January 1, 2014.

SECTION 56-9-354. Conditions for renewal of suspended license, registration, and operating privilege.

The license and registration and nonresident's operating privilege suspended as provided in Section 56-9-351 shall, except as otherwise provided for in Section 56-9-361, remain suspended and shall not be renewed nor shall any license or registration be issued to him until:

(1) He shall deposit or there shall be deposited on his behalf the security required under Section 56-9-351;

(2) Two years shall have elapsed following the date of the accident and evidence satisfactory to the Department of Motor Vehicles has been filed with it that during that period no action for damages arising out of the accident has been instituted; or

(3) Evidence satisfactory to the Department has been filed with it of a release from liability, a final adjudication of nonliability, a warrant for confession of judgment or a duly acknowledged written agreement, in accordance with item (7) of Section 56-9-352; provided, however, in the event there shall be any default in the payment of any installment under any confession of judgment, then, upon notice of default, the Department shall suspend the license and registration or nonresident's operating privilege of the person defaulting, which shall not be restored until the entire amount provided for in confession of judgment has been paid; and provided, further, that in the event there shall be any default in the payment of any installment under any duly acknowledged written agreement, then, upon notice of default, the Department shall suspend the license and registration or nonresident's operating privilege of the person defaulting, which shall not be restored unless and until (a) he deposits and thereafter maintains security as required under Section 56-9-351 in the amount the Department may determine or (b) two years shall have elapsed following the date when the security was required and during that period no action upon the agreement has been instituted in a court in this State.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-355. Driver or owner involved in accident may not obtain license or registration without compliance with article.

In the event the driver or the owner of a vehicle of a type subject to registration under the laws of this State, involved in an accident within this State, has no license or registration in this State, such driver shall not be allowed a license nor shall such owner be allowed to register any vehicle in this State until he has complied with the requirements of this article to the same extent that would be necessary if, at the time of the accident, he had held a license or been the owner of a vehicle registered in this State.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-356. Transmittal of record of nonresident's suspension to officials in nonresident's state.

When a nonresident's operating privilege is suspended pursuant to Section 56-9-351 or 56-9-354, the Department of Motor Vehicles shall transmit a certified copy of the record of such action to the official in charge of the issuance of licenses and registration certificates in the state in which such nonresident resides, if the law of such other state provides for action in relation thereto similar to that provided for in Section 56-9-357.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-357. Suspension of resident's license and registration upon notice of suspension in another state.

Upon receipt of such certification that the operating privilege of a resident of this State has been suspended or revoked in any such other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of a motor vehicle accident under circumstances which would require the Department of Motor Vehicles to suspend a nonresident's operating privilege had the accident occurred in this State, the Department shall suspend the license of such resident if he was the driver and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-358. Limit on security required; deposit.

The security required under this article shall be in the form and in the amount that the Department of Motor Vehicles may require but in no case in excess of the limits specified in Section 56-9-353 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person on whose behalf the deposit is made and, at any time while the deposit is in the custody of the Department or State Treasurer, the person depositing it may, in writing, amend the specifications of the persons on whose behalf the deposit is made to include additional persons; but a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-359. Reduction of amount of security.

The Department of Motor Vehicles may at any time reduce the amount of security ordered in any case if, in its judgment, the amount ordered is excessive. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative, notwithstanding the provisions of Section 56-9-360. In no case shall the Department reduce the amount of security to a sum less than two hundred dollars.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-360. Security to be in custody of State Treasurer; applications to which security may be put; return.

Security deposited in compliance with the requirements of this article shall be placed by the Department of Motor Vehicles in the custody of the State Treasurer and shall be applicable only to the payment of judgments rendered against the persons on whose behalf the deposit was made for damages arising out of the accident in question in an action at law begun not later than two years after the date of the accident or within two years after the date of deposit of any security under item (3) of Section 56-9-354, and this deposit or any balance thereof shall be returned to the depositor or his personal representative when evidence satisfactory to the Department has been filed with it that there has been a release from liability, a final adjudication of nonliability, a warrant for confession of judgment or a duly acknowledged agreement, in accordance with item (7) of Section 56-9-352 or whenever, after the expiration of two years from the date of the accident or within two years after the date of deposit of any security under item (3) of Section 56-9-354, the Department shall be given reasonable evidence that there is no action pending and no judgment rendered in the action left unpaid.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-361. Employment of suspended driver as operator of vehicle; employer's proof of financial responsibility.

Whenever any person whose license would otherwise have been suspended for failure to deposit security required pursuant to this article is, or later becomes, an operator in the employ of another owner, the Department of Motor Vehicles may in its discretion, notwithstanding any provisions in this chapter to the contrary, allow such person to retain his license to operate a vehicle of another owner, in the pursuit of such employment, if the employer-owner of the vehicle shall have furnished proof of financial responsibility covering the operation of any vehicle which such person may be permitted to operate. The Department shall designate the restrictions imposed pursuant to this section on that person's license.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-362. Actions or findings of Department of Motor Vehicles and security as not constituting evidence of negligence.

Neither the action taken by the Department of Motor Vehicles pursuant to this article, the findings, if any, of the Department upon which action is based nor the security filed as provided in this article shall be referred to in any way or be any evidence of the negligence of due care of either party at the trial of any action at law to recover damages.

HISTORY: 1978 Act No. 467 Section 1.

SECTION 56-9-363. Forms and affidavits substantiating claims for damages; driver's license suspension hearings; appeals.

The Department of Motor Vehicles may in the administration of this article prescribe such form as it may deem necessary and require individuals to file sworn affidavits substantiating any claims for damages should the need arise. Any person whose driving privilege becomes subject to suspension or is suspended under the provisions of this article may request a contested case hearing with the Office of Motor Vehicle Hearings prior to the suspension or within thirty days after written notice of the suspension in order that he might prove that no reasonable possibility exists that a civil court might enter a judgment against him as a result of the accident in question. Any person aggrieved by the decision of the hearing officer following the hearing may file an appeal with the Administrative Law Court in accordance with its appellate rules.

HISTORY: 1978 Act No. 467 Section 1; 2006 Act No. 381, Section 9, eff June 13, 2006; 2008 Act No. 279, Section 9, eff October 1, 2008.

ARTICLE 5

Proof of Financial Responsibility

SECTION 56-9-410. Courts shall report nonpayment of judgments to Department of Motor Vehicles.

Whenever any person fails within sixty days to satisfy any judgment, it shall be the duty of the clerk of court, or of the judge of a court which has no clerk, in which any judgment is rendered within this State to forward to the Department of Motor Vehicles immediately after the expiration of sixty days a certified copy of the judgment.

HISTORY: 1962 Code Section 46-735; 1952 (47) 1853.

SECTION 56-9-420. Report to home state of nonpayment of judgment against nonresident.

If the defendant named in any certified copy of a judgment reported to the Department of Motor Vehicles is a nonresident, the Department shall transmit a certified copy of the judgment to the official in charge of the issuance of licenses and registration certificates of the state of which the defendant is a resident.

HISTORY: 1962 Code Section 46-736; 1952 (47) 1853.

SECTION 56-9-430. Suspension of driver's license or privilege and registration for nonpayment of judgment; special restricted driver's licenses.

(A) The Department of Motor Vehicles upon receipt of a certified copy of judgment shall suspend the license and registration and any nonresident's operating privilege of any person against whom the judgment was rendered, except as otherwise provided in Sections 56-9-440 to 56-9-460 and 56-9-490.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-737; 1952 (47) 1853; 1999 Act No. 115, Section 9; 2001 Act No. 79, Section 2.J.

SECTION 56-9-440. Suspension of driver's license or privilege and registration for nonpayment of judgment; exception when judgment creditor consents.

If the judgment creditor consents in writing, in the form which the Department of Motor Vehicles may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, this may be allowed by the Department for six months from the date of the consent and thereafter until the consent is revoked in writing, notwithstanding default in the payment of the judgment or any installment thereof prescribed in Section 56-9-490, if the judgment debtor furnishes proof of financial responsibility.

HISTORY: 1962 Code Section 46-738; 1952 (47) 1853.

SECTION 56-9-450. Suspension of driver's license or privilege and registration for nonpayment of judgment; exception when insurance coverage proved.

Any person whose license, registration or nonresident's operating privilege has been suspended or is about to be suspended or shall become subject to suspension under the provisions of this article may be relieved from the effect of the judgment as prescribed in this article by filing with the Department of Motor Vehicles an affidavit stating that at the time of the accident upon which the judgment has been rendered the affiant was insured, that the insurer is liable to pay the judgment and the reason, if known, why the insurance company has not paid the judgment. He shall also file the original policy of insurance or a certified copy thereof, if available, and other documents which the Department may require to show that the loss, injury or damage for which the judgment was rendered was covered by the policy of insurance. If the Department is satisfied from these papers that the insurer was authorized to issue the policy of insurance at the time and place of issuing the policy and that the insurer is liable to pay the judgment, at least to the extent and for the amounts required in this chapter the Department shall not suspend the license or registration or nonresident's operating privilege or if already suspended shall reinstate them.

HISTORY: 1962 Code Section 46-739; 1952 (47) 1853.

SECTION 56-9-460. Permitting driver subject to suspension to operate vehicle of employer.

Whenever any person whose license would otherwise have been suspended for failure to satisfy a judgment as provided in Section 56-9-430 is, or later becomes, an operator in the employ of another owner, the Department of Motor Vehicles may in its discretion, notwithstanding any provisions in this chapter to the contrary, allow such person to retain his license to operate a vehicle of another owner in the pursuit of such employment, if the employer-owner of the vehicle shall have furnished proof of financial responsibility covering the operation of any vehicle which such person may be permitted to operate. The Department shall designate the restrictions imposed pursuant to this section on that person's license.

HISTORY: 1962 Code Section 46-740; 1952 (47) 1853.

SECTION 56-9-470. Suspension to continue until judgment paid and financial responsibility proved; effect of discharge in bankruptcy.

The license, registration and nonresident's operating privilege shall, except as otherwise provided in Section 56-9-460, remain suspended and shall not be renewed nor shall any license or registration be thereafter issued in the name of that person, including that person if not previously licensed, until every judgment is satisfied in full or to the extent provided in Section 56-9-480 and until the person gives proof of financial responsibility, subject to the exemptions stated in Sections 56-9-440 to 56-9-460 and 56-9-490.

A discharge in bankruptcy following the rendering of any judgment shall not relieve the judgment debtor from any of the requirements of this article.

HISTORY: 1962 Code Section 46-741; 1952 (47) 1853.

SECTION 56-9-480. Satisfaction of judgments; payments sufficient to satisfy requirements.

Judgments referred to in this article must, for the purpose of this article only, be considered satisfied:

(1) when twenty-five thousand dollars has been credited upon any judgments rendered in excess of that amount because of bodily injury to or death of one person as the result of any one accident;

(2) when, subject to the limit of twenty-five thousand dollars because of bodily injury to or death of one person, the sum of fifty thousand dollars has been credited upon any judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or

(3) when twenty-five thousand dollars has been credited upon any judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident.

Payments made in settlement of any claims because of bodily injury, death, or property damage arising from a motor vehicle accident must be credited in reduction of the amounts provided for in this section.

HISTORY: 1962 Code Section 46-742; 1952 (47) 1853; 1959 (51) 567; 1987 Act No. 155, Section 7; 2013 Act No. 47, Section 4, eff January 1, 2014.

SECTION 56-9-490. Installment payment of judgment; effect of default.

A judgment debtor upon due notice to the judgment creditor may apply to the court in which the judgment was rendered for the privilege of paying the judgment in installments, and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may order and fix the amounts and times of payment of the installments.

The Department of Motor Vehicles shall not suspend a license, registration or nonresident's operating privilege and shall restore any license, registration or nonresident's operating privilege suspended following nonpayment of a judgment when the judgment debtor gives proof of financial responsibility and obtains an order permitting the

payment of the judgment in installments and while the payment of any installment is not in default.

In the event the judgment debtor fails to pay any installment as specified by the order, then upon notice of the default the Department shall suspend the license, registration or nonresident's operating privilege of the judgment debtor until the judgment is satisfied, as provided in this article.

HISTORY: 1962 Code Section 46-743; 1952 (47) 1853.

SECTION 56-9-500. Suspension of registration upon suspension or revocation of license; continuation of suspensions until financial responsibility proved.

Whenever the Department of Motor Vehicles, under any law of this State, suspends or revokes the license of any person upon receiving a record of conviction or forfeiture of bail and in all cases where the Department suspends or revokes the driver's license of any person under lawful authority possessed by the Department, except in those cases provided for in Section 56-1-270, in which case the license only shall be suspended and not the registration, the Department shall also suspend the registration for all motor vehicles registered in the name of that person, except that it shall not suspend the registration, unless otherwise required by law, if that person has previously given or shall immediately give and thereafter maintain proof of financial responsibility with respect to all motor vehicles registered by him. The license and registration shall remain suspended or revoked and shall not at any time thereafter be renewed nor shall any license be thereafter issued to that person nor shall any motor vehicle be thereafter registered in the name of that person until permitted under the motor vehicle laws of this State and not then until he shall give and thereafter maintain proof of financial responsibility.

When such responsibility is provided for under the provisions of Section 56-9-550, certification shall be furnished by the insurance company to the Department within fifteen days.

HISTORY: 1962 Code Section 46-744; 1952 (47) 1853; 1958 (50) 1662; 1962 (52) 1975; 1974 (58) 2718.

SECTION 56-9-505. Waiver of financial responsibility requirements upon proof of payment of property tax.

An individual whose driver's license or motor vehicle registration has been suspended for failure to pay property taxes may request that the Department of Motor Vehicle waive the financial responsibility requirements provided for in Chapter 9 of Title 56, upon providing proof to the department that such taxes have been paid.

HISTORY: 1996 Act No. 459, Section 217.

SECTION 56-9-510. Suspension or revocation of nonresident's operating privilege upon conviction to continue until financial responsibility proved.

Whenever the Department of Motor Vehicles suspends or revokes a nonresident's operating privilege by reason of a conviction or forfeiture of bail, this privilege shall remain suspended or revoked unless that person shall have previously given or shall immediately give and thereafter maintain proof of financial responsibility.

HISTORY: 1962 Code Section 46-745; 1952 (47) 1853.

SECTION 56-9-520. Denial of license or registration upon certain convictions until financial responsibility proved.

If a person is not licensed but by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the suspension or revocation of license, for operating a motor vehicle upon the highways without being licensed to do so or for operating an unregistered motor vehicle upon the highways, no license shall be thereafter issued to that person and no motor vehicle shall continue to be registered or thereafter be registered in his name until he shall give and thereafter maintain proof of financial responsibility.

HISTORY: 1962 Code Section 46-746; 1952 (47) 1853.

SECTION 56-9-530. Special exception for certain first convictions for driving without driver's license.

Notwithstanding any provision of law to the contrary, any person who has never been issued a license to operate a motor vehicle on the highways of the State of South Carolina and who has been convicted one time of operating a motor vehicle on the highways of the State without a license while driving an insured vehicle shall not, by reason of that fact alone, be required to prove financial responsibility.

In addition, any person who has his driving privilege revoked pursuant to Section 56-1-510 is not, by reason of that fact alone, required to furnish proof of financial responsibility.

HISTORY: 1962 Code Section 46-746.1; 1963 (53) 501; 1988 Act No. 559, Section 2.

SECTION 56-9-540. Methods of proving financial responsibility.

Proof of financial responsibility when required under this chapter may be given by filing:

(1) A certificate of insurance as provided in Section 56-9-550 or Section 56-9-560;

(2) A bond as provided in Section 56-9-570; or

(3) A certificate of deposit of money or securities as provided in Section 56-9-580.

HISTORY: 1962 Code Section 46-747; 1952 (47) 1853.

SECTION 56-9-550. Certificate or notice of insurance as proof; contents, terms, and cancellation.

Proof of financial responsibility may be furnished by filing with the Department of Motor Vehicles the written certificate or notice by magnetic or electronic media in a manner satisfactory to the department of any insurance carrier authorized to do business in this State certifying that there is in effect a motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or notice shall give the date of the motor vehicle liability policy, which must be the same as the effective date of the certificate or notice and shall designate by explicit description or by appropriate reference all motor vehicles covered, unless the policy is issued to a person who is not the owner of a motor vehicle. The policy must be written for a minimum term of six months. A certificate or notice of insurance shall remain in full force and effect for a period of at least ninety days unless the certificate or notice is canceled by the insurance company for some reason other than nonpayment of premium. Should a certificate or notice of insurance be canceled after ninety days for nonpayment of premium, the insurance company issuing the certificate or notice immediately shall notify the department that the reason for cancellation is for nonpayment of premium. Should a certificate or notice of insurance be canceled for any reason other than for nonpayment of premium, the insurance company issuing the certificate or notice immediately shall notify the department that the cancellation is not for nonpayment of premium. The department may refuse acceptance of the certificate or notice of insurance required under this section if the certificate or notice is filed:

(1) by an agent or company found to be in violation of any of the provisions of this chapter; or

(2) for a person who previously has had a certificate or notice canceled for nonpayment of premium, unless the policy under which the certificate or notice is issued is certified to be noncancellable for a period of one year for nonpayment of premium.

No motor vehicle may be or may continue to be registered in the name of a person required to file proof of financial responsibility unless the motor vehicle is designated in the certificate or notice.

HISTORY: 1962 Code Section 46-748; 1952 (47) 1853; 1959 (51) 567; 1977 Act No. 80 Section 3; 1992 Act No. 427, Section 1.

SECTION 56-9-560. Certificate of insurance as proof; certificate furnished by nonresident; effect of default by unauthorized insurer.

The nonresident owner of a motor vehicle not registered in this State may give proof of financial responsibility by filing with the Department of Motor Vehicles written certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in the certificate is registered or, if the nonresident does not own a motor vehicle, then in the state in which the insured resides, provided the certificate otherwise conforms with the provisions of this chapter, and the Department shall accept it upon condition that the insurance carrier complies with the following provisions with respect to the policies certified:

(1) The insurance carrier shall execute a power of attorney authorizing the Department to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this State; and

(2) The insurance carrier shall agree in writing that the policies shall be construed to conform with the laws of this State relating to the terms of motor vehicle liability policies issued in this State.

If any insurance carrier not authorized to transact business in this State, which has qualified to furnish proof of financial responsibility, defaults in any of these undertakings or agreements, the Department shall not thereafter accept as proof any certificate of that carrier whether formerly filed or thereafter tendered as proof, so long as the default continues.

HISTORY: 1962 Code Section 46-749; 1952 (47) 1853.

SECTION 56-9-570. Bond as proof; qualifications of sureties; bond as lien on real estate of individual sureties; action on bond.

Proof of financial responsibility may be evidenced by the bond of a surety company duly authorized to transact business within this State or a bond with at least two individual sureties, each owning real estate within this State and together having equities equal in value to at least twice the amount of the bond, which real estate shall be scheduled in the bond approved by a judge of a court of record, which bond shall be conditioned for payment of the amounts specified in item (13) of Section 56-9-20. The bond shall be filed with the Department of Motor Vehicles and shall not be cancelable except after ten days' written notice to the Department. The bond shall constitute a lien in favor of the State upon the real estate scheduled of any surety. Such lien shall exist in favor of any holder of a final judgment against the person who has filed the bond for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damage because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use or operation of a motor vehicle after the bond was filed, upon the filing of notice to that effect by the Department in the office of the proper clerk of court of the county or city where the real estate shall be located. Any surety scheduling real estate security shall furnish satisfactory evidence of title and the nature and extent of all encumbrances thereon and the value of the surety's interest therein in the manner which the judge of the court of record may require. The notice filed by the Department shall, in addition to other matters which are considered to be pertinent by the Department, contain a legal description of the real estate scheduled, the name of the holder of the record title, the amount for which it stands as security and the name of the person in whose behalf proof is being made. Upon the filing of the notice, the clerk of court shall retain it as part of the records of the court and shall enter upon the record the date and hour of filing, the name of the surety, the name of the titleholder of record, the description of the real estate and a notation that a lien is charged on the real estate pursuant to the notice filed under this section.

If a judgment rendered against the principal on the bond shall not be satisfied within sixty days after it has become final, the judgment creditor may for his own use and benefit and at his sole expense bring an action in the name of the State against the company or persons executing the bond, including an action or proceeding to foreclose any lien that may exist upon the real estate of a person who executed the bond. An action to foreclose any lien upon real estate scheduled by any surety under the provisions of this section shall be brought in the same manner as is provided for the foreclosure of real estate mortgages in this State.

HISTORY: 1962 Code Section 46-750; 1952 (47) 1853.

SECTION 56-9-580. Certificate of deposit of cash or securities as proof; amount; deposit held to satisfy judgment.

Proof of financial responsibility may be evidenced by the certificate of the State Treasurer that the person named therein has deposited with him thirty-five thousand dollars in cash or securities such as may legally be purchased by savings banks or for trust funds of a market value of thirty-five thousand dollars. The State Treasurer may not accept the deposit and issue a certificate therefor and the Department of Motor Vehicles may not accept the certificate unless accompanied by evidence that there are no unsatisfied judgments of any character against the depositor in the county where the depositor resides.

The deposit must be held by the State Treasurer to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against the person making the deposit for damages, including damage for care and loss of service, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle after the deposit was made. Money or securities deposited are not subject to attachment or execution unless the attachment or execution arises out of a suit for damages which this chapter covers.

HISTORY: 1962 Code Section 46-750.1; 1952 (47) 1853; 1960 (51) 1584; 1977 Act No. 80 Section 4; 1987 Act No. 155, Section 8.

SECTION 56-9-590. Owner may give proof for employee or member of household; restrictions on license.

Whenever any person required to give proof of financial responsibility under this chapter is, or later becomes, an operator in the employ of any owner or is, or later becomes, a member of the immediate family or household of the owner, the Department of Motor Vehicles shall accept proof given by the owner in lieu of proof by the other person to permit that person to operate a motor vehicle for which the owner has given proof as provided in this chapter. The Department shall designate the restrictions imposed by this section on that person's license.

HISTORY: 1962 Code Section 46-750.2; 1952 (47) 1853.

SECTION 56-9-600. Substitution of other adequate proof.

The Department of Motor Vehicles shall consent to the cancellation of any bond or certificate of insurance or the Department shall direct and the State Treasurer shall return the money or securities to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this chapter.

HISTORY: 1962 Code Section 46-750.3; 1952 (47) 1853.

SECTION 56-9-610. Other proof may be required; suspension pending filing of proof.

Whenever any proof of financial responsibility filed under the provisions of this chapter no longer fulfills the purposes for which required, the Department of Motor Vehicles shall require other proof as required by this chapter and shall suspend the license and registration or the nonresident's operating privilege pending the filing of other proof.

HISTORY: 1962 Code Section 46-750.4; 1952 (47) 1853.

SECTION 56-9-620. Cancellation or return of proof; waiver of requirements of filing proof.

The Department of Motor Vehicles shall upon request consent to the immediate cancellation of any bond or certificate of insurance, or shall return to the person entitled thereto any money or securities deposited pursuant to this chapter as proof of financial responsibility, or the Department shall waive the requirement of filing proof, in any of the following events:

(1) At any time after three years from the date the proof was required when, during the three year period preceding the request, the Department has not received record of a conviction or a forfeiture of bail which would require or permit the suspension or revocation of the license, registration, or nonresident's operating or registration privilege of the person by or for whom the proof was furnished;

(2) In the event of the death of the person on whose behalf the proof was filed or the permanent incapacity of the person to operate a motor vehicle; or

(3) In the event the person who has given proof surrenders his license and registration to the Department;

Provided, however, the Department shall not consent to the cancellation of any bond or the return of any money or securities in the event any action for damages upon a liability covered by the proof is then pending or any judgment upon this liability is then unsatisfied or in the event the person who has filed the bond or deposited the money or securities has, within one year immediately preceding the request, been involved as an operator or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of these facts or that he has been released from all of his liability or has been finally adjudicated not to be liable for the injury or damage shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the Department.

HISTORY: 1962 Code Section 46-750.5; 1952 (47) 1853; 1959 (51) 567; 1978 Act No. 467 Section 2.

SECTION 56-9-630. Re-establishment of cancelled or returned proof.

Whenever any person whose proof has been cancelled or returned under item (3) of Section 56-9-620 applies for a license or registration within a period of three years from the date proof was originally required, this application shall be refused unless the applicant shall re-establish the proof for the remainder of the three year period.

HISTORY: 1962 Code Section 46-750.6; 1952 (47) 1853; 1959 (51) 567; 1963 (53) 501.

EXHIBIT H

ogle South Carolina Laws

All News Images Maps Shopping More Settings Tools

About 128,000,000 results (0.93 seconds)

South Carolina Legislature Mobile - SC Legislature

https://www.scstatehouse.gov › code › statmast

Nov 1, 2018 - The **South Carolina** Legislative Council is offering access to the 1976 **South Carolina** Code of **Laws** on the Internet as a service to the public.

Title 16 · Title 56 · Search the Full Text of the ... · Title 44

You visited this page on 8/5/19.

People also ask

Does South Carolina have a Romeo and Juliet law?

How are laws passed in South Carolina?

What is the state code for South Carolina?

What is a felony in SC?

Feedback

South Carolina Legislature Mobile - SC Legislature

https://www.scstatehouse.gov › code › title16

South Carolina Legislature Mobile. **South Carolina** Law > Code of **Laws** > Title 16. **South Carolina** Code of **Laws** Title 16 - Crimes and Offenses ...

South Carolina Law - FindLaw - State Laws

https://statelaws.findlaw.com › south-carolina-law

Welcome to the South Carolina Law section of FindLaw's State Law collection. This section contains user-friendly summaries of **South Carolina laws** as well as ...

South Carolina Criminal Laws

https://statelaws.findlaw.com › south-carolina-law › south-carolina-crimina...

South Carolina Criminal **Laws**. ... **South Carolina's** criminal **laws** cover unlawful conduct ranging from the standard physical crimes like murder, kidnapping, and theft to more complicated crimes like conspiracy, tax evasion, and computer crime

EXHIBIT I

South Carolina Code of Laws

Search the Full Text of the Code of Laws

DISCLAIMER

The South Carolina Legislative Council is offering access to the 1976 South Carolina Code of Laws on the Internet as a service to the public. The 1976 South Carolina Code on the General Assembly's website is now current through the 2018 Session of the General Assembly. The 1976 Code of Laws on this website will be updated online periodically; however, the official version of the 1976 Code of Laws remains the print version which will continue to be updated on a yearly basis before the start of each legislative session. The 1976 South Carolina Code, consisting only of Code text, numbering, history, and Effect of Amendment, Editor's, and Code Commissioner's notes may be copied from this website at the reader's expense and effort without need for permission. The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the South Carolina Code available on the South Carolina General Assembly's website, this version of the South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify the Legislative Services Agency at LSA@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LSA will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

OTHER LEGAL RESEARCH DATA BASES:
Code of Regulations
Global Legal Information Catalog - Law Library of Congress

This page last updated: November 1, 2018 3:30 PM

EXHIBIT J

Chamber Video
Senate (Audio Only) House (Audio Only)
Video Schedule
Video Archives

How do I...
Quick Search
Find Your Legislators
Contact Your Legislator
Legislation
Track Legislation
Multi-Criteria Search
Research
South Carolina Law
Legislative Manual
Student Connection
Visiting the State House
Archives
State Agency Websites
Media Links

South Carolina Code of Laws
Title 56 - Motor Vehicles

EXHIBIT K

South Carolina Legislature

South Carolina Law > **Code of Laws** > **Title 56**

South Carolina Code of Laws
Unannotated

Title 56 - Motor Vehicles

CHAPTER 1

Driver's License

ARTICLE 1

General Provisions

SECTION 56-1-5. Department of Motor Vehicles Established; transfer of power from the Department of Public Safety; appointment, powers, and duties of the Executive Director; independent review.

(A) The South Carolina Department of Motor Vehicles is hereby established as an administrative agency of the state government.

(B) Upon the signature of the Governor, all functions, powers, duties, responsibilities, and authority statutorily exercised by the Motor Vehicle Division and the Motor Carrier Services unit within the Department of Public Safety are transferred to and devolved upon the Department of Motor Vehicles.

(C) The Executive Director of the Department of Motor Vehicles shall be appointed by the Governor and confirmed by the Senate. The executive director shall serve at the pleasure of the Governor.

(D) The executive director is the executive and administrative head of the Department of Motor Vehicles. The executive director shall administer the policies defined by the department and the affairs of the department.

(E) The executive director may appoint assistants, deputies, and employees as the executive director considers necessary and proper to administer the affairs of the department and may prescribe their duties, powers, and functions.

(F) The Legislative Audit Council shall conduct an independent review of the Department of Motor Vehicles every three years.

HISTORY: 2003 Act No. 51, Section 3.

SECTION 56-1-10. Definitions.

For the purpose of this title, unless otherwise indicated, the following words, phrases, and terms are defined as follows:

(1) "Driver" means every person who drives or is in actual physical control of a vehicle.

(2) "Operator" means every person who drives or is in actual physical control of a motor vehicle or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(3) "Owner" means a person, other than a lienholder, having the property interest in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. This term also includes a person to whom a moped is registered if the moped is not titled.

(4) "Department" means the Department of Motor Vehicles when the term refers to the duties, functions, and responsibilities of the former Motor Vehicle Division of the Department of Public Safety and means the Department of Public Safety otherwise and in Section 56-3-840.

(5) "State" means a state, territory, or possession of the United States and the District of Columbia, or the Commonwealth of Puerto Rico.

(6) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part of it is open to the use of the public for purposes of vehicular travel.

(7) "Motor vehicle" means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

(8) "Motorcycle" means every motor vehicle having no more than two permanent functional wheels in contact with the ground or trailer and having a saddle for the use of the rider, but excluding a tractor and a moped.

(9) "Nonresident" means every person who is not a resident of this State.

(10) "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this State pertaining to the operation by the person of a motor vehicle, or the use of a vehicle owned by the person, in this State.

(11) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(12) "Cancellation of driver's license" means the annulment or termination by formal action of the Department of Motor Vehicles of a person's driver's license because of some error or defect in the license or because the licensee is no longer entitled to the license; the cancellation of a license is without prejudice, and application for a new license may be made at any time after the cancellation.

(13) "Revocation of driver's license" means the termination by formal action of the Department of Motor Vehicles of a person's driver's license or privilege to operate a motor vehicle on the public highways, which privilege to operate is not subject to renewal or restoration, except that an application for a new license may be presented and acted upon by the department.

(14) "Suspension of driver's license" means the temporary withdrawal by formal action of the Department of Motor Vehicles of a person's driver's license or privilege to operate a motor vehicle on the public highways, which temporary withdrawal shall be as specifically designated.

(15) "Autocycle" means every motor vehicle having no more than three permanent functional wheels in contact with the ground, having seating that does not require the

operator to straddle or sit astride it and having an automotive-type steering device, but excluding a tractor or motorcycle three-wheel vehicle.

(16) "Alcohol" means a substance containing any form of alcohol including, but not limited to, ethanol, methanol, propanol, and isopropanol.

(17) "Alcohol concentration" means:

(a) the number of grams of alcohol for each one hundred milliliters of blood by weight; or

(b) as determined by the South Carolina Law Enforcement Division for other bodily fluids.

(18) "Motorcycle three-wheel vehicle" means every motor vehicle having no more than three permanent functional wheels in contact with the ground to include motorcycles with detachable side cars, having a saddle type seat for the operator, and having handlebars or a motorcycle type steering device but excluding a tractor or autocycle.

(19) "Low speed vehicle" or "LSV" means a four-wheeled motor vehicle, other than an all terrain vehicle, whose speed attainable in one mile is more than twenty miles an hour and not more than twenty-five miles an hour on a paved level surface, and whose gross vehicle weight rating (GVWR) is less than three thousand pounds.

(20) "All terrain vehicle" or "ATV" means a motor vehicle measuring fifty inches or less in width, designed to travel on three or more wheels and designed primarily for off-road recreational use, but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

(21) "Operator" or "driver" means a person who is in actual physical control of a motor vehicle.

(22) "Person" means every natural person, firm, partnership, trust, company, firm, association, or corporation. Where the term "person" is used in connection with the registration of a motor vehicle, it includes any corporation, association, partnership, trust, company, firm, or other aggregation of individuals which owns or controls the motor vehicle as actual owner, or for the purpose of sale or for renting, as agent, salesperson, or otherwise.

(23) "Office of Motor Vehicle Hearings" means the Office of Motor Vehicle Hearings created by Section 1-23-660. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct all contested case hearings or administrative hearings arising from department actions.

(24) "Administrative hearing" means a "contested case hearing" as defined in Section 1-23-310. It is a hearing conducted pursuant to the South Carolina Administrative Procedures Act.

(25) "Home jurisdiction" means the jurisdiction which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(26) "Moped" means a cycle, defined as a motor vehicle, with or without pedals, to permit propulsion by human power, that travels on not more than three wheels in contact with the ground whether powered by gasoline, electricity, alternative fuel, or a hybrid combination thereof. Based on the engine or fuel source, the moped must be equipped not to exceed the following limitations: a motor of fifty cubic centimeters; or designed to have an input exceeding 750 watts and no more than 1500 watts. If an internal combustion engine is used, the moped must have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(27) "Daylight hours' means after six o'clock a.m. and no later than six o'clock p.m. However, beginning on the day that daylight saving time goes into effect through the day that daylight saving time ends, "daylight hours' means after six o'clock a.m. and no later than eight o'clock p.m. All other hours are designated as nighttime hours.

(28) "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

HISTORY: 1962 Code Section 46-151; 1952 Code Section 46-151; 1942 Code Section 5982; 1932 Code Section 5982; 1930 (36) 1057; 1959 (51) 421; 1986 Act No. 528, Section 2; 1992 Act No. 486, Sections 2, 3; 1993 Act No. 181, Section 1297; 1996 Act No. 459, Sections 68A-68D; 1998 Act No. 434, Section 1; 2000 Act No. 375, Section 1; 2003 Act No. 51, Section 11; 2005 Act No. 170, Section 3, eff 6 months after approval by the Governor (approved June 7, 2005); 2006 Act No. 381, Section 3, eff June 13, 2006; 2008 Act No. 201, Section 1, eff 12:00 p.m., February 10, 2009; 2008 Act No. 279, Section 2, eff October 1, 2008; 2010 Act No. 216, Section 1, eff June 7, 2010; 2017 Act No. 34 (S.444), Sections 1, 2, eff November 10, 2017; 2017 Act No. 89 (H.3247), Section 1, eff November 19, 2018.

Code Commissioner's Note

At the direction of the Code Commissioner, the amendments made by 2017 Act No. 34 and 2017 Act No. 89 were read together.

Effect of Amendment

2017 Act No. 34, Section 1, rewrote (15), relating to the definition of "autocycle".

2017 Act No. 34, Section 2, in (18), substituted "autocycle" for "automotive three-wheel vehicle".

2017 Act No. 89, Section 1, in (3), inserted "interest in" following "having the property", and added the last sentence, relating to the person to whom a moped is registered; in (8), added "and a moped" following "excluding a tractor"; in (19), inserted "gross vehicle weight rating"; and added (26) to (28), relating to the definitions of "moped", "daylight hours", and "vehicle".

SECTION 56-1-15. Administration of driver's license examination; random testing of driver's license applicants; contractor's failure to conform to licensing laws.

(A) The Department of Motor Vehicles must enter into contracts with persons, corporations, or governmental subdivisions, including public schools, in localities throughout the State to administer the portion of the driver's license examination that tests the driver's license applicant's ability to read and understand highway signs that regulate, warn, and direct traffic, and his knowledge of the traffic laws of the State, and the actual demonstration of his ability to exercise ordinary and reasonable control in the operation of the type of motor vehicle for which the license is sought as contained in Section 56-1-130(A). The department must supervise the provision of services contained in this subsection. The department must supply driver education instructors appropriate testing materials to administer the examinations contained in this section. A person or corporation administering an examination pursuant to this section may charge a fee in excess of the fee charged by the department for the examination.

(B) The department must randomly test driver's license applicants who successfully complete the driver's license examinations pursuant to subsection (A) to ensure that the driver's license instructors are properly certifying that their students have successfully completed a driver's license examination.

(C) If through testing or other review procedures, the department determines that a contractor is not conforming to the law and regulations applicable to licensing, it may:

(1) suspend the authority of a particular individual or entity operating under the contract to administer the tests;

(2) suspend the contract;

(3) cancel the contract.

(D) The department must test randomly a driver's license applicant only at the time the applicant is seeking his initial driver's license at the Department of Motor Vehicles.

HISTORY: 2003 Act No. 51, Section 5.

SECTION 56-1-20. Driver's license required; surrender and disposition of out-of-state licenses; local licenses.

No person, except those expressly exempted in this article shall drive any motor vehicle upon a highway in this State unless such person has a valid motor vehicle driver's

license issued to him under the provisions of this article. No person shall receive a motor vehicle driver's license unless and until he surrenders to the Department of Motor Vehicles all valid operator's licenses in his possession issued to him by any other state. All surrendered licenses shall be returned by the Department to the issuing department, agency or political subdivision. No person shall be permitted to have more than one valid motor vehicle driver's license or operator's license at any time.

Any person holding a currently valid motor vehicle driver's license issued under this article may exercise the privilege thereby granted upon all streets and highways in the State and shall not be required to obtain any other license to exercise such privilege by any county, municipal or local board or body having authority to adopt local police regulations; provided, however, that this provision shall not serve to prevent a county, municipal or local board from requiring persons to obtain additional licenses to operate taxis, buses, or other public conveyances.

HISTORY: 1962 Code Section 46-152; 1952 Code Section 46-152; 1942 Code Section 5983; 1932 Code Section 5983; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-25. Disclosure of confidential information during transfer of power to Department of Motor Vehicles.

It is unlawful for a person to disclose any confidential information which belongs to the Department of Public Safety Motor Vehicle Division to an individual or entity that is not permitted to have access to the information during or after the transfer of the confidential information from the Motor Vehicle Division to the Department of Motor Vehicles. A person who violates a provision contained in this section is guilty of a misdemeanor and, upon conviction, must be imprisoned for not more than one year and fined not less than one thousand dollars.

HISTORY: 2003 Act No. 51, Section 19.

SECTION 56-1-30. Persons exempt from licensing requirements.

The following persons are exempt from licenses under this chapter:

(1) Any employee of the United States Government while operating a motor vehicle owned by or leased to the United States Government and being operated on official business, unless the employee is required by the United States Government or the Federal agency by which he is employed to have a state driver's license;

(2) A nonresident who is at least sixteen years of age and who has in his immediate possession a valid operator's or chauffeur's license issued to him in his home state or country may operate a motor vehicle, but a person may not claim nonresidence exemption under this provision who does not maintain a permanent residence address in the state or country of which he holds a valid and current operator's or chauffeur's license at which he regularly receives his mail and which address is on file with the motor vehicle authorities of that state or country; also, a person may not claim nonresidence exemption under this provision who for all other intents and purposes has or may remove his residence into this State;

(3) Any nonresident who is at least eighteen years of age and whose home state or country does not require the licensing of operators may operate a motor vehicle for a period of not more than ninety days in any calendar year, if the motor vehicle is duly registered in the home state or country of the nonresident and a nonresident on active duty in the Armed Services of the United States who has a valid license issued by his home state and the nonresident's spouse or dependent who has a valid license issued by his home state;

(4) A person operating or driving implements of husbandry temporarily drawn, propelled, or moved upon a highway. Implements of husbandry include, but are not limited to, farm machinery and farm equipment other than a passenger car.

(5) Any person on active duty in the Armed Services of the United States who has in his immediate possession a valid driver's license issued in a foreign country or by the Armed Services of the United States may operate a motor vehicle in this State for a period of not more than ninety days from the date of his return to the United States; and

(6) A citizen of a foreign jurisdiction whose licensing procedure is at least as strict as South Carolina's, as determined by the Department of Motor Vehicles, who is at least eighteen years of age, who is employed in South Carolina, and who has a valid driver's license issued by that jurisdiction may drive in this State for five years if the foreign jurisdiction provides a reciprocal arrangement for South Carolina residents. The provisions of this item also shall apply to the dependents of foreign nationals who qualify under this section.

HISTORY: 1962 Code Section 46-153; 1952 Code Sections 46-153 to 46-155; 1942 Code Sections 5986, 6000; 1932 Code Sections 5986, 6000; 1930 (36) 1057; 1940 (41) 1680; 1959 (51) 421; 1988 Act No. 362, Sections 2, 3; 1990 Act No. 320, Section 1; 1998 Act No. 258, Section 6; 1999 Act No. 16, Section 1; 2017 Act No. 89 (H.3247), Section 2, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 2, in the introductory paragraph, substituted "chapter" for "article"; in (1), substituted "state" for "State"; and made a nonsubstantive change.

SECTION 56-1-35. Driver's license for members of the armed services and dependents.

Section effective until November 24, 2019. See, also, Section 56-1-35 effective November 24, 2019.

A member of the Armed Services of the United States and his dependents, who become permanent residents of this State, have ninety days to apply for a South Carolina driver's license, and they must be issued a license without examination except for the visual test required by Section 56-1-210 if they have a valid driver's license from another state or territory of the United States, or the District of Columbia. The license expires on the licensee's birth date which occurs within the fourth calendar year in which the license is issued.

HISTORY: 1988 Act No. 362, Section 1.

SECTION 56-1-35. Driver's license for members of the armed services and dependents.

Section effective November 24, 2019. See, also, Section 56-1-35 effective until November 24, 2019.

A member of the armed services of the United States or his dependent who becomes a permanent resident of this State, has ninety days to apply for a South Carolina driver's license, and he must be issued a license without examination except for the visual test required by Section 56-1-210 if he has a valid driver's license from another state or territory of the United States. The license expires eight years from the date of issue.

HISTORY: 1988 Act No. 362, Section 1; 2019 Act No. 86 (H.3789), Section 1, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 1, rewrote the section.

SECTION 56-1-40. Persons who may not be licensed or have their license renewed; beginner's permit.

The Department of Motor Vehicles may not issue a motor vehicle driver's license to or renew the driver's license of a person:

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

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

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

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

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

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

Text of (7) effective until November 24, 2019.

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

Text of (7) effective November 24, 2019.

(7) who is not a resident of South Carolina. For purposes of determining eligibility to obtain or renew a South Carolina driver's license, the term "resident of South Carolina" shall expressly include all persons authorized by the United States Department of Justice, the United States Immigration and Naturalization Service, or the United States Department of State to live, work, or study in the United States on a temporary or permanent basis who present documents indicating their intent to live, work, or study in South Carolina. These persons and their dependents are eligible to obtain a motor vehicle driver's license or have one renewed pursuant to this provision. A driver's license issued pursuant to this item to a person who is not a lawful permanent resident of the United States shall expire on the later of: (1) the expiration date of the driver's license applicant's authorized period of stay in the United States; or (2) the expiration date of the driver's license applicant's employment authorization document. However, a driver's license issued pursuant to this item is valid for at least one year but not more than eight years from the date of its issue. Under this provision, a driver's license valid for not more than four years must be issued upon payment of a fee of twelve dollars and fifty cents. A driver's license that is valid for more than four years must be issued upon payment of a fee of twenty-five dollars. In addition, a person pending adjustment of status who presents appropriate documentation to the Department of Motor Vehicles shall be granted a one-year extension of his driver's license which is renewable annually;

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

HISTORY: 1962 Code Section 46-154; 1952 Code Section 46-162; 1942 Code Section 5999; 1932 Code Section 5999; 1930 (36) 1057; 1959 (51) 421, 564; 1960 (51) 1634; 1966 (54) 2424; 1993 Act No. 26, Section 1; 1994 Act No. 497, Part II, Section 121D; 1996 Act No. 459, Section 69; 1998 Act No. 258, Section 7; 2002 Act No. 181, Section 6; 2002 Act No. 282, Section 1; 2019 Act No. 86 (H.3789), Section 2, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 2, in the fifth sentence, deleted "in no event shall" following "However,", and substituted "is valid for at least one year but not more than eight years" for "expire less than one year or more than five years", and inserted the sixth and seventh sentences, relating to payments for a driver's license valid for not more than four years and a driver's license valid for more than four years.

SECTION 56-1-50. Beginner's permit; hours and conditions of vehicle operation; renewal and fee; driver's training course; eligibility for full licensure.

(A) A person who is at least fifteen years of age may apply to the department for a beginner's permit. After the applicant has passed successfully all parts of the examination other than the driving test, the department may issue to the applicant a beginner's permit. A beginner's permit entitles the permittee having the permit in his immediate possession to drive a motor vehicle on public highways under the conditions contained in this section for not more than twelve months.

(B) The permit is valid only in the operation of:

(1) vehicles after six o'clock a.m. and not later than midnight. Except as provided in subsection (E), while driving, the permittee must be accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. A permittee may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7);

(2) motorcycles.

While driving a motorcycle during nighttime hours, the permittee must be accompanied by a motorcycle-licensed driver twenty-one years of age or older who has had at least one year of driving experience.

(C) The accompanying driver must:

(1) occupy a seat beside the permittee when the permittee is operating a motor vehicle; or

(2) be within a safe viewing distance of the permittee when the permittee is operating a motorcycle or a moped.

(D) A beginner's permit may be renewed or a new permit issued for additional periods of twelve months. However, the department may refuse to renew or issue a new permit where the examining officer has reason to believe the applicant has not made a bona fide effort to pass the required driver's road test or does not appear to the examining officer to have the aptitude to pass the road test. The fee for every beginner's or renewal permit is two dollars and fifty cents, and the permit must bear the full name, date of birth, and residence address and a brief description and color photograph of the permittee and a facsimile of the signature of the permittee or a space upon which the permittee shall write his usual signature with pen and ink immediately upon receipt of the permit. A permit is not valid until it has been signed by the permittee.

(E) The following persons are not required to obtain a beginner's permit to operate a motor vehicle:

(1) a student at least fifteen years of age regularly enrolled in a high school of this State which conducts a driver's training course while the student is participating in the course and when accompanied by a qualified instructor of the course; and

(2) a person fifteen years of age or older enrolled in a driver training course conducted by a driver training school licensed under Chapter 23 of this title. However, this person at all times must be accompanied by an instructor of the school and may drive only an automobile owned or leased by the school which is covered by liability insurance in an amount not less than the minimum required by law.

(F) A person who has never held a form of license evidencing previous driving experience first must be issued a beginner's permit and must hold the permit for at least one hundred eighty days before being eligible for full licensure.

(G) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(H) A person who holds a motorcycle beginner's permit who has failed the motorcycle driver's license test three or more times must successfully complete a South Carolina

technical college motorcycle safety course, or its equivalent, in lieu of passing the motorcycle driver's license test, in order to obtain a motorcycle license. All courses must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in "Manual of Rules and Procedures" published by the National Safety Council. All courses must include successful completion of an examination equivalent to the Department of Motor Vehicles motorcycle skills test. These programs are subject to Section 56-1-15.

HISTORY: 1962 Code Section 46-155; 1952 Code Section 46-167; 1949 (46) 271; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421, 564; 1965 (54) 649; 1966 (54) 2424, 2661; 1967 (55) 557, 935; 1977 Act No. 19; 1980 Act No. 358, Section 1; 1992 Act No. 486, Section 4; 1994 Act No. 497, Part II, Section 121E; 1998 Act No. 258, Section 8; 2002 Act No. 181, Section 1; 2004 Act No. 280, Section 1; 2005 Act No. 176, Section 5, eff June 14, 2005; 2016 Act No. 267 (S.689), Section 1, eff June 7, 2016; 2017 Act No. 89 (H.3247), Section 3, eff November 19, 2018; 2018 Act No. 127 (S.456), Section 1, eff February 5, 2018; 2018 Act No. 259 (H.4676), Section 1, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 3, amended the section, deleting the provisions that allowed a permit holder to operate a moped, revising the time of day and conditions upon which a permittee may operate a motorcycle, and deleting an obsolete provision.

2018 Act No. 127, Section 1, added (H), providing that a person who has failed the motorcycle driver's license test three or more times must successfully complete a South Carolina technical college motorcycle safety course, or its equivalent, in lieu of passing the test.

2018 Act No. 259, Section 1, in (B)(1), in the second sentence, substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the permittee's licensed parent or guardian; and".

SECTION 56-1-70. Temporary driver's permit.

The Department of Motor Vehicles may, in its discretion, issue a temporary driver's permit to an applicant for a motor vehicle driver's license permitting him to operate a motor vehicle while the Department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. Such permit must be in his immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

HISTORY: 1962 Code Section 46-157; 1959 (51) 421.

SECTION 56-1-80. Application for license or permit.

(A) An application for a driver's license or permit must:

(1) be made upon the form furnished by the department;

(2) be accompanied by the proper fee and acceptable proof of date and place of birth;

(3) contain the full name, date of birth, sex, race, and residence address of the applicant and briefly describe the applicant;

(4) state whether the applicant has been licensed as an operator or chauffeur and, if so, when and by what state or country;

(5) state whether a license or permit has been suspended or revoked or whether an application has been refused and, if so, the date of and reason for the suspension, revocation, or refusal;

(6) allow an applicant voluntarily to disclose a permanent medical condition, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record;

(7) allow an applicant voluntarily to disclose that he is an organ and tissue donor, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record; and

(8) allow an applicant voluntarily to disclose that he is autistic, which must be indicated by a symbol designated by the department on the driver's license and contained in the driver's record. The applicant must provide documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20(35).

(B) The information contained on a driver's license and in the driver's department records pertaining to a person's permanent medical condition, as provided for in item (A)(6), must be made available, upon request, to law enforcement and emergency medical services and hospital personnel; and the information and records pertaining to a person's organ and tissue donor status, as provided for in item (A)(7), must be made available, upon request, to law enforcement, emergency medical services and hospital personnel, and the South Carolina Donor Referral Network, as provided for in Section 44-43-910.

(C) Whenever an application is received from a person previously licensed or permitted in another state, the Department of Motor Vehicles may request a copy of the applicant's record from the other state. When received, the record becomes a part of the driver's record in this State with the same effect as though entered on the operator's record in this State in the original instance. Every person who obtains a driver's license or permit for the first time in South Carolina and every person who renews his driver's license or permit in South Carolina must be furnished a written request form for completion and verification of liability insurance coverage.

The completed and verified form or an affidavit prepared by the department showing that neither he, nor a resident relative, owns a motor vehicle subject to the provisions of this chapter, must be delivered to the department at the time the license or permit is issued or renewed.

HISTORY: 1962 Code Section 46-158; 1952 Code Sections 46-157, 46-159; 1942 Code Sections 5984, 5987, 6002; 1932 Code Sections 5984, 5987, 6002; 1930 (36) 1057; 1959 (51) 421; 1974 (58) 1973; 1989 Act No. 148, Section 28; 1993 Act No. 181, Section 1298; 1994 Act No. 497, Part II, Section 121F; 1996 Act No. 459, Section 70; 2000 Act No. 225, Section 1; 2007 Act No. 92, Section 3, eff June 14, 2007; 2010 Act No. 277, Section 3, eff July 1, 2011; 2017 Act No. 19 (S.344), Section 1, eff May 9, 2017.

Editor's Note

2010 Act No. 277, Section 5, provides:

"The requirements of Section 56-1-80 of the 1976 Code, as amended by Section 3 of this act, must be met upon the renewal of an existing driver's license or special identification card of a person convicted of a crime of violence as defined in Section 16-23-10(3) in this State on or after July 1, 2011."

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

Effect of Amendment

2017 Act No. 19, Section 1, in (A), added (8), relating to autism designations placed on a driver's license, and made other nonsubstantive changes.

SECTION 56-1-85. REAL ID Act.

It is hereby declared to be the policy of this State:

(1) The State is committed to the continuing effort of enhancing the security, authentication, and issuance procedure standards of its drivers' licenses and identification cards and of meeting all requirements of the Federal REAL ID Act of 2005 (P.L. 109-13) and accompanying regulations.

(2) The department shall enable qualifying citizens to obtain state drivers' licenses and identification cards that are in compliance with the REAL ID Act.

(3) The department shall not provide direct access to the department's full driver's license database to any other jurisdiction.

HISTORY: 2007 Act No. 70, Section 1, eff June 13, 2007; 2017 Act No. 6 (H.3358), Section 2, eff April 5, 2017.

Effect of Amendment

2017 Act No. 6, Section 2, amended the section, adding the paragraph designators, providing that the state shall meet all the requirements of the federal REAL ID Act, and that the department of motor vehicles shall not provide direct access to its full driver's license database to any other jurisdiction.

SECTION 56-1-87. REAL ID card issuance.

(A) A person may hold only one Department of Motor Vehicles-issued credential at a time. A REAL ID card may be a driver's license or identification card, but not both.

(B) The department may issue a compliant or noncompliant card. The department may issue a REAL ID compliant credential only to a person who:

(1) presents all supporting documents required for a compliant credential; or

(2) has previously presented proper supporting documents and the department has retained copies of those documents.

(C) The department shall issue a noncompliant credential to a person who opts not to have a REAL ID card, and meets the other requirements necessary to obtain a noncompliant credential.

HISTORY: 2017 Act No. 6 (H.3358), Section 1, eff April 5, 2017.

SECTION 56-1-90. Identification necessary for license.

The Department of Motor Vehicles may require every applicant to submit for identification purposes proof of name, Social Security number, and date and place of birth when applying for a driver's license. An applicant for a driver's license, driver's permit, or special identification card or a renewal thereof may sufficiently prove the existence and validity of his Social Security number, for purposes of Section 14-7-130, by any document considered reliable by the Department of Motor Vehicles. Such a document includes, but is not limited to, an official Social Security card, Social Security check, Social Security form SSA-1099, letter from the Social Security Administration, voter registration card, payroll stub, or Federal W-2 form. The numbers also may be obtained from the Department of Revenue pursuant to Section 12-54-240(B)(7), which permits the Department of Revenue to submit taxpayer Social Security numbers to the Department of Motor Vehicles and to the State Election Commission.

This section does not prevent issuance of a driver's license or identification card to a foreign exchange student participating in a valid foreign exchange program.

HISTORY: 1962 Code Section 46-158.1; 1974 (58) 2349; 1990 Act No. 451, Section 1; 1993 Act No. 181, Section 1996 Act No. 459, Section 71; 2017 Act No. 6 (H.3358), Section 3, eff April 5, 2017.

Effect of Amendment

2017 Act No. 6, Section 3, in the first undesignated paragraph, in the second sentence, substituted "document considered reliable by the Department of Motor Vehicles" for "reasonably reliable document containing the Social Security number", in the third sentence, deleted "or U.S. military identification card", and made other nonsubstantive changes; and deleted the former undesignated second paragraph relating to affidavits for establishment of valid Social Security numbers for replacement licenses.

SECTION 56-1-100. Application by unemancipated minor.

(A) The application of an unemancipated minor for a beginner's permit or driver's license must be signed in the presence of a South Carolina Department of Motor Vehicles employee at the time of application by:

(1) the father of the minor;

(2) the mother of the minor;

(3) the guardian of the minor;

(4) an individual who has custody, care, and control of the minor;

(5) any person set forth in subsection (C)(3) below with written approval by the Department of Social Services;

(6) any person who has been standing in loco parentis of a minor for a continuous period of not less than sixty days; or

(7) any responsible adult who is willing to assume the obligation imposed under this article and who has written permission, from a person listed in items (1)-(7) above, signed and verified before a person authorized to administer oaths.

(B) The application of an emancipated minor for a beginner's permit or driver's license must be signed in the presence of a South Carolina Department of Motor Vehicles employee at the time of application by a responsible adult who is willing to assume the obligation imposed under this article.

(C) If the Department of Social Services has guardianship or legal custody of a minor, the application may be signed by:

(1) the father of the minor;

(2) the mother of the minor; or

(3) the foster parent, preadoptive parent, or person responsible for the welfare of the child who resides in a childcare facility or residential group care home, upon written approval by the Department of Social Services. The disclosure of information by the Department of Social Services to the Department of Motor Vehicles in order to provide approval for the limited purpose of this code section shall not be a violation of Section 63-7-1990 or any other section of the Children's Code governing the dissemination of confidential information. The foster parent, preadoptive parent, or person responsible for the welfare of a child who resides in a childcare facility or residential group care home must obtain approval from the Department of Social Services prior to the request for an extension of a permit pursuant to Section 56-1-50.

(D) Except as set forth in subsection (C)(3) above, upon the extension of a permit pursuant to Section 56-1-50, authorization by the person who originally signed the application, under subsections (A), (B), or (C) above, is not required.

HISTORY: 1962 Code Section 46-159; 1952 Code Section 46-158; 1942 Code Section 5989; 1932 Code Section 5989; 1930 (36) 1057; 1933 (38) 214; 1949 (46) 271; 1956 (49) 1649; 1959 (51) 421; 1994 Act No. 497, Part II, Section 121G; 2017 Act No. 2 (S.198), Section 1, eff April 5, 2017.

Effect of Amendment

2017 Act No. 2, Section 1, amended the section by adding the paragraph designators, deleting the term "instruction permit", and revising the list of persons who must sign the application of an unemancipated minor.

SECTION 56-1-110. Imputed liability of person signing application for damages caused by uninsured minor.

Any negligence or wilful misconduct of a minor when driving a motor vehicle upon a highway must be imputed to the person who has signed the application of such minor for a beginner's permit, instruction permit, or driver's license, which person is jointly and severally liable with such minor for any damage caused by such negligence or wilful misconduct, except that if such minor is protected by a policy of liability insurance in the form and in the amounts as required under Chapter 9 of this title and Sections 38-77-140 through 38-77-310, then such parent or guardian or other responsible adult is not subject to the liability otherwise imposed under this section.

HISTORY: 1962 Code Section 46-160; 1959 (51) 421; 1987 Act No. 155, Section 17.

SECTION 56-1-120. Release from imputed liability by cancellation of permit or license.

Any person who has signed the application of a minor for a permit or license may thereafter file with the Department of Motor Vehicles a verified written request that the permit or license of such minor so granted be cancelled. Thereupon, the person who signed the application of such minor shall be relieved from the liability imposed under Section 56-1-110 by reason of having signed such application on account of any subsequent negligence or wilful misconduct of such minor in operating a motor vehicle, and the license or permit of such minor shall be cancelled by the Department.

HISTORY: 1962 Code Section 46-161; 1959 (51) 421.

SECTION 56-1-125. Registration with U.S. Selective Service when applying for driver's license or identification card.

(A) Upon receiving proper authority from the United States Government, a United States male citizen or immigrant who is less than twenty-six years of age must be registered for the United States Selective Service when applying to the Department of Motor Vehicles for the issuance, renewal, or a duplicate copy of:

(1) a driver's license;

(2) a commercial driver's license; or

(3) an identification card.

(B) The department shall forward in an electronic format the necessary personal information required for registration of individuals identified in this section to the Selective Service System.

(C) An individual's submission of an application contained in subsection (A) serves as an indication that the individual has registered with the Selective Service System or that he is authorizing the department to forward to the Selective Service System information necessary for his registration.

(D) The department shall inform the individual who is at least eighteen years of age and less than twenty-six years of age, on his application, that his submission of the application for a license or identification card serves as his consent to be registered with the Selective Service System, if required by federal law.

(E) The department shall inform the individual who is less than eighteen years of age, on his application, that his submission of the application for a license or identification card serves as his consent to be registered with the Selective Service System upon attaining eighteen years of age, if required by federal law. His application also must be signed by any individual listed in Section 56-1-100(A)(1-7). By signing the application, the signatory authorizes the department to register the applicant with the Selective Service System upon attaining eighteen years of age, if required by federal law. The applicant or any individual listed in Section 56-1-100(A)(1-7) may decline the Selective Service System registration. If the applicant or any individual listed in Section 56-1-100(A)(1-7) declines the Selective Service System registration, the department may issue a license or identification card, but the applicant must renew the license or identification card upon attaining eighteen years of age.

(F) This section takes effect upon the department's receipt from the federal government of the funds necessary to implement this section.

HISTORY: 2003 Act No. 51, Section 6; 2018 Act No. 259 (H.4676), Section 2, eff November 19, 2018.

Effect of Amendment

2018 Act No. 259, Section 2, in the second sentence, substituted "any individual listed in Section 56-1-100(A)(1-7)" for "his parent or guardian"; in the third sentence, substituted "signatory" for "parent or guardian"; in the fourth sentence, substituted "any individual listed in Section 56-1-100(A)(1-7)" for ", parent, or guardian"; and in the fifth sentence, substituted "any individual listed in Section 56-1-100(A)(1-7)" for ", parent, or guardian".

SECTION 56-1-130. License examinations; basic and classified licenses.

(A) The Department of Motor Vehicles shall examine every applicant for a driver's license, except as otherwise provided in this article. The examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, and his knowledge of the traffic laws of this State and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of the type motor vehicle, including motorcycles, for which a license is sought. The department may require a further physical and mental examination as it considers necessary to determine the applicant's fitness to operate a motor vehicle upon the highways, the further examination to be at the applicant's expense. The department shall make provisions for giving an examination in the county where the applicant resides. The department shall charge an appropriate fee for each complete examination or reexamination required in this article.

(B) No persons, except those exempted under Section 56-1-30 and Section 56-1-60, or those holding beginner's permits under Section 56-1-50, shall operate any classification of motor vehicle without first being examined and duly licensed by the driver examiner as a qualified driver of that classification of motor vehicle.

(C)(1) A basic driver's license authorizes the licensee to operate motor vehicles, autocycles, motorcycle three-wheel vehicles, excluding a motorcycle with a detachable side car, or combinations of vehicles which do not exceed twenty-six thousand pounds gross vehicle weight rating; provided, that the driver has successfully demonstrated the ability to exercise ordinary and reasonable control in the operation of a motor vehicle in this category. A basic driver's license also authorizes the licensee to operate farm trucks provided for in Sections 56-3-670, 56-3-680, and 56-3-690, which are used exclusively by the owner for agricultural, horticultural, and dairying operations or livestock and poultry raising. Notwithstanding another provision of law, the holder of a conditional license, or special restricted license operating a farm truck for the purposes provided in this subsection, may operate the farm truck without an accompanying adult after six o'clock a.m. and no later than nine o'clock p.m., but may not operate a farm truck on a freeway. A person operating a farm truck while holding a conditional driver's license or a special restricted license may not use the farm truck for ordinary domestic purposes or general transportation.

(2) A classified driver's license shall authorize the licensee to operate a motorcycle, motorcycle three-wheel vehicle, including a motorcycle with a detachable side car, or those vehicles in excess of twenty-six thousand pounds gross vehicle weight rating which are indicated by endorsement on the license. The endorsement may include classifications such as: motorcycle, two-axle truck, three- or more axle truck, combination of vehicles, motor busses, or oversize or overweight vehicles. The department shall determine from the driving demonstration the endorsements to be indicated on the license.

HISTORY: 1962 Code Section 46-162; 1952 Code Section 46-161; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1974 (58) 2349; 1980 Act No. 358, Section 2; 1992 Act No. 486, Section 5; 1996 Act No. 459, Section 72; 1998 Act No. 258, Section 9; 2000 Act No. 375, Section 2; 2002 Act No. 181, Section 7; 2008 Act No. 347, Section 20, eff June 16, 2008; 2009 Act No. 42, Section 2, eff June 2, 2009; 2017 Act No. 34 (S.444), Section 3, eff November 10, 2017.

Editor's Note

Section 56-1-60, referred to herein, which provided for student's instruction permits, was repealed by 1976 Act No. 738, Section 11.

Sections 56-3-680 and 56-3-690, referred to herein, were repealed by 1979 Act No. 83, Section 2. Comparable provisions appear in Section 56-3-670.

Effect of Amendment

2017 Act No. 34, Section 3, in (C), inserted the (1) and (2) paragraph identifiers, and in (C)(1), substituted "autocycles" for "automotive three-wheel vehicles".

SECTION 56-1-135. Designated driver for fire extinguishment, special endorsement; safety officers.

(A) Notwithstanding the provisions of Section 56-1-130, a paid or volunteer firefighter of a lawfully and regularly organized fire department designated to drive a firefighting vehicle may have a special endorsement affixed to his driver's license which authorizes him to drive this vehicle for the purpose of carrying out the duties and responsibilities of a fire department and related activities.

(B) Every political subdivision and unincorporated community operating a lawfully and regularly organized fire department of this State shall designate a law enforcement officer or the fire chief or his designee as its safety officer. The safety officer shall meet the qualifications set forth in the Department of Motor Vehicle guidelines. However, he does not have to be a full-time employee. A firefighter desiring to drive the vehicle referred to in subsection (A) shall demonstrate his ability to exercise ordinary and reasonable control in the operation of this vehicle to a safety officer. The fire department, including volunteer fire departments, shall submit to the Department of Motor Vehicles a list of the persons designated to drive the vehicle.

(C) It is the responsibility of the agency or fire department who operates the vehicle to keep the list of designated drivers current. Changes in the list of drivers must be reported to the Department of Motor Vehicles within thirty days from the change.

HISTORY: 1988 Act No. 532, Section 29; 1989 Act No. 165, Section 1; 1993 Act No. 181, Section 1300.

SECTION 56-1-140. Issuance of license; necessary fees, signature, and contents; veteran designation.

Section effective until November 24, 2019. See, also, Section 56-1-140 effective November 24, 2019.

(A) Upon payment of a fee of twenty-five dollars for a license that is valid for eight years, the department shall issue to every qualified applicant a driver's license as applied for by law. The license must bear on it a distinguishing number assigned to the licensee, the full name, date of birth, residence address, a brief description and laminated colored photograph of the licensee, any marking otherwise required or in compliance with law, and a facsimile of the signature of the licensee. No license is valid until it has been so signed by the licensee. The license authorizes the licensee to operate only those classifications of vehicles as indicated on the license.

(B) An applicant for a new, renewed, or replacement driver's license may apply to the department to obtain a veteran designation on the front of his driver's license by providing a United States Department of Defense discharge certificate, also known as a DD Form 214, Form 4, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service in the United States Armed Forces.

The department may determine the appropriate form of the veteran designation on the driver's license authorized pursuant to this section.

(C) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1962 Code Section 46-163; 1952 Code Sections 46-156, 46-160, 46-163; 1942 Code Sections 5984, 5985, 5992; 1932 Code Sections 5984, 5985, 5992; 1930 (36) 1057; 1947 (45) 74; 1959 (51) 421; 1965 (54) 649; 1974 (58) 2349; 1976 Act No. 738 Section 10; 1985 Act No. 201, Part II, Section 86A; 1994 Act No. 497, Part II, Section 55B; 2003 Act No. 51, Section 12; 2005 Act No. 176, Section 6, eff June 14, 2005; 2012 Act No. 147, Section 1, eff April 23, 2012; 2016 Act No. 275 (S.1258), Section 11, eff July 1, 2016; 2017 Act No. 6 (H.3358), Section 4, eff April 5, 2017.

SECTION 56-1-140. Issuance of license; necessary fees, signature, and contents; veteran designation.

Section effective November 24, 2019. See, also, Section 56-1-140 effective until November 24, 2019.

(A) Upon payment of a fee of twenty-five dollars for a license that is valid for eight years, the department shall issue to every qualified applicant a driver's license as applied for by law. The license must bear on it a distinguishing number assigned to the licensee, the full name, date of birth, residence address, a brief description and laminated colored photograph of the licensee, any marking otherwise required or in compliance with law, and a facsimile of the signature of the licensee. No license is valid until it has been so signed by the licensee. The license authorizes the licensee to operate only those classifications of vehicles as indicated on the license.

(B) An applicant for a new, renewed, or replacement driver's license may apply to the department to obtain a veteran designation on the front of his driver's license by providing a:

(1) United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service in the United States armed forces;

(2) National Guard Report of Separation and Record of Service, also known as an NGB Form 22, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service of at least twenty years in the National Guard; or

(3) Veterans Identification Card (VIC) or a letter from a Military Reserve component notifying the recipient of the person's eligibility for retirement pay at age sixty (twenty-year letter). A Veterans Health Identification Card (VHIC) may not be accepted.

(C) The department may determine the appropriate form of the veteran designation on the driver's license authorized pursuant to this section.

(D) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1962 Code Section 46-163; 1952 Code Sections 46-156, 46-160, 46-163; 1942 Code Sections 5984, 5985, 5992; 1932 Code Sections 5984, 5985, 5992; 1930 (36) 1057; 1947 (45) 74; 1959 (51) 421; 1965 (54) 649; 1974 (58) 2349; 1976 Act No. 738 Section 10; 1985 Act No. 201, Part II, Section 86A; 1994 Act No. 497, Part II, Section 55B; 2003 Act No. 51, Section 12; 2005 Act No. 176, Section 6, eff June 14, 2005; 2012 Act No. 147, Section 1, eff April 23, 2012; 2016 Act No. 275 (S.1258), Section 11, eff July 1, 2016; 2017 Act No. 6 (H.3358), Section 4, eff April 5, 2017; 2019 Act No. 86 (H.3789), Section 3, eff November 24, 2019.

Effect of Amendment

2017 Act No. 6, Section 4, rewrote the section, revising the cost and frequency of the renewal period for a driver's license, revising the content of a driver's license, and eliminating the fee associated with the placement of a veteran designation on a driver's license.

2019 Act No. 86, Section 3, rewrote (B), revising the documents that must be provided to the Department of Motor Vehicles to obtain a veteran designation on a driver's license, inserted the (C) identifier in the undesignated paragraph following (B), and redesignated (C) as (D).

SECTION 56-1-143. Contribution to Donate Life South Carolina when obtaining or renewing driver's license.

An applicant for a new or renewal driver's license, commercial driver's license, motorcycle driver's license, identification card, issuance of a vehicle title or transfer of title, or issuance or renewal of a vehicle license plate must be given an opportunity in writing to make a voluntary contribution of five dollars, more or less, to be credited to Donate Life South Carolina established in Section 44-43-1310. Any voluntary contribution must be added to the driver's license, identification card, title, or license plate fee and must be transferred to the State Treasurer and credited to Donate Life South Carolina as provided for in Section 44-43-1310. An amount equal to the incremental cost of administration of the contribution must be paid by the trust fund from amounts received pursuant to this section to the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 before funds are expended by the trust fund.

HISTORY: 1996 Act No. 262, Section 4; 2009 Act No. 42, Section 1, eff June 2, 2009; 2016 Act No. 275 (S.1258), Section 12, eff July 1, 2016.

SECTION 56-1-146. Surrender of driver's license by person convicted of certain crimes.

When a person is convicted of or pleads guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011, in this State, the clerk of court must notify by mail, electronic mail, or facsimile the Department of Motor Vehicles within thirty days of the conviction of guilt or nolo contendere plea. The Department of Motor Vehicles must then notify the person who was convicted of the crime of violence as defined in Section 16-23-10(3) that he must surrender his driver's license or special identification card to the Department of Motor Vehicles by mail or in person, and the Department of Motor Vehicles shall issue to the person by mail or in person a driver's license or special identification card with the identifying code as referenced in Section 56-1-148. If the person convicted of a crime of violence as defined in Section 16-23-10(3) fails to surrender his driver's license or special identification card to the Department of Motor Vehicles, the driver's license or special identification card is considered canceled.

HISTORY: 2010 Act No. 277, Section 1, eff July 1, 2011.

Editor's Note

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

SECTION 56-1-148. Identifying code affixed on driver's license of person convicted of certain crimes.

(A) As used in this chapter "identifying code" means a symbol, number, or letter of the alphabet developed by the department to identify a person convicted of or pleading guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011. The symbol, number, or letter of the alphabet shall not be defined on the driver's license or special identification card.

(B) In addition to the contents of a driver's license provided for in Section 56-1-140 or a special identification card provided for in Section 56-1-3350, a person who has been convicted of or pled guilty or nolo contendere to a crime of violence as defined in Section 16-23-10(3) on or after July 1, 2011, must have an identifying code determined by the department affixed to the reverse side of his driver's license or special identification card. The code must identify the person as having been convicted of a violent crime. The code must be developed by the department and made known to the appropriate law enforcement officers and judicial officials of this State.

(C) The presence of a special identifying code on a person's driver's license or special identification card may not be used as a grounds to extend the detention of the person by a law enforcement officer or grounds for a search of the person or his vehicle.

(D) A person whose driver's license or special identification card has been canceled pursuant to Section 56-1-146 may apply for a new license or special identification card in a manner prescribed by the department. The department must issue by mail or in person a new license or special identification card with the identifying code required by this section. The department must not issue a new driver's license to a person during any period of suspension or revocation for any reason other than Section 56-1-146 and a driver's license may only be issued after the period of suspension or revocation has ended and the person is otherwise eligible to be issued a license.

(E) The intent of placing an identifying code on a driver's license or special identification card that identifies a person who has been convicted of a crime of violence as defined in Section 16-23-10(3) is to promote the state's fundamental right to provide for the public health, welfare, and safety of its citizens and law enforcement officers. Notwithstanding this legitimate stated purpose, this provision is not intended to violate the guaranteed constitutional rights of persons who have violated our state's laws.

(F) If a person's conviction or guilty plea for a crime of violence as defined in Section 16-23-10(3) is reversed on appeal, or if the person is subsequently pardoned, then the person may apply for a driver's license or special identification card that does not have the identifying code affixed.

(G) A person who is not convicted of a subsequent crime of violence as defined in Section 16-23-10(3) for five years after he has completely satisfied the terms of his sentence or during the term of the person's probation or parole, whichever the sentencing judge determines is appropriate, may file an application with the department to have the identifying code affixed to his driver's license or special identification card removed.

(H) A person must provide appropriate supporting documentation prescribed by the department to verify his eligibility to have the identifying code removed pursuant to subsection (F) or (G). Upon verification and payment of the fee provided in Section 56-1-140, the person must be issued a new driver's license or special identification card.

HISTORY: 2010 Act No. 277, Section 2, eff July 1, 2011; 2016 Act No. 275 (S.1258), Section 13, eff July 1, 2016; 2018 Act No. 159 (S.499), Section 1, eff May 3, 2018.

Editor's Note

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

Effect of Amendment

2018 Act No. 159, Section 1, deleted (D), which related to a fifty-dollar fee associated with placing the identifying code on a driver's license; redesignated (E) to (I) as (D) to (H); and in (D), in the second sentence, deleted "after payment of the fifty-dollar fee provided in subsection (C)" following "required by this section".

SECTION 56-1-170. Restricted licenses; penalties for violations; hearings; special restricted driver's licenses.

(A) The Department of Motor Vehicles upon issuing a driver's license has authority, whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or other restrictions applicable to the licensee as the department determines to be appropriate to assure the safe operation of a motor vehicle by the licensee. The department may either issue a special restricted license or may set forth the restrictions on the usual license form. The department shall not discriminate against a handicapped person by treating him in a different manner than it treats a nonhandicapped person. A handicapped person shall have the option of taking the same test as a nonhandicapped person and, upon satisfactory completion of the test, shall be issued a license comparable to which a nonhandicapped person would be qualified to receive. A person who has been issued a driver's license without restrictions who was handicapped at the time of the issuance of the license may have his driver's license renewed without restrictions unless he has received an additional handicap.

The department may, upon receiving satisfactory evidence of any violation of the restrictions of the license, suspend or revoke the license. A licensee aggrieved by the action of the department may request a contested case hearing before the Office of Motor Vehicle Hearings in accordance with its rules of procedure.

Any person who operates a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, twenty dollars must be distributed to the general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-165; 1959 (51) 421; 1979 Act No. 166 Section 1; 1999 Act No. 115, Section 2; 2001 Act No. 79, Section 2.B; 2008 Act No. 279, Section 3, eff October 1, 2008; 2016 Act No. 275 (S.1258), Section 14, eff July 1, 2016.

SECTION 56-1-171. Suspension for failure to pay child support; route-restricted license.

(A) A person whose driver's license has been suspended for failure to comply with an order for child support may obtain a special route-restricted driver's license from the Department of Motor Vehicles. The special route-restricted driver's license allows the person to only operate a motor vehicle as transportation between his home and work, or as a part of his work duties, or as transportation to a college, university, technical college, or any other institution of higher learning in which he is enrolled.

(B) If the Department of Motor Vehicles issues a special route-restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the Department of Motor Vehicles by the person.

(C) The fee for a special route-restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into a special restricted account to be used by the Department of Motor Vehicles to defray the expenses of the Department of Motor Vehicles.

(D) The operation of a motor vehicle outside the time limits and route imposed by a special route-restricted driver's license by the person issued that license is a violation of Section 56-1-460.

(E) If after six months of obtaining the special route-restricted driver's license the person is still substantially out of compliance with the order for support, the Department of Social Services shall notify the Department of Motor Vehicles to suspend the special route-restricted driver's license. The Department of Motor Vehicles shall suspend the special route-restricted driver's license until the Department of Social Services notifies the Department of Motor Vehicles to withdraw the suspension.

(F) The fee for a special route-restricted driver's license must be in accordance with Section 56-1-140.

HISTORY: 2007 Act No. 46, Section 1, eff June 4, 2007.

SECTION 56-1-175. Issuance of conditional driver's license.

(A) The Department of Motor Vehicles may issue a conditional driver's license to a person who is at least fifteen years of age and less than sixteen years of age, who has:

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

(2) passed a driver's education course as defined in subsection (D);

(3) completed at least forty hours of driving practice, including at least ten hours of driving practice during darkness, supervised by any licensed individual listed in Section 56-1-100(A)(1-7);

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

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

(B) A conditional driver's license is valid only in the operation of vehicles during daylight hours. The holder of a conditional license must be accompanied by a licensed adult twenty-one years of age or older after six o'clock p.m. or eight o'clock p.m. during daylight saving time. A conditional driver's license holder may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7). The accompanying driver must:

(1) occupy a seat beside the conditional license holder when the conditional license holder is operating a motor vehicle; or

(2) be within a safe viewing distance of the conditional license holder when the conditional license holder is operating a motorcycle or a moped.

(C) A conditional driver's license holder may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult who is twenty-one years of age or older. This restriction does not apply when the conditional driver's license holder is transporting family members, or students to or from school.

(D) A driver training course, as used in this section, means a driver's training course administered by a driver's training school or a private, parochial, or public high school conducted by a person holding a valid driver's instructor permit contained in Section 56-23-85.

(E) For purposes of issuing a conditional driver's license pursuant to this section, the department must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program that is equivalent to an approved course or program in this State. The department must establish procedures for approving qualified driver's training courses or programs for out-of-state students.

HISTORY: 1998 Act No. 258, Section 3; 2002 Act No. 181, Section 2; 2017 Act No. 89 (H.3247), Section 4, eff November 19, 2018; 2018 Act No. 259 (H.4676), Section 3, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 4, amended the section, deleting the provision that allows a licensee to operate a motor scooter and the provision that defined the term "daylight hours", and providing the location that an accompanying driver must be seated when the licensee is operating a motor vehicle.

2018 Act No. 259, Section 3, in (A), in (3), substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the person's licensed parent or guardian"; and in (B), in the third sentence, substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the holder's licensed parent or guardian".

SECTION 56-1-176. Conditions for issuance of conditional driver's license and special restricted driver's license.

(A) School attendance is a condition for the issuance of a conditional driver's license and a special restricted driver's license. The Department of Motor Vehicles may not issue a conditional driver's license or a special restricted driver's license to a person pursuant to Section 56-1-175 or Section 56-1-180 unless the person:

(1) has a high school diploma or certificate, or a General Education Development Certificate; or

(2) is enrolled in a public or private school or is home schooled under the provisions contained in Section 59-65-40, 59-65-45, or 59-65-47, and:

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

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

(B) Documentation of enrollment status must be presented to the department by the applicant on a form approved by the department. The documentation must indicate whether the student is in compliance with the requirements as provided in item (2).

HISTORY: 1998 Act No. 258, Section 4; 2002 Act No. 181, Section 3.

SECTION 56-1-180. Special restricted licenses for certain minors.

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

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

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

(3) completed at least forty hours of driving practice, including at least ten hours of driving practice during darkness, supervised by any licensed individual listed in Section 56-1-100(A)(1-7);

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

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

(B) A special restricted driver's license is valid only in the operation vehicles during daylight hours. The holder of a special restricted driver's license must be accompanied by a licensed adult, twenty-one years of age or older after six o'clock p.m. or eight o'clock p.m. during daylight saving time. The holder of a special restricted driver's license may not drive between midnight and six o'clock a.m. unless accompanied by any licensed individual listed in Section 56-1-100(A)(1-7). The accompanying driver must:

(1) occupy a seat beside the conditional license holder when the conditional license holder is operating a motor vehicle; or

(2) be within a safe viewing distance of the conditional license holder when the conditional license holder is operating a motorcycle or a moped.

(C) The restrictions in this section may be modified or waived by the department if the restricted licensee proves to the department's satisfaction that the restriction interferes or substantially interferes with:

(1) employment or the opportunity for employment;

(2) travel between the licensee's home and place of employment or school;

(3) travel between the licensee's home or place of employment and vocational training;

(4) travel between the licensee's church, church-related and church-sponsored activities; or

(5) travel between the licensee's parentally approved sports activities.

(D) The waiver or modification of restrictions provided for in subsection (C) must include a statement of the purpose of the waiver or modification executed by the parents or legal guardian of the holder of the restricted license and documents executed by the driver's employment or school official, as is appropriate, evidencing the holder's need for the waiver or modification.

(E) A special restricted license holder may not transport more than two passengers who are under twenty-one years of age unless accompanied by a licensed adult twenty-one years of age or older. This restriction does not apply when the special restricted license holder is transporting family members or students to or from school.

(F) A driver training course, as used in this section, means a driver's training course administered by a driver's training school or a private, parochial, or public high school conducted by a person holding a valid driver's instruction permit contained in Section 56-23-85.

(G) For purposes of issuing a special restricted driver's license pursuant to this section, the department must accept a certificate of completion for a student who attends or is attending an out-of-state high school and passed a qualified driver's training course or program that is equivalent to an approved course or program in this State. The department must establish procedures for approving qualified driver's training courses or programs for out-of-state students.

HISTORY: 1962 Code Section 46-166; 1959 (51) 564; 1960 (51) 1634; 1966 (54) 2424; 1967 (55) 670; 1992 Act No. 490, Section 1998 Act No. 258, Section 10; 2002 Act No. 181, Section 4; 2017 Act No. 89 (H.3247), Section 5, eff November 19, 2018; 2018 Act No. 259 (H.4676), Section 4, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 5, amended the section, deleting the provision that allows a licensee to operate a motor scooter and the provision that defined the term "daylight hours", and providing the location that an accompanying driver must be seated when the licensee is operating a motor vehicle.

2018 Act No. 259, Section 4, in (A), in (3), substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the person's licensed parent or guardian"; and in (B), in the third sentence, substituted "any licensed individual listed in Section 56-1-100(A)(1-7)" for "the holder's licensed parent or guardian".

SECTION 56-1-185. Removal of restrictions postponed; suspension of license.

(A) A person while operating a motor vehicle under a conditional or a special restricted driver's license who is convicted of a traffic offense or involved in an accident in which he was at fault shall have the removal of the restrictions postponed for twelve months and is not eligible to be issued a regular driver's license until one year from the date of the last traffic offense or accident in which he was at fault or until he is seventeen years of age.

(B) A person while operating a motor vehicle under a beginner's permit or a conditional or a special restricted driver's license who is convicted of one or more point-assessable traffic offenses totaling six or more points, as determined by the values contained in Section 56-1-720, shall have his license suspended by the Department of Motor Vehicles for six months. This suspension shall not preclude other penalties otherwise provided for the same violations.

HISTORY: 1988 Act No. 532, Section 1; 1998 Act No. 258, Section 11; 2002 Act No. 181, Section 5.

SECTION 56-1-187. Permitting dependent to operate motor vehicle without learner's permit or in violation of permit restrictions; civil penalties; admissibility of civil fine in private cause of action.

A parent or guardian who knowingly and wilfully permits his dependent to operate a motor vehicle in violation of a restriction imposed on a beginner's permit pursuant to Section 56-1-50, a conditional driver's license pursuant to Section 56-1-175, or a special restricted driver's license pursuant to Section 56-1-180, or knowingly permits his dependent to operate a motor vehicle without a valid beginner's permit or driver's license, must be assessed a civil fine in an amount up to five hundred dollars. Upon the magistrates or municipal court receiving notice of the dependent's violation through transmittal to the court of the traffic ticket or through other means, the court shall determine the names of the parents or guardians from the records of the Department of Motor Vehicles. The court shall then notify the dependent's parents or guardians by certified mail at the address shown on the traffic ticket, unless the department's records show a different address, of the violation and the fact that they may be subject to a civil fine. Failure to receive the notice does not prohibit the imposition of the civil fine pursuant to this section. If, while operating the motor vehicle in violation of a restriction, the dependent causes great bodily injury or death, the parent or guardian must be assessed a civil fine in an amount up to one thousand dollars. The court may suspend the imposition of the fine, conditioned upon the parent or guardian completing, to the satisfaction of the court, public service with a nonprofit organization, community

service, or parenting classes. This section does not apply to a motor vehicle operated on private property. A civil fine imposed pursuant to this section does not give rise to a private cause of action based solely upon the fact that the fine was imposed. The imposition of a civil fine is not admissible for the purpose of establishing the liability of a parent or guardian in a private cause of action to which the parents or guardians are a party.

HISTORY: 2008 Act No. 336, Section 1, eff June 16, 2008.

Editor's Note

2008 Act No. 336, Section 1.A, provides as follows:

"This section may be cited as "Tyler's Law"."

SECTION 56-1-190. License must be carried and exhibited on demand.

A licensee shall have his license in his immediate possession at all times when operating a motor vehicle and shall display it upon demand of an officer or agent of either the Department of Motor Vehicles or the Department of Public Safety or a law enforcement officer of the State. No points pursuant to Section 56-1-720 may be assessed. No points for insurance merit rating system and recoupment purposes may be assessed.

HISTORY: 1962 Code Section 46-167; 1952 Code Section 46-165; 1942 Code Section 5993; 1932 Code Section 5993; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 134, Section 1; 1994 Act No. 497, Part II, Section 36P.

SECTION 56-1-200. Duplicate for lost or destroyed license; fee.

(A) If a driver's license is lost or destroyed, the person to whom the license was issued, upon payment of a fee of ten dollars, may obtain a duplicate or substitution of it upon furnishing proof satisfactory to the Department of Motor Vehicles that the license has been lost or destroyed.

(B) Three dollars of the revenue from each fee collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund based on the actual date of receipt by the Department of Motor Vehicles.

(C) The balance of the revenue from each fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1962 Code Section 46-168; 1952 Code Section 46-169; 1942 Code Section 5995; 1933 (38) 554; 1947 (45) 74; 1959 (51) 421; 1994 Act No. 497, Part II, Section 55C; 2005 Act No. 176, Section 7, eff June 14, 2005; 2008 Act No. 353, Section 2, Pt 13E, eff July 1, 2009; 2016 Act No. 275 (S.1258), Section 15, eff July 1, 2016.

SECTION 56-1-205. Hearing impaired designations on driver's licenses.

An applicant for the issuance or renewal of a driver's license may request that a notation be placed on the license indicating that the applicant is hearing impaired.

The department shall place the notation on the driver's license if requested by the applicant and if the applicant provides an original certificate from a licensed physician, as defined in Section 40-47-5, that the applicant has a permanent, uncorrectable hearing loss of forty decibels or more in one or both ears.

This section shall apply to a driver's license issued after 2012.

HISTORY: 2012 Act No. 147, Section 3.A, eff April 23, 2012.

SECTION 56-1-210. Expiration of license; renewal and re-examination; persons on active military duty.

Text of (A) effective until November 24, 2019.

(A) A license issued or renewed on or after October 1, 2017, expires on the licensee's birth date on the eighth calendar year in which it is issued.

Text of (A) effective November 24, 2019.

(A) A license expires eight years from the date of issue.

(B) A license is renewable on or before its expiration date upon application and the payment of the required fee.

(C) The department may renew a driver's license of a resident by mail or electronically upon payment of the required fee, if the renewal is a digitized license.

(D) For cause shown, the department may require the submission by the applicant of evidence satisfactory to the department of the applicant's mental and physical fitness to drive and his knowledge of traffic laws and regulations. If the evidence is not satisfactory to the department, the department may require an examination of the applicant as upon an original application. Parallel parking is not required as a part of the driver's test.

(E) If a person's license expires and he is unable to renew it before its expiration date because he is on active military duty outside this State for a continuous period of at least thirty days immediately before the expiration date or because he is the spouse or dependent living for a continuous period of at least thirty days immediately before the expiration date with a person on active military duty outside this State, within sixty days after returning to this State, the person may renew his license in the manner permitted by this section as though the license had not expired. The department may require proof from the person that he qualifies for renewal of his license under this paragraph. Upon request, the person shall provide the department with a copy of his military service record, a document of his branch of military service showing the date of active military duty outside the State, or other evidence presented by the person showing the dates of service.

HISTORY: 1962 Code Section 46-169; 1952 Code Section 46-166; 1942 Code Section 5994; 1932 Code Section 5994; 1930 (36) 1057; 1945 (44) 32; 1959 (51) 421; 1965 (54) 649; 1967 (55) 330; 1982 Act No. 352; 1988 Act No. 372; 1994 Act No. 487, Section 1; 1994 Act No. 497, Part II, Section 55D; 1996 Act No. 459, Section 74; 2003 Act No. 51, Section 13; 2017 Act No. 6 (H.3358), Section 5, eff April 5, 2017; 2019 Act No. 86 (H.3789), Section 4, eff November 24, 2019.

Effect of Amendment

2017 Act No. 6, Section 5, amended (A), (C), and (D), revising the expiration date of a license issued after October 1, 2017, revising the criteria that must be met by a person who seeks to have a license renewed, and making other nonsubstantive changes.

2019 Act No. 86, Section 4, in (A), substituted "expires eight years from the date of issue" for "issued or renewed on or after October 1, 2017, expires on the licensee's birth date on the eighth calendar year in which it is issued".

SECTION 56-1-215. Renewal of expired license.

Notwithstanding any other provision of law, if a person's license expires, the person may have his license renewed without taking the road test or a written examination required pursuant to Section 56-1-130 if the person applies for his license renewal within nine months of the expiration of his license.

HISTORY: 2003 Act No. 51, Section 20.

SECTION 56-1-218. Driver's license extensions.

(A) Notwithstanding any other provision of law, a member of the Armed Forces of the United States, who is deployed or mobilized outside of this State, or receives orders for a permanent change of station outside of this State, or a civilian employee of the Department of Defense performing temporary duty outside of the State in support of the armed forces, whose license expires while serving outside of this State or whose license expires within ninety days from the beginning of service outside of this State, may apply for an extension on the expiration of the license.

(B) The department must grant the extension if the service member, or a civilian employee of the Department of Defense, provides copies of the orders that require service outside of this State and a valid military identification card, or in the case of a civilian employee, the civilian employee's Department of Defense issued identification card, or military orders supporting services outside of the State. The extension shall expire ninety days after the member is discharged from the service or returns to this State. If the orders do not specify a return date, the service member is deemed to have returned on the date that the commanding officer of the unit provides as the return date to the department. The license is deemed to expire only upon the expiration of the extension.

(C) The provisions of this section also apply to dependents residing with the service member.

(D) The department may prescribe forms and policies to implement the provisions of this section. The department must post the application form on its website, and the application must be able to be processed by mail or electronically.

HISTORY: 2014 Act No. 285 (S.999), Section 1, eff June 9, 2014.

SECTION 56-1-220. Vision screenings required for initial license; certification of minimum standards for renewal; unlawful operation of vehicle with defective vision; penalty.

Text of (A) effective until October 1, 2020.

(A) The department shall require vision screening for all persons obtaining an initial license. The vision screening may be waived upon the submission of a certificate of vision examination dated within the previous twelve months from an ophthalmologist or optometrist licensed in any state.

Text of (A) effective October 1, 2020.

(A) The department shall require vision screening for all persons obtaining an initial license and upon license renewal. The vision screening must be offered by the department, however, a person's screening must be waived upon the submission of a certificate of vision examination dated within the previous twelve months from an ophthalmologist or optometrist licensed in any state.

Text of (B) effective until October 1, 2020.

(B) The renewal license forms distributed by the department must be designed to contain a certification that the vision of the person screened meets the minimum standards required by the department or have been corrected to meet these requirements if a screening is required. The certification must be executed by the person conducting the screening. The minimum standards of the department shall not require a greater degree of vision than 20/40 corrected in one eye. Persons using bioptic lenses must adhere to the provisions contained in Section 56-1-222.

Text of (B) effective October 1, 2020.

(B) The renewal license forms distributed by the department must be designed to contain a certification that the vision of the person screened meets the minimum standards required by the department or have been corrected to meet these requirements. The certification must be executed by the person conducting the screening. A Certificate of Vision Examination form must be executed by the certifying ophthalmologist or optometrist and must be transmitted to the department electronically pursuant to its electronic specifications. The minimum standards of the department shall not require a greater degree of vision than 20/40 corrected in one eye. Persons using bioptic lenses must adhere to the provisions contained in Section 56-1-222.

(C) A person whose vision is corrected to meet the minimum standards shall have the correction noted on his driver's license by the department.

(D) It is unlawful for a person whose vision requires correction in order to meet the minimum standards of the department to drive a motor vehicle in this State without the use of the correction.

(E) Unless otherwise provided in this section, any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1962 Code Section 46-169.1; 1965 (54) 649; 1993 Act No. 181, Section 1302; 2003 Act No. 51, Section 14; 2016 Act No. 275 (S.1258), Section 16, eff July 1, 2016; 2017 Act No. 6 (H.3358), Section 6, eff April 5, 2017; 2018 Act No. 220 (H.4672), Section 1, eff October 1, 2020.

Effect of Amendment

2017 Act No. 6, Section 6, in (A), substituted "The department shall require vision screening for all persons obtaining an initial license" for "Vision screenings are required for all persons before having their licenses renewed by the Department of Motor Vehicles"; deleted former (B) and (C), relating to a certificate from an ophthalmologist or optometrist and exceptions relating to the year 2008; redesignated the remaining paragraphs accordingly; and in (B), inserted "if a screening is required", and added the fourth sentence.

2018 Act No. 220, Section 1, in (A), in the first sentence, inserted "and upon license renewal", and in the second sentence, substituted "must be offered by the department, however, a person's screening must" for "may"; and in (B), in the first sentence, deleted "if a screening is required" at the end, and inserted the third sentence, relating to the execution of a Certificate of Vision Examination form.

SECTION 56-1-221. Medical Advisory Board.

(A) There is created an advisory board composed of thirteen members. One member must be selected by the Commissioner of the Department of Health and Environmental Control from his staff, ten members must be appointed by the South Carolina Medical Association, and two members must be appointed by the South Carolina Optometric Association. The member selected by the Commissioner of the Department of Health and Environmental Control must be the administrative officer of the advisory board. To the maximum extent possible, the members of the board appointed by the South Carolina Medical Association and the South Carolina Optometric Association must be representative of the disciplines of the medical and optometric community treating the mental or physical disabilities that may affect the safe operation of motor vehicles. The identity of physicians and optometrists serving on the board, other than the administrative officer, may not be disclosed except as necessary in proceedings under Sections 56-1-370 or 56-1-410. The members of the board may receive no compensation.

(B) The board shall advise the executive director of the Department of Motor Vehicles on medical criteria and vision standards relating to the licensing of drivers.

(C) Having cause to believe that a licensed driver or applicant may not be physically or mentally qualified to be licensed, the Department of Motor Vehicles may obtain the advice of the board. The board may formulate its advice from records and reports or may cause an examination and report to be made by one or more members of the board or any other qualified person it may designate. The additional examination is at the expense of the applicant or licensed driver. The licensed driver or applicant may cause a written report to be forwarded to the board by a physician or optometrist of his choice, and it must be given consideration by the board.

(D) Members of the board and other persons making examinations are not liable for their opinions and recommendations presented pursuant to subsection (C).

(E) Reports received or made by the board or its members for the purpose of assisting the department in determining whether a person is qualified to be licensed are for the confidential use of the board and the department and may not be divulged to a person or used as evidence in a trial except that the reports may be admitted in proceedings under Sections 56-1-370 and 56-1-410, and a person conducting an examination pursuant to subsection (C) may be compelled to testify concerning his observations and findings in those proceedings.

HISTORY: 1988 Act No. 667.

SECTION 56-1-222. Driver's licenses issued to wearers of bioptic telescopic lenses.

(A) Notwithstanding the provisions contained in Section 56-1-220, a person diagnosed with low vision acuity who uses bioptic telescopic lenses for vision assistance may be issued a driver's license by the Department of Motor Vehicles if he:

(1) submits a vision report form that complies with subsection (B);

(2) submits proof that he has been trained to operate a motor vehicle while wearing bioptic telescopic lenses as evidenced by having completed successfully a driver-training course or program that meets the criteria listed in subsection (C) for these programs; and

(3) meets all other qualifications for obtaining a driver's license, including passing the department-administered road test while wearing bioptic telescopic lenses. A person applying for a driver's license pursuant to this section who fails to pass the road test after three attempts must present certification of repeat completion of a driver-training course or program that meets the criteria listed in subsection (C).

(B) An applicant for a driver's license who will use bioptic telescopic lenses for vision assistance while driving must submit a vision report form supplied by the department. The report must be completed by an optometrist or ophthalmologist. The report must include:

(1) the applicant's vital data;

(2) the bioptic telescopic system vendor's name and type, strength (in X-power), and the date the bioptic telescopic system was dispensed to the applicant;

(3) a statement regarding whether the applicant has a potentially progressive condition; and

(4) certification by an optometrist or ophthalmologist that the applicant:

(a) is not impaired in the movement of his eyes, head, or neck;

(b) possesses sound cognitive and perceptual skills, reaction time, range of motion, and coordination of upper and lower extremities needed to operate a motor vehicle;

(c) is able to detect and recognize the colors of traffic signals and devices showing standard red, green, and amber colors or passes the large disc D-15 color test, or both;

(d) has visual acuity of at least 20/120 in the better functioning eye when looking through the carrier lens of a bioptic telescopic aid;

(e) has improved visual acuity of at least 20/40 using the bioptic telescopic aid in the better functioning eye;

(f) has a binocular horizontal visual field diameter of not less than one hundred twenty degrees and a vertical field of not less than eighty degrees without the use of visual field expanders. If the applicant is monocular, the horizontal visual field may not be less than seventy degrees temporally and thirty-five degrees nasally;

(g) has the signed approval of an optometrist or ophthalmologist to apply for driving privileges using a bioptic telescope;

(h) has successfully completed an In-Clinic Pre-Driver Bioptic Evaluation and Training Program as contained in subsection (C) that was provided by a doctorate level Eye Care Professional (ECP), Certified Driving Rehabilitation Specialist (CDRS), Certified Low Vision Therapist (CLVT), or Certified Orientation and Mobility Specialist (COMS), or such other designations of qualification as may be recognized by the department who are certified in Bioptic Driving Training; and

(i) has successfully completed a recognized Bioptic Driving Behind-the-Wheel Training Program provided by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training recognized by the department.

(C) A person applying for a driver's license pursuant to this section must complete successfully a bioptic driver training course or program certified to train individuals to use bioptic telescopic glasses while operating a motor vehicle. The applicant must pass this training before he is eligible to take the behind-the-wheel driver's test administered by the department. This program shall consist of the following two parts:

(1) Part 1 is the In-Clinic Pre-Driver Bioptic Evaluation and Training Program and is supervised or reviewed by the optometrist or ophthalmologist that prescribed the bioptic telescope. This portion of the program is conducted by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training recognized by the department. An applicant must satisfactorily complete all components of Part 1 prior to advancing to the behind-the-wheel aspect of the Bioptic Training Program.

(a) The evaluation portion of Part 1 includes a preliminary interview, an assessment of cognitive and perceptual skills, a commentary drive screening, a reaction time screening, and a preliminary in-car driver's evaluation (including an upper and lower extremities and range of motion skills screening) by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department.

(b) The training portion of Part 1 requires a minimum of ten hours of commentary driving skills training as a front seat passenger. Commentary driver training must include, but is not limited to, instruction and reinforcement in the following areas:

(i) space cushion driving skills;

(ii) critical object awareness skills;

(iii) basic bioptic utilization skills;

(iv) joining and leaving traffic formations; and

(v) lane changing skills (including mirror and blind spot awareness skills).

(2) Part 2 is the Behind-the-Wheel Bioptic Driving Program. This program is conducted on-road by an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training. The course or program must consist of the following minimum training requirements:

(a) for a person with no previous driving experience, the course shall consist of at least thirty hours of behind-the-wheel driving skills with a bioptic telescopic lens system in place and under the supervision of an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training. For a person with previous driving experience, the course shall consist of at least twenty hours behind-the-wheel driving skills under the supervision of an ECP, CDRS, CLVT, COMS, or such other designations of qualification as recognized by the department who has certification in Bioptic Driving Training;

(b) review and integrated reinforcement of the proper and appropriate use of the bioptic telescopic lens system while driving a motor vehicle, including cleaning and focusing procedures and vertical spotting exercises; and

(c) the award of a Certificate of Completion of Training to a trainee when he successfully completes the Behind-the-Wheel Bioptic Driver's Training Program. He must present this certificate to the department in order to take the on-the-road portion of the driver's license test with his bioptic telescope system in place. He also shall provide a copy of the certificate to the supervising optometrist or ophthalmologist.

The applicant must apply for a driver's license and take the department road test within twelve months of having completed the Behind-the-Wheel Bioptic Driving Program.

The road test is the same standard road test taken by all other persons applying for a regular driver's license.

(D) A person who is licensed to drive using bioptic telescopic aid is subject to restrictions placed on his license. Restrictions may include, but are not limited to:

(1) driving only during daylight hours;

(2) the vehicle being operated by the bioptic driver must be equipped with both left and right side mirrors;

(3) the bioptic driver shall not be permitted to operate a motorcycle, moped, or motor scooter;

(4) the bioptic driver may not drive during adverse weather conditions that significantly reduce the visibility of the roadway or other traffic and traffic control devices;

(5) a maximum speed of fifty miles per hour;

(6) no other mental or physical handicaps; and

(7) no driving on an interstate highway.

Any restrictions must be confirmed and finalized by the department's certified driver licensing examining officer. Any restrictions must be eligible for review and reconsideration after one year, as determined and recommended by the examining optometrist or ophthalmologist and approved by the department.

(E) An applicant who is issued a driver's license pursuant to this section must have the low vision report updated annually within sixty days of the annual anniversary date of driver's licensure by an optometrist or ophthalmologist and submit it to the department for review. The eye care professional that examines the applicant and completes the report shall indicate at the top of the report whether the applicant's vision condition has deteriorated so that the applicant no longer meets the requirements of subsection (B)(4). The department shall review the report.

(F) If the report indicates a progressive loss of vision but the applicant still meets the vision requirements of subsection (B)(4), the applicant may be required to take additional driver training and additional on-road testing before his license may be renewed.

(G) If the report indicates that the applicant no longer meets the requirements of subsection (B)(4), the department immediately shall revoke the license held by the applicant. To be issued a new valid license, the applicant must retake the department-administered road test and meet the requirements of subsection (B)(4).

(H) Nothing in this section permits an applicant who uses bioptic telescopic lenses for vision assistance to apply for a license to operate a motorcycle or a commercial driver's license.

HISTORY: 2016 Act No. 196 (S.21), Section 1, eff June 3, 2017.

Editor's Note

2016 Act No. 196, Section 2, provides as follows:

"SECTION 2. The department shall promulgate any regulations as may be necessary to implement the provisions of Section 1."

SECTION 56-1-225. Reexamination of drivers involved in four accidents within twenty-four months.

Any person licensed to drive a motor vehicle in this State who is involved as a driver in four accidents in any twenty-four month period, which are reported to the director, may, in the discretion of the Department of Motor Vehicles, be required to take any portion of the driver's license examination deemed appropriate. Any person who has had four such accidents and fails to submit to such test within thirty days after having been notified by the department shall have his driver's license suspended until he takes and passes such test.

HISTORY: 1976 Act No. 733 Sections 1, 2; 1993 Act No. 181, Section 1303; 1996 Act No. 459, Section 246A.

SECTION 56-1-230. Notification of change of address or name.

Whenever any person after applying for or receiving a driver's license shall move permanently from the address named in such application or in the license issued to him or when the name of a licensee is changed by marriage or otherwise, such person shall within ten days thereafter notify the Department of Motor Vehicles in writing of his old and new address or of such former and new name and of the number of any license then held by him.

HISTORY: 1962 Code Section 46-170; 1952 Code Section 46-168; 1942 Code Section 5988; 1932 Code Section 5988; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-240. Cancellation and surrender of license.

The Department of Motor Vehicles may cancel any driver's license upon determination that the licensee was not entitled to the issuance thereof or that the licensee failed to give the required or correct information in his application or committed any fraud in making such application and for such other causes as may be authorized by law.

Upon such cancellation the licensee must surrender the license so cancelled by the Department.

HISTORY: 1962 Code Section 46-171; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-245. Conditions for waiver of license reinstatement fee.

If a driver's license is suspended or revoked because the licensee is determined by the Department of Motor Vehicles to have no motor vehicle liability insurance, the department shall waive the reinstatement fee imposed pursuant to Section 56-1-390 if the licensee had motor vehicle liability coverage when his license was suspended or revoked. The director shall document his reasons for waiving the fee in the records of the department.

HISTORY: 1992 Act No. 427; 1992 Act No. 443, Section 2.

SECTION 56-1-250. Cancellation of license or permit upon death of person signing minor's application.

The Department of Motor Vehicles upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license or permit shall cancel such license or permit and shall not issue a new license until such time as a new application, duly signed and verified, is made as required by this article.

HISTORY: 1962 Code Section 46-172; 1959 (51) 421.

SECTION 56-1-260. Effect of cancellation of license.

The cancellation of a driver's license is without prejudice, and application for a new license may be made at any time after such cancellation.

HISTORY: 1962 Code Section 46-173; 1959 (51) 421.

SECTION 56-1-270. Suspension, revocation, or restriction of license on re-examination.

The Department of Motor Vehicles having good cause to believe that a person holding a South Carolina driver's license is incompetent or otherwise not qualified to be licensed because of physical or mental disability may, upon written notice of at least ten days to the licensee, require him to submit to an examination. Upon the conclusion of such examination the department shall take action as may be appropriate and may suspend or revoke the license of such person or permit him to retain such license or may issue a license subject to restrictions permitted under Section 56-1-170. The license of any person may be suspended or revoked if they refuse or neglect to submit to such an examination.

HISTORY: 1962 Code Section 46-174; 1952 Code Sections 46-174 to 46-176; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1304; 1996 Act No. 459, Section 75.

SECTION 56-1-280. Mandatory suspension or revocation.

The Department of Motor Vehicles shall revoke or suspend the license of any driver upon receiving a record of such driver's conviction of any offense for which revocation or suspension is required by law.

The department shall revoke the driver's license of any person upon receiving notice of the conviction of such person for:

(1) Manslaughter resulting from the operation of a motor vehicle; or

(2) Any felony under the laws of this State in the commission of which a motor vehicle is used.

HISTORY: 1962 Code Section 46-175; 1952 Code Section 46-173; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 11996 Act No. 459, Section 76.

SECTION 56-1-285. Revocation or refusal to renew license for nonpayment of fees.

The Department of Motor Vehicles may revoke or refuse to renew the driving privilege of a person for failure to remit a tax or fee administered by the department. Upon payment of all taxes and fees administered by the department, and the payment of any applicable fee, the department may reinstate a person's driving privilege.

HISTORY: 1996 Act No. 459, Section 77.

SECTION 56-1-286. Suspension of license or permit or denial of issuance of license or permit to persons under the age of twenty-one who drive motor vehicles with certain amount of alcohol concentration.

(A) The Department of Motor Vehicles shall suspend the driver's license, permit, or nonresident operating privilege of, or deny the issuance of a license or permit to a person under the age of twenty-one who drives a motor vehicle and has an alcohol concentration of two one-hundredths of one percent or more. In cases in which a law enforcement officer initiates suspension proceedings for a violation of this section, the officer has elected to pursue a violation of this section and is subsequently prohibited from prosecuting the person for a violation of Section 63-19-2440, 63-19-2450, 56-5-2930, or 56-5-2933, arising from the same incident.

(B) A person under the age of twenty-one who drives a motor vehicle in this State is considered to have given consent to chemical tests of the person's breath or blood for the purpose of determining the presence of alcohol.

(C) A law enforcement officer who has arrested a person under the age of twenty-one for a violation of Chapter 5 of this title (Uniform Act Regulating Traffic on Highways), or any other traffic offense established by a political subdivision of this State, and has reasonable suspicion that the person under the age of twenty-one has consumed alcoholic beverages and driven a motor vehicle may order the testing of the person arrested to determine the person's alcohol concentration.

A law enforcement officer may detain and order the testing of a person to determine the person's alcohol concentration if the officer has reasonable suspicion that a motor vehicle is being driven by a person under the age of twenty-one who has consumed alcoholic beverages.

(D) A test must be administered at the direction of the primary investigating law enforcement officer. At the officer's direction, the person first must be offered a breath test to determine the person's alcohol concentration. If the person physically is unable to provide an acceptable breath sample because the person has an injured mouth or is unconscious or dead, or for any other reason considered acceptable by licensed medical personnel, a blood sample may be taken. The breath test must be administered by a person trained and certified by the South Carolina Criminal Justice Academy, pursuant to the State Law Enforcement Division's policies. The primary investigating officer may administer the test. Blood samples must be obtained by physicians licensed by the State Board of Medical Examiners, registered nurses licensed by the State Board of Nursing, or other medical personnel trained to obtain these samples in a licensed medical facility. Blood samples must be obtained and handled in accordance with procedures approved by the division. The division shall administer the provisions of this subsection and shall promulgate regulations necessary to carry out the subsection's provisions. The costs of the tests administered at the officer's direction must be paid from the state's general fund. However, if the person is subsequently convicted of violating Section 56-5-2930, 56-5-2933, or 56-5-2945, then, upon conviction, the person shall pay twenty-five dollars for the costs of the tests. The twenty-five dollars must be placed by the Comptroller General into a special restricted account to be used by the State Law Enforcement Division to offset the costs of administration of the breath testing devices, breath testing site video program, and toxicology laboratory.

The person tested or giving samples for testing may have a qualified person of the person's choice conduct additional tests at the person's expense and must be notified in writing of that right. A person's request or failure to request additional blood tests is not admissible against the person in any proceeding. The person's failure or inability to obtain additional tests does not preclude the admission of evidence relating to the tests or samples taken at the officer's direction. The officer shall provide affirmative assistance to the person to contact a qualified person to conduct and obtain additional tests. Affirmative assistance shall, at a minimum, include providing transportation for the person to the nearest medical facility which provides blood tests to determine a person's alcohol concentration. If the medical facility obtains the blood sample but refuses or fails to test the blood to determine the person's alcohol concentration, the State Law Enforcement Division shall test the blood and provide the result to the person and to the officer. Failure to provide affirmative assistance upon request to obtain additional tests bars the admissibility of the breath test result in a judicial or administrative proceeding.

(E) A qualified person and the person's employer who obtain samples or administer the tests or assist in obtaining samples or administering of tests at the primary investigating officer's direction are immune from civil and criminal liability unless the obtaining of samples or the administering of tests is performed in a negligent, reckless, or fraudulent manner. A person may not be required by the officer ordering the tests to obtain or take any sample of blood or urine.

(F) If a person refuses upon the primary investigating officer's request to submit to chemical tests as provided in subsection (C), the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) six months; or

(2) one year, if the person, within the three years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(G) If a person submits to a chemical test and the test result indicates an alcohol concentration of two one-hundredths of one percent or more, the department shall suspend the person's license, permit, or nonresident operating privilege, or deny the issuance of a license or permit to the person for:

(1) three months; or

(2) six months, if the person, within the three years preceding the violation of this section, has been previously convicted of violating Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a motor vehicle while under the influence of alcohol or other drugs, or the person has had a previous suspension imposed pursuant to Section 56-1-286, 56-5-2951, or 56-5-2990.

(H) A person's driver's license, permit, or nonresident operating privilege must be restored when the person's period of suspension pursuant to subsection (F) or (G) has

concluded, even if the person has not yet completed the Alcohol and Drug Safety Action Program in which the person is enrolled. After the person's driving privilege is restored, the person shall continue to participate in the Alcohol and Drug Safety Action Program in which the person is enrolled. 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 person completes 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 may be restored at the conclusion of the suspension period.

(I) A test may not be administered or samples taken unless, upon activation of the video recording equipment and prior to the commencement of the testing procedure, the person has been given a written copy of and verbally informed that:

(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 if the person refuses to submit to the tests, 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 three months if the person takes the test or gives the samples and has an alcohol concentration of two one-hundredths of one percent or more;

(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) the person shall enroll in an Alcohol and Drug Safety Action Program within thirty days of the issuance of the notice of suspension if the person does not request a contested case hearing or within thirty days of the issuance of notice that the suspension has been upheld at the contested case hearing.

The primary investigating officer promptly shall notify the department of a person's refusal to submit to a test requested pursuant to this section as well as the test result of a person who submits to a test pursuant to this section and registers an alcohol concentration of two one-hundredths of one percent or more. The notification must be in a manner prescribed by the department.

(J) If the test registers an alcohol concentration of two one-hundredths of one percent or more or if the person refuses to be tested, the primary investigating officer shall issue a notice of suspension, and the suspension is effective beginning on the date of the alleged violation of this section. The person, within thirty days of the issuance of the notice of suspension, shall enroll in an Alcohol and Drug Safety Action Program pursuant to Section 56-5-2990 if the person does not request an administrative hearing. If the person does not request an administrative hearing and does not enroll in an Alcohol and Drug Safety Action Program within thirty days, the suspension remains in effect, and a temporary alcohol license must not be issued. If the person drives a motor vehicle during the period of suspension without a temporary alcohol license, the person must be penalized for driving while the person's license is suspended pursuant to Section 56-1-460.

(K) Within thirty days of the issuance of the notice of suspension the person may:

(1) obtain a temporary alcohol license by filing with the Department of Motor Vehicles a form for this purpose. A one hundred dollar fee must be assessed for obtaining a temporary alcohol license. Twenty-five dollars of the fee collected by the Department of Motor Vehicles must be distributed to the Department of Public Safety for supplying and maintaining all necessary vehicle videotaping equipment. The remaining seventy-five dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The temporary alcohol license allows the person to drive a motor vehicle without any restrictive conditions pending the outcome of the contested case hearing provided for in this section or the final decision or disposition of the matter; and

(2) request a contested case hearing before the Office of Motor Vehicle Hearings pursuant to its rules of procedure.

At the contested case hearing if:

(a) the suspension is upheld, the person shall enroll in an Alcohol and Drug Safety Action Program and the person's driver's license, permit, or nonresident operating privilege must be suspended or the person must be denied the issuance of a license or permit for the remainder of the suspension periods provided for in subsections (F) and (G); or

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

(L) The periods of suspension provided for in subsections (F) and (G) begin on the day the notice of suspension is issued, or at the expiration of any other suspensions, and continue until the person applies for a temporary alcohol license and requests an administrative hearing.

(M) If a person does not request a contested case hearing, the person has waived the person's right to the hearing and the person's suspension must not be stayed but shall continue for the periods provided for in subsections (F) and (G).

(N) The notice of suspension must advise the person of the requirement to enroll in an Alcohol and Drug Safety Action Program and of the person's right to obtain a temporary alcohol license and to request a contested case hearing. The notice of suspension also must advise the person that, if the person does not request a contested case hearing within thirty days of the issuance of the notice of suspension, the person shall enroll in an Alcohol and Drug Safety Action Program, and the person waives the person's right to the contested case hearing, and the suspension continues for the periods provided for in subsections (F) and (G).

(O) 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 subsection (I);

(3) refused to submit to a test pursuant to this section; or

(4) consented to taking a test pursuant to this section, and the:

(a) reported alcohol concentration at the time of testing was two one-hundredths of one percent or more;

(b) individual who administered the test or took samples was qualified pursuant to this section;

(c) test administered and samples taken were conducted pursuant to this section; and

(d) the machine was operating 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.

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.

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.

(P) A contested case hearing is a contested proceeding under the Administrative Procedures Act, and a person has a right to appeal the decision of the hearing officer pursuant to that act to the Administrative Law Court in accordance with its appellate rules. The filing of an appeal shall stay the suspension until a final decision is issued.

(Q) A person who is unconscious or otherwise in a condition rendering him incapable of refusal is considered to be informed and not to have withdrawn the consent provided for in subsection (B) of this section.

(R) When a nonresident's privilege to drive a motor vehicle in this State has been suspended under the procedures of this section, the department shall give written notice of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license or permit.

(S) A person required to submit to a test must be provided with a written report including the time of arrest, the time of the tests, and the results of the tests before any proceeding in which the results of the tests are used as evidence. A person who obtains additional tests shall furnish a copy of the time, method, and results of any additional tests to the officer before any trial, hearing, or other proceeding in which the person attempts to use the results of the additional tests as evidence.

(T) A person whose driver's license or permit is suspended under this section is not required to file proof of financial responsibility.

(U) The department shall administer the provisions of this section, not including subsection (D), and shall promulgate regulations necessary to carry out its provisions.

(V) Notwithstanding any other provision of law, no suspension imposed pursuant to this section is counted as a demerit or result in any insurance penalty for automobile insurance purposes if at the time the person was stopped, the person whose license is suspended had an alcohol concentration that was less than eight one-hundredths of one percent.

HISTORY: 1998 Act No. 434, Section 2; 2000 Act No. 390, Sections 3-5; 2001 Act No. 79, Section 2.C; 2003 Act No. 61, Section 4; 2006 Act No. 381, Section 8, eff June 13, 2006; 2008 Act No. 201, Section 2, eff February 10, 2009; 2012 Act No. 212, Section 2, eff June 7, 2012; 2012 Act No. 264, Section 2, eff June 18, 2012; 2014 Act No. 158 (S.137), Section 2, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 17, eff July 1, 2016.

SECTION 56-1-288. Tax refund garnishment for failure to comply with financial responsibility.

The Department of Motor Vehicles may garnish a person's income tax refund instead of revoking a person's driver's license or vehicle registration for failure to satisfy financial responsibility requirements of Title 56.

HISTORY: 1996 Act No. 459, Section 78.

SECTION 56-1-290. Revocation for operating unlicensed taxis in certain counties.

In addition to the grounds for suspension or revocation of license set forth elsewhere in this article and in Chapter 5 of this title, the Department of Motor Vehicles shall forthwith revoke for a period of six months the license of any person upon receiving satisfactory evidence of the conviction of any such person who has been found guilty of operating a vehicle for hire without a license in violation of Section 58-23-1210.

HISTORY: 1962 Code Section 46-176; 1954 (48) 1791; 1993 Act No. 181, Section 1306; 1996 Act No. 459, Section 79.

SECTION 56-1-292. Suspension for failure to pay for gasoline.

In addition to the grounds for suspension or revocation of a driver's license provided in this article and in Chapter 5 of this title, the Department of Motor Vehicles shall suspend the driver's license of a person upon receiving satisfactory evidence that the person has been convicted of a violation of Section 16-13-185 and that the sentencing judge has imposed a sentence which includes a suspension of the person's driver's license.

HISTORY: 2000 Act No. 223, Section 2.

SECTION 56-1-300. Suspension or revocation of license without preliminary hearing.

In addition to other authority of law, the Department of Motor Vehicles may suspend or revoke the license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence that licensee:

(1) Has been convicted of an offense for which mandatory revocation or suspension is required upon conviction; or

(2) Has been convicted of an offense in another state which if committed in this State would be grounds for suspension or revocation.

HISTORY: 1962 Code Section 46-177; 1959 (51) 421; 1993 Act No. 181, Section 1307; 1996 Act No. 459, Section 80.

SECTION 56-1-310. Suspension or revocation of nonresident's driving privilege.

The privilege of driving a motor vehicle on the highways of this State given to a nonresident under this article shall be subject to suspension or revocation by the Department of Motor Vehicles in like manner and for like cause as a driver's license issued under the laws of this State may be suspended or revoked.

HISTORY: 1962 Code Section 46-178; 1959 (51) 421; 1993 Act No. 181, Section 1308; 1996 Act No. 459, Section 81.

SECTION 56-1-320. Suspension or revocation of resident's license or nonresident's driving privilege upon conviction in another state.

(A) The Department of Motor Vehicles may, in its discretion, suspend or revoke the license of any resident of this State or the privilege of a nonresident to drive a motor vehicle in this State upon receiving notice of the conviction of the person in another state of an offense therein which, if committed in this State, would be grounds for the suspension or revocation of the South Carolina license.

However, if a resident of this State has his driver's license revoked or suspended for a motor vehicle violation in another jurisdiction, the department must review the revocation or suspension period for the out-of-state conviction and apply the laws of this State if the out-of-state revocation or suspension period exceeds the revocation or suspension period provided under the laws of this State for that offense. If the laws of this State are applied to an out-of-state conviction, the department must restore the person's privilege to drive in South Carolina once the person has cleared the suspension pursuant to this title, regardless of whether the person's privilege to drive has been restored in the state where the conviction occurred, provided the person is otherwise eligible for the issuance or renewal of a South Carolina license. If the laws of this State, which are applied to an out-of-state conviction, permit the issuance of a special route restricted driver's license for transportation between home and work, college, or university, the department shall permit a special route restricted license according to the requirements of this state's applicable law.

If another state restores limited or restricted driving privileges to the person whose license has been suspended or revoked, the restoration of privileges shall also be valid in this State, and the department must issue a driver's license to the person under the same terms and conditions under which driving is authorized in the state of conviction.

(B) The department may not refuse to issue or renew a driver's license to a person who:

(1) is still under suspension or revocation in another jurisdiction for an out-of-state conviction which was not reported to the department within the one-year period provided for in Section 56-1-650(C);

(2) has received notice of clearance from the jurisdiction where the revocation or suspension has terminated or that all requirements necessary for reissuance of driving privileges in that jurisdiction are met; or

(3) does not have a letter of clearance from the jurisdiction where the conviction occurred and is still under suspension or revocation in that jurisdiction for a conviction which was not reported to the department within the one-year period provided for in Section 56-1-650(C).

HISTORY: 1962 Code Section 46-179; 1959 (51) 421; 1976 Act No. 484; 1993 Act No. 181, Section 1309; 1996 Act No. 459, Section 82; 1997 Act No. 150, Section 2; 1998 Act No. 258, Section 1; 1999 Act No. 115, Section 3.

SECTION 56-1-330. Courts shall report certain convictions.

Every court having jurisdiction over offenses committed under this article or other state laws or municipal ordinances regulating the operation of motor vehicles on highways shall forward to the Department of Motor Vehicles a record of the conviction of any person in such court for a violation of such laws other than regulations governing standing or parking where a matter of safety is not involved.

HISTORY: 1962 Code Section 46-180; 1952 Code Section 46-171; 1942 Code Section 5998; 1932 Code Section 5998; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1310; 1996 Act No. 459, Section 83.

SECTION 56-1-340. Reports of convictions and records may be sent to other states; fees.

The Department of Motor Vehicles may, upon receiving a record of the conviction in this State of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this State, forward a certified copy of such record to the motor vehicle administrator in the state wherein the person so convicted is a resident. Whenever the department receives a request for a driver's record from another state, the record shall be forwarded without charge.

HISTORY: 1962 Code Section 46-181; 1959 (51) 421; 1993 Act No. 181, Section 1311; 1996 Act No. 459, Section 84.

SECTION 56-1-345. Fees charged for Freedom of Information Act request.

The Department of Motor Vehicles may charge and collect fees in accordance with Section 30-4-30 of the Freedom of Information Act for providing copies of registration, title, and driver's license information records maintained by the department.

HISTORY: 2003 Act No. 51, Section 7.

SECTION 56-1-350. Notice of cancellation, suspension, or revocation of license; surrender of license.

In all cases of cancellation, suspension, or revocation of drivers' licenses, the Department of Motor Vehicles shall notify the licensee as prescribed in Section 56-1-360 that his license has been canceled, suspended, or revoked, and such licensee shall within ten days after notice of cancellation, suspension, or revocation return his license to the department. Any person wilfully failing to return his license as required by this section may, on conviction thereof, be fined one hundred dollars or imprisoned for thirty days.

HISTORY: 1962 Code Section 46-182; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1312; 1996 Act No. 459, Section 85.

SECTION 56-1-360. Form and proof of notice.

When notice is required concerning a person's driver's license, the notice must be given by the Department of Motor Vehicles by depositing the notice in the United States mail with postage prepaid addressed to the person at the address contained in the driver's license records of the department. The giving of notice by mail is complete ten days after the deposit of the notice. A certificate by the director of the department or his designee that the notice has been sent as required in this section is presumptive proof that the requirements as to notice of suspension have been met even if the notice has not been received by the addressee.

HISTORY: 1962 Code Section 46-183; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1989 Act No. 169, Section 1; 1993 Act No. 181, Section 1313; 1996 Act No. 459, Section 86.

SECTION 56-1-365. Surrender of driver's license; fine; Department of Motor Vehicles to receive disposition and license surrender information; notice to defendant of suspension or revocation; multiple offenses; punishable offense.

(A) A person who forfeits bail posted for, is convicted of, or pleads guilty or nolo contendere in general sessions, municipal, or magistrates court to an offense which requires that his driver's license be revoked or suspended shall surrender immediately or cause to be surrendered his driver's license to the clerk of court or magistrate upon the verdict or plea. The defendant must be notified at the time of arrest of his obligation to bring, and surrender his license, if convicted, to the court or magistrate at the time of his trial, and if he fails to produce his license after conviction, he may be fined in an amount not to exceed two hundred dollars. If the defendant fails subsequently to surrender his license to the clerk or magistrate immediately after conviction, he must be fined not less than fifty dollars nor more than two hundred dollars.

(B) The Department of Motor Vehicles shall electronically receive disposition and license surrender information from the clerk of court or magistrate immediately after receipt. Along with the driver's license, the clerks and magistrates must give the department's agents tickets, arrest warrants, and other documents or copies of them, including any reinstatement fee paid at the time of the verdict, guilty plea, or plea of nolo contendere, as necessary for the department to process the revocation or suspension of the licenses. If the department does not collect the license surrender information and disposition immediately, the magistrate or clerk must forward the license surrender information, disposition, and other documentation to the department within five business days after receipt. A clerk or magistrate who wilfully fails or neglects to forward the driver's license and disposition as required in this section is liable to indictment and, upon conviction, must be fined not exceeding five hundred dollars.

(C) The department shall notify the defendant of the suspension or revocation. Except as provided in Section 56-5-2990, if the defendant surrendered his license to the magistrate or clerk immediately after conviction, the effective date of the revocation or suspension is the date of surrender. If the magistrate or clerk wilfully fails to electronically forward the disposition and license surrender information to the department within five business days, the suspension or revocation does not begin until the department receives and processes the license and ticket, provided that the end date of the term of suspension or revocation shall be calculated from the date of surrender and not the date the department receives and processes the ticket.

(D) If the defendant is already under suspension for a previous offense at the time of his conviction or plea, the court shall use its judicial discretion in determining if the period of suspension for the subsequent offense runs consecutively and commences upon the expiration of the suspension or revocation for the prior offense, or if the period of suspension for the subsequent offense runs concurrently with the suspension or revocation of the prior offense.

(E) If the defendant fails to surrender his license, the suspension or revocation operates as otherwise provided by law.

(F) If the defendant surrenders his license, upon conviction, and subsequently files a notice of appeal, the appeal acts as a supersedeas as provided in Section 56-1-430. Upon payment of a ten-dollar fee and presentment by the defendant of a certified or clocked-in copy of the notice of appeal, the department shall issue him a certificate which entitles him to operate a motor vehicle for a period of six months after the verdict or plea. The certificate must be kept in the defendant's possession while operating a motor vehicle during the six-month period, and failure to have it in his possession is punishable in the same manner as failure to have a driver's license in possession while operating a motor vehicle.

HISTORY: 1988 Act No. 532, Section 30; 1993 Act No. 181, Section 1314; 1996 Act No. 459, Section 87; 1998 Act No. 379, Section 3; 1999 Act No. 100, Part II, Section 104; 2008 Act No. 201, Section 18, eff 12:00 p.m. February 10, 2009; 2016 Act No. 185 (H.3685), Section 4, eff January 1, 2017.

SECTION 56-1-370. Review of cancellation, suspension, or revocation of license.

The licensee may, within ten days after notice of suspension, cancellation, or revocation, except in cases where the suspension, cancellation, or revocation is made mandatory upon the Department of Motor Vehicles, request in writing an administrative hearing with the Division of Motor Vehicle Hearings in accordance with the rules of

procedure of the Administrative Law Court and the State Administrative Procedures Act, in the judicial circuit where the licensee was arrested unless the Division of Motor Vehicle Hearings and the licensee agree that the hearing may be held in another jurisdiction. The hearing must be heard by a hearing officer of the Division of Motor Vehicle Hearings. Upon the review, the hearing officer shall either rescind the department's order of suspension, cancellation, or revocation or, good cause appearing therefor, may continue, modify, or extend the suspension, cancellation, or revocation of the license. If the administrative hearing results in the continued suspension, cancellation, or revocation of the license, the term of the suspension, cancellation, or revocation of the license is deemed to commence upon the date of the administrative hearing, as long as information is transmitted electronically to the Department of Motor Vehicles on the date of the hearing, and not on the date of the notice provided by the Department of Motor Vehicles.

HISTORY: 1962 Code Section 46-184; 1952 Code Section 46-177; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1959 (51) 421; 1980 Act No. 501; 1988 Act No. 616, Section 1; 1993 Act No. 181, Section 1315; 1996 Act No. 459, Section 88; 2006 Act No. 381, Section 4, eff June 13, 2006; 2016 Act No. 185 (H.3685), Section 5, eff January 1, 2017.

SECTION 56-1-380. Period of suspension or revocation; renewal or restoration of license.

The Department of Motor Vehicles shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one year, except as otherwise permitted or authorized by law.

Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have such license or privilege renewed or restored unless the revocation was for a cause which has been removed, except that after the expiration of at least one year from the date on which the revoked license was surrendered to and received by the department, or as may otherwise be provided for by law, such person may make application for a new license as provided by law, but the department shall not then issue a new license unless and until it is satisfied, after investigation of the character, habits, and driving ability of such person, that it will be safe to grant the privilege of driving a motor vehicle on the public highways.

HISTORY: 1962 Code Section 46-185; 1952 Code Section 46-172; 1942 Code Section 5990; 1932 Code Section 5990; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1316; 1996 Act No. 459, Section 89.

SECTION 56-1-385. Reinstatement of permanently revoked driver's license.

(A) Notwithstanding any other provision of law, a person whose driver's license or privilege to operate a motor vehicle has been revoked permanently pursuant to Section 56-5-2990, excluding persons convicted of felony driving under the influence of alcohol or another controlled substance under Section 56-5-2945, may petition the circuit court in the county of his residence for reinstatement of his driver's license and shall serve a copy of the petition upon the solicitor of the circuit. The solicitor or his designee within thirty days may respond to the petition and demand a hearing on the merits of the petition. If the solicitor or his designee does not demand a hearing, the circuit court shall consider any affidavit submitted by the petitioner and the solicitor or his designee when determining whether the conditions required for driving privilege reinstatement have been met by the petitioner. The court may order the reinstatement of the person's driver's license upon the following conditions:

(1) the person must not have been convicted in this State or any other state of an alcohol or drug violation during the previous seven-year period;

(2) the person must not have been convicted of or have charges pending in this State or another state for a violation of driving while his license is canceled, suspended, or revoked during the previous seven-year period;

(3) the person must have completed successfully an alcohol or drug assessment and treatment program provided by the South Carolina Department of Alcohol and Other Drug Abuse Services or an equivalent program designated by that agency; and

(4) the person's overall driving record, attitude, habits, character, and driving ability would make it safe to grant him the privilege to operate a motor vehicle.

(B)(1) A person may not seek reinstatement of his driver's license pursuant to this section if the person subsequently is convicted of, receives a sentence upon a plea of guilty or of nolo contendere, or forfeits bail posted for a violation of Section 56-5-2930 or for a violation of another law or ordinance of this State or any other state or of a municipality of this State or any other state that prohibits a person from operating a motor vehicle while under the influence of intoxicating liquor, drugs, or narcotics.

(2) Nothing in this section may be construed to prohibit a person whose license has been revoked pursuant to Section 56-5-2930 before the effective date of this section from seeking reinstatement of his license pursuant to the provisions in this section.

(C) If a person's privilege to operate a motor vehicle is restored pursuant to this section, a subsequent violation of driving under the influence of alcohol or another controlled substance or felony driving under the influence of alcohol or another controlled substance will require the cancellation of the person's driver's license and the imposition of the full period of suspension and revocation for a previous violation.

(D) Before a person may have his driver's license reinstated under this section he must:

(1) pay a two hundred dollar filing fee to the court; and

(2) successfully complete the requirements to obtain a driver's license contained in this article.

HISTORY: 1998 Act No. 258, Section 14.

SECTION 56-1-390. Fee for reinstatement of license; disposition of fee proceeds.

(1) Whenever the Department of Motor Vehicles suspends or revokes the license of a person under its lawful authority, the license remains suspended or revoked and must not be reinstated or renewed nor may another license be issued to that person until he also remits to the department a reinstatement fee of one hundred dollars for each suspension on his driving record that has not been reinstated. The reinstatement fee may be paid to the clerk of court or magistrate at the time of the verdict, guilty plea, or plea of nolo contendere for the offense for which the license is suspended or revoked. If the fee is paid at the time of the verdict, guilty plea, or plea of nolo contendere, the clerk or magistrate shall remit the fee to the department pursuant to the procedures set forth in Section 56-1-365(B). The director or his designee may waive or return the reinstatement fee if it is determined that the suspension or revocation is based upon a lack of notice being given to the department or other similar error.

(2) The fees collected by the Department of Motor Vehicles under this provision must be distributed as follows: seventy dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167, and one dollar must be credited to the "Keep South Carolina Beautiful Fund" established pursuant to Section 56-3-3950. From the "Keep South Carolina Beautiful Fund", the Department of Transportation shall expend funds necessary to employ, within the Department of Transportation, a person with training in horticulture to administer a program for beautifying the rights-of-way along state highways and roads. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1962 Code Section 46-185.1; 1970 (56) 1911. 1990 Act No. 596, Section 1; 1993 Act No. 181, Section 1317; 1994 Act No. 497, Part II, Section 86A; 1996 Act No. 459, Section 90; 1999 Act No. 100, Part II, Section 104; 2001 Act No. 79, Section 2.D; 2005 Act No. 176, Section 8, eff June 14, 2005; 2016 Act No. 275 (S.1258), Section 18, eff July 1, 2016.

SECTION 56-1-395. Driver's license reinstatement fee payment program.

(A) The Department of Motor Vehicles shall establish a driver's license reinstatement fee payment program. A person who is a South Carolina resident, is eighteen years of age or older, and has had his driver's license suspended may apply to the Department of Motor Vehicles to obtain a license valid for no more than six months to allow time for payment of reinstatement fees. If the person has served all of his suspensions, has met all other conditions for reinstatement, and owes three hundred dollars or more of South Carolina reinstatement fees only for suspensions that are listed in subsection (E), the Department of Motor Vehicles may issue a six-month license upon payment of a thirty-five dollar administrative fee and payment of fifteen percent of the reinstatement fees owed.

(B) During the period of the six-month license, the person must make periodic payments of the reinstatement fees owed. Monies paid shall be applied to suspensions in chronological order, with the oldest fees being paid first.

(C) When all fees are paid, and the department records demonstrate that the person has no other suspensions, the person is eligible to renew his regular driver's license.

(D) If all fees are not paid by the end of the six-month period, existing suspensions shall be reactivated.

(E) This subsection applies only to a person whose driver's license has been suspended pursuant to Sections 34-11-70, 56-1-120, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1), 56-2-2740, 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-270, 56-10-520, 56-10-530, and 56-25-20.

(F) No person may participate in the payment program more than one time in any three-year period.

(G) The payment program administrative fee of thirty-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.

HISTORY: 2010 Act No. 273, Section 15.A, eff January 2, 2011; 2016 Act No. 275 (S.1258), Section 19, eff July 1, 2016.

Editor's Note

Section 56-10-270, referenced in subsection (E), was repealed by 2002 Act No. 324, Section 10.

SECTION 56-1-396. Driver's license suspension amnesty period.

(A) The Department of Motor Vehicles shall establish a driver's license suspension amnesty period.

(B) The amnesty period must be for one week on an annual basis at the department's discretion.

(C) During the amnesty period, a person whose driver's license is suspended prior to the amnesty period may apply to the department to have qualifying suspensions cleared.

(D) If the person has met all conditions for reinstatement other than service of the suspension period, including payment of all applicable fees, the department must reinstate the person's driver's license.

(E) If the qualifying suspensions are cleared, but nonqualifying suspensions remain to be served, the department must recalculate the remaining suspension start dates to begin as soon as feasible.

(F) Qualifying suspensions include, and are limited to, suspensions pursuant to Sections 34-11-70, 56-1-120, 56-1-170, 56-1-185, 56-1-240, 56-1-270, 56-1-290, 56-1-460(A)(1), 56-2-2740, 56-9-351, 56-9-354, 56-9-357, 56-9-430, 56-9-490, 56-9-610, 56-9-620, 56-10-225, 56-10-240, 56-10-270, 56-10-520, 56-10-530, and 56-25-20. Qualifying suspensions do not include suspensions pursuant to Section 56-5-2990 or 56-5-2945, and do not include suspensions pursuant to Section 56-1-460, if the person drives a motor vehicle when the person's license has been suspended or revoked pursuant to Section 56-5-2990 or 56-5-2945.

HISTORY: 2010 Act No. 273, Section 15.B, eff June 2, 2010; 2016 Act No. 154 (H.3545), Section 11, eff April 21, 2016.

Editor's Note

Section 56-10-270, referenced in subsection (F), was repealed by 2002 Act No. 324, Section 10.

SECTION 56-1-400. Surrender of license; issuance of new license; endorsing suspension and ignition interlock device on license.

(A) The Department of Motor Vehicles, upon suspending or revoking a license, shall require that the license be surrendered to the department. At the end of the suspension period, other than a suspension for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or pursuant to the point system, the department shall issue a new license to the person. If the person has not held a license within the previous nine months, the department shall not issue or restore a license which has been suspended for reckless driving, driving under the influence of intoxicants, driving with an unlawful alcohol concentration, felony driving under the influence of intoxicants, or for violations under the point system, until the person has filed an application for a new license, submitted to an examination as upon an original application, and satisfied the department, after an investigation of the person's driving ability, that it would be safe to grant the person the privilege of driving a motor vehicle on the public highways. The department, in the department's discretion, where the suspension is for a violation under the point system, may waive the examination, application, and investigation. A record of the suspension must be endorsed on the license issued to the person, showing the grounds of the suspension. If a person is permitted to operate a motor vehicle only with an ignition interlock device installed pursuant to Section 56-5-2941, the restriction on the license issued to the person must conspicuously identify the person as a person who only may drive a motor vehicle with an ignition interlock device installed, and the restriction must be maintained on the license for the duration of the period for which the ignition interlock device must be maintained pursuant to Sections 56-1-286, 56-5-2945, and 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2951, or 56-5-2990. For purposes of Title 56, the license must be referred to as an ignition interlock restricted license. The fee for an ignition interlock restricted license is one hundred dollars, which shall be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. Unless the person establishes that the person is entitled to the exemption set forth in subsection (B), no ignition interlock restricted license may be issued by the department without written notification from the authorized ignition interlock service provider that the ignition interlock device has been installed and confirmed to be in working order. If a person chooses to not have an ignition interlock device installed when required by law, the license will remain suspended indefinitely. If the person subsequently decides to have the ignition interlock device installed, the device must be installed for the length of time set forth in Sections 56-1-286, 56-5-2945, and 56-5-2947 except if the conviction was for Section 56-5-750, 56-5-2951, or 56-5-2990. This provision does not affect nor bar the reckoning of prior offenses for reckless driving and driving under the influence of intoxicating liquor or narcotic drugs, as provided in Article 23, Chapter 5 of this title.

(B)(1) A person who does not own a vehicle, as shown in the Department of Motor Vehicles' records, and who certifies that the person:

(a) cannot obtain a vehicle owner's permission to have an ignition interlock device installed on a vehicle;

(b) will not be driving a vehicle other than a vehicle owned by the person's employer; and

(c) will not own a vehicle during the ignition interlock period, may petition the department, on a form provided by the department, for issuance of an ignition interlock restricted license that permits the person to operate a vehicle specified by the employee according to the employer's needs as contained in the employer's statement during the days and hours specified in the employer's statement without having to show that an ignition interlock device has been installed.

(2) The form must contain:

(a) identifying information about the employer's noncommercial vehicles that the person will be operating;

(b) a statement that explains the circumstances in which the person will be operating the employer's vehicles; and

(c) the notarized signature of the person's employer.

(3) This subsection does not apply to:

(a) a person convicted of a second or subsequent violation of Section 56-5-2930, 56-5-2933, 56-5-2945, or a law of another state that prohibits a person from driving a

motor vehicle while under the influence of alcohol or other drugs, unless the person's driving privileges have been suspended for not less than one year or the person has had an ignition interlock device installed for not less than one year on each of the motor vehicles owned or operated, or both, by the person.

(b) a person who is self-employed or to a person who is employed by a business owned in whole or in part by the person or a member of the person's household or immediate family unless during the defense of a criminal charge, the court finds that the vehicle's ownership by the business serves a legitimate business purpose and that titling and registration of the vehicle by the business was not done to circumvent the intent of this section.

(4) Whenever the person operates the employer's vehicle pursuant to this subsection, the person shall have with the person a copy of the form specified by this subsection.

(5) The determination of eligibility for the waiver is subject to periodic review at the discretion of the department. The department shall revoke a waiver issued pursuant to this exemption if the department determines that the person has been driving a vehicle other than the vehicle owned by the person's employer or has been operating the person's employer's vehicle outside the locations, days, or hours specified by the employer in the department's records. The person may seek relief from the department's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

(C) A person whose license has been suspended or revoked for an offense within the jurisdiction of the court of general sessions shall provide the department with proof that the fine owed by the person has been paid before the department may issue the person a license. Proof that the fine has been paid may be a receipt from the clerk of court of the county in which the conviction occurred stating that the fine has been paid in full.

HISTORY: 1962 Code Section 46-186; 1952 Code Sections 46-179, 46-349; 1942 Code Section 5996; 1932 Code Section 5996; 1930 (36) 1057; 1949 (46) 466; 1955 (49) 177; 1959 (51) 421; 1965 (54) 461; 1984 Act No. 478, Section 1; 1993 Act No. 181, Section 1318; 1996 Act No. 459, Section 91; 2007 Act No. 103, Section 23.B, eff January 1, 2008; 2008 Act No. 285, Section 2, eff January 1, 2009; 2014 Act No. 158 (S.137), Section 3, eff October 1, 2014; 2015 Act No. 34 (S.590), Section 1, eff June 1, 2015; 2016 Act No. 275 (S.1258), Section 20, eff July 1, 2016.

SECTION 56-1-420. Effect of dissolution of injunction restraining suspension or revocation of license.

If any court restrains or enjoins the Department of Motor Vehicles from enforcing the suspension or revocation of any license and the suspension or revocation is finally determined to have been properly put into effect by the department, the time during which the revocation or suspension was made ineffective by the judicial order shall not be considered part of the time during which the suspension or revocation was in effect. It is the purpose of this section to ensure that the license shall be suspended or revoked for the full term of such suspension or revocation, if proper in the first place.

HISTORY: 1962 Code Section 46-188; 1959 (51) 421; 1993 Act No. 181, Section 1320; 1996 Act No. 459, Section 93.

SECTION 56-1-430. Appeal from conviction making suspension or revocation mandatory as supersedeas.

Upon conviction of an offense making mandatory the suspension or revocation of the driver's license of the person so convicted, an appeal taken from such conviction shall act as a supersedeas so as to preclude for a period of six months from the date of conviction any such suspension or revocation.

HISTORY: 1962 Code Section 46-189; 1959 (51) 421; 2008 Act No. 201, Section 19, eff 12:00 p.m. February 10, 2009.

SECTION 56-1-440. Penalties for driving without license; summary court jurisdiction.

(A) A person who drives a motor vehicle on a public highway of this State without a driver's license in violation of Section 56-1-20 is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not less than fifty dollars nor more than one hundred dollars or imprisoned for thirty days and, upon conviction of a second offense, be fined five hundred dollars or imprisoned for forty-five days, or both, and for a third and subsequent offense must be imprisoned for not less than forty-five days nor more than six months. However, a charge of driving a motor vehicle without a driver's license must be dismissed if the person provides proof of being a licensed driver at the time of the violation to the court on or before the date this matter is set to be disposed of by the court.

(B) The summary courts are vested with jurisdiction to hear and dispose of cases involving a violation of this section.

HISTORY: 1962 Code Section 46-191; 1952 Code Section 46-181; 1942 Code Section 1637; 1932 Code Section 1637; Cr. C. '22 Section 590; 1920 (31) 895; 1933 (38) 214; 1959 (51) 421; 1988 Act No. 532, Section 2; 1999 Act No. 100, Part II, Section 103A; 2001 Act No. 90, Section 1; 2010 Act No. 273, Section 14.A, eff June 2, 2010.

SECTION 56-1-450. Penalties for unlawful operation after conviction for which suspension or revocation of license mandatory.

Any person not licensed under this article or lawfully operating as a nonresident under this article, convicted of a violation for which suspension or revocation of driver's license or privilege to operate is made mandatory, who shall thereafter operate a motor vehicle in this State before such time as he obtains a driver's license from the Department of Motor Vehicles or until the Department shall find that he is properly qualified to operate as a nonresident, shall be punished by a fine of one hundred dollars or imprisonment for thirty days, and the period of time during which the Department may not issue to him a driver's license or find that he is properly qualified to operate as a nonresident shall be extended as provided in Section 56-1-460. Such license shall not be issued nor shall such findings be made until the lapse of the period of time counting from the date of conviction during which such person's license would have been subject to suspension or revocation had he been properly licensed at the time of such offense.

HISTORY: 1962 Code Section 46-192; 1959 (51) 421.

SECTION 56-1-460. Penalties for driving while license cancelled, suspended or revoked; route restricted license.

(A)(1) Except as provided in item (2), a person who drives a motor vehicle on a public highway of this State when the person's license to drive is canceled, suspended, or revoked must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for up to thirty days, or both;

(b) for a second offense, fined six hundred dollars or imprisoned for up to sixty consecutive days, or both; and

(c) for a third or subsequent offense, fined one thousand dollars, and imprisoned for up to ninety days or confined to a person's place of residence pursuant to the Home Detention Act for up to ninety days. No portion of a term of imprisonment or confinement under home detention may be suspended by the trial judge except when the court is suspending a term of imprisonment upon successful completion of the terms and conditions of confinement under home detention. For purposes of this item, a person sentenced to confinement pursuant to the Home Detention Act is required to pay for the cost of such confinement.

(d) Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, an offense punishable under this item may be tried in magistrates or municipal court.

(e)(i) A person convicted of a first or second offense of this item, as determined by the records of the department, and who is employed or enrolled in a college or university at any time while the person's driver's license is suspended pursuant to this item, may apply for a route restricted driver's license permitting the person to drive only to and from work or the person's place of education and in the course of the person's employment or education during the period of suspension. The department may issue the route restricted driver's license only upon a showing by the person that the person is employed or enrolled in a college or university and that the person lives further than one mile from the person's place of employment or place of education.

(ii) When the department issues a route restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A person holding a route restricted driver's license pursuant to this item shall report to the department immediately any change in the person's employment hours, place of employment, status as a student, or residence.

(iii) The fee for a route restricted driver's license issued pursuant to this item is one hundred dollars, but no additional fee is due when changes occur in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remainder of the fees collected pursuant to this item must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(iv) The operation of a motor vehicle outside the time limits and route imposed by a route-restricted license is a violation of subsection (A)(1).

(2) A person who drives a motor vehicle on a public highway of this State when the person's license has been suspended or revoked pursuant to the provisions of Section 56-5-2990 or 56-5-2945 must, upon conviction, be punished as follows:

(a) for a first offense, fined three hundred dollars or imprisoned for not less than ten nor more than thirty days;

(b) for a second offense, fined six hundred dollars or imprisoned for not less than sixty days nor more than six months;

(c) for a third or subsequent offense, fined one thousand dollars and imprisoned for not less than six months nor more than three years.

No portion of the minimum sentence imposed pursuant to this item may be suspended.

(B) The Department of Motor Vehicles, upon receiving a record of a person's conviction pursuant to this section upon a charge of driving a vehicle while the person's license was suspended for a definite period of time, shall extend the suspension period for an additional like period. If the original period of suspension has expired or terminated before trial and conviction, the department shall again suspend the person's license for an additional like period of time. If the suspension is not for a definite period of time, the suspension must be for an additional three months. If the license of a person cited for a violation of this section is suspended solely pursuant to the provisions of Section 56-25-20, the additional period of suspension pursuant to this section is thirty days, and the person does not have to offer proof of financial responsibility as required pursuant to Section 56-9-500 prior to the person's license being reinstated. If the conviction was for a charge of driving while a license was revoked, the department shall not issue a new license for an additional period of one year from the date the person could otherwise have applied for a new license. Only those violations which occurred within a period of five years including and immediately preceding the date of the last violation constitute prior violations within the meaning of this section.

(C) One hundred dollars of each fine imposed pursuant to this section must be placed by the Comptroller General into a special restricted account to be used by the Department of Public Safety for the Highway Patrol.

HISTORY: 1962 Code Section 46-192.1; 1952 Code Section 46-351; 1949 (46) 466; 1956 (49) 1687; 1959 (51) 421; 1967 (55) 201; 1973 (58) 199; 1987 Act No. 84 Section 1; 1993 Act No. 181, Section 1321; 1996 Act No; 459, Section 94; 2000 Act No. 376, Section 1; 2002 Act No. 263, Section 1; 2004 Act No. 176, Section 2; 2010 Act No. 273, Section 18.A, eff January 2, 2011; 2014 Act No. 158 (S.137), Section 4, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 21, eff July 1, 2016.

SECTION 56-1-463. Inapplicability of penalty provision when suspension based on lack of notice of payment of fines.

Section 56-1-460 specifically does not apply if and when the proposed suspension is based solely on lack of notice being given to the Department of Motor Vehicles when the person has in fact paid any fines or penalties due to the court.

HISTORY: 1987 Act No. 84 Section 3; 1993 Act No. 181, Section 1322; 1996 Act No. 459, Section 95.

SECTION 56-1-464. Cancellation, suspension, or revocation of license based on out-of-state violation.

Notwithstanding the provisions of Section 56-1-460, a person who drives a motor vehicle on any public highway of the State when his license is canceled, suspended, or revoked solely based on an out-of-state motor vehicle violation for which the penalty is a fine and the fine has not been paid to the out-of-state agency and when the violation is not based upon a charge of driving under the influence of alcohol or drugs or a reckless driving charge may petition the magistrate's court to dismiss the state's charge of driving under suspension based upon the out-of-state violation if:

(1) the person presents to the court a satisfactory resolution of the out-of- state violation as exhibited by an official receipt from the out-of-state agency that the fine has been paid; and

(2) the person pays an assessment to the magistrate's court for a first offense of five hundred dollars; for a second offense of one thousand dollars; for a third offense of one thousand five hundred dollars; and for a fourth and subsequent offense of two thousand dollars. This assessment is not subject to an additional assessment under the provisions of Sections 14-1-207 or 14-1-208.

Notwithstanding the provisions of Sections 22-3-540, 22-3-545, and 22-3-550, an offense punishable under this item must be tried exclusively in magistrate's court.

HISTORY: 2002 Act No. 348, Section 7.A.

Editor's Note

2002 Act No. 348, Section 7(B), provides as follows:

"The provisions of Section 56-1-464 as contained in this section apply to any applicable out-of-state offense committed within the last ten years before the effective date of this section, notwithstanding any other provision of this act to the contrary."

SECTION 56-1-465. Notice of suspension required.

The licensee shall be notified of suspension under Section 56-1-460 the same as is required when the license is suspended due to loss of points as provided in Section 56-1-810.

HISTORY: 1987 Act No. 84 Section 4.

SECTION 56-1-470. Unlawful to operate vehicle under foreign license while license is suspended or revoked.

Any resident or nonresident whose operator's or chauffeur's license or privilege to operate a motor vehicle in this State has been suspended or revoked as provided in this article or other laws of this State shall not operate a motor vehicle in this State under a license, permit or registration certificate issued by any other state or otherwise during such suspension or after such revocation until a new license is obtained when and as permitted under this article.

HISTORY: 1962 Code Section 46-192.2; 1959 (51) 421.

SECTION 56-1-475. Driver permitted to drive in State with valid out-of-state license after expiration of state period of suspension.

Notwithstanding the provisions of Section 56-1-400 of the 1976 Code, a person whose driver's license has been suspended by the Department of Motor Vehicles who has moved his residence to another state and has obtained a valid driver's license in such state may lawfully operate a motor vehicle within this State after the expiration of the period of time for which his South Carolina driver's license was suspended.

HISTORY: 1976 Act No. 563; 1993 Act No. 181, Section 1323; 1996 Act No. 459, Section 96.

SECTION 56-1-478. Reciprocal agreements for collection of fines, fees, and other costs.

The Department of Motor Vehicles may enter into reciprocal agreements with other states and political subdivisions for the collection of fines, fees, or other costs which resulted in the revocation of a person's driving privileges of a person applying for a driver's license or renewing a driver's license in this State.

HISTORY: 1996 Act No. 459, Section 97.

SECTION 56-1-480. Unlawful to permit unauthorized person to drive.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven upon any highway by any person who is not authorized to do so by this article or in violation of any of the provisions of this article.

HISTORY: 1962 Code Section 46-192.3; 1952 Code Sections 46-184, 46-185; 1942 Code Sections 1637, 5997-1; 1932 Code Section 1637; Cr. C. '22 Section 590; 1920 (31) 895; 1933 (38) 214; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421.

SECTION 56-1-490. Unlawful for parent or guardian to permit unauthorized minor to drive.

No person shall cause or knowingly permit his minor child or ward to drive a motor vehicle upon any highway when such minor child or ward is not authorized under this article or in violation of any of the provisions of this article.

HISTORY: 1962 Code Section 46-192.4; 1952 Code Sections 46-182, 46-183; 1942 Code Sections 5997, 5997-1; 1932 Code Section 5997; 1930 (36) 1057; 1933 (38) 214; 1953 (48) 246; 1956 (49) 1648; 1959 (51) 421.

SECTION 56-1-500. Penalties for violations of article.

It is a misdemeanor for any person to violate any of the provisions of this article unless such violation is by this article or other law of this State declared to be a felony. Every person convicted of a misdemeanor for a violation of any of the provisions of this article for which another penalty is not provided shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days.

HISTORY: 1962 Code Section 46-192.5; 1952 Code Section 46-186; 1942 Code Section 6009; 1932 Code Section 6009; 1930 (36) 1057; 1959 (51) 421.

SECTION 56-1-510. Unlawful use of license; fraudulent application.

It is a misdemeanor punishable by a fine of not more than two hundred dollars or imprisonment for not more than thirty days for a first offense and not more than five hundred dollars or imprisonment for not more than six months for a second or subsequent offense for any person:

(1) to display or cause or permit to be displayed or have in his possession any canceled, revoked, suspended, or fraudulently altered driver's license or personal identification card;

(2) to lend his driver's or personal identification card to any other person or knowingly permit the use of it by another;

(3) to display or represent as one's own driver's license or personal identification card any driver's license acquired in violation of this section;

(4) to fail or refuse to surrender to the Department of Motor Vehicles upon lawful demand any driver's license which has been suspended, canceled, or revoked;

(5) to use a false or fictitious name in any application for a driver's license or personal identification card or knowingly make a false statement or to knowingly conceal a material fact or otherwise commit a fraud in any such application;

(6) to permit any unlawful use of a driver's license or personal identification card issued to him; or

(7) to do any act forbidden or fail to perform any act required by this article.

HISTORY: 1962 Code Section 46-190; 1959 (51) 421; 1986 Act No. 526, Section 3; 1988 Act No. 559, Section 1; 1993 Act No. 181, Section 1324; 1996 Act No. 459, Section 98.

SECTION 56-1-515. Unlawful alteration of license; sale or issuance of fictitious license; use of another's license or other false documentation to defraud or violate law; violations and penalties.

(1) It is unlawful for any person to alter a motor vehicle driver's license so as to provide false information on the license or to sell or issue a fictitious driver's license.

(2) It is unlawful for any person to use a motor vehicle driver's license not issued to the person, an altered motor vehicle driver's license, an identification card containing false information, or an identification card not issued to the person to defraud another or violate the law.

(3) Any person violating the provisions of subsection (1) is guilty of a misdemeanor and upon conviction must be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both.

(4) Any person violating the provisions of subsection (2) is guilty of a misdemeanor and upon conviction must be fined not more than one hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1986 Act No. 526, Section 2.

SECTION 56-1-540. Files, records, and indexes to be kept.

The Department of Motor Vehicles shall:

(1) File every application for a license received by it and shall maintain suitable indexes containing, in alphabetical order:

(a) all applications denied and on each thereof note of the reasons for such denial;

(b) all applications granted; and

(c) the name of every licensee whose license has been canceled, suspended or revoked by the department and after each such name a note of the reasons for such action; and

(2) The department shall file all accident reports and abstracts of court records of convictions received by it under the laws of this State and, in connection therewith, maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which he has been involved shall be readily ascertainable and available for the consideration of the department upon application for renewal of license and at other suitable times.

HISTORY: 1962 Code Section 46-192.8; 1952 Code Section 46-170; 1942 Code Section 5991; 1932 Code Section 5991; 1930 (36) 1057; 1959 (51) 421; 1993 Act No. 181, Section 1327; 1996 Act No. 459, Section 99.

SECTION 56-1-550. Fee for expediting request for copy of document or record.

The Department of Motor Vehicles may collect a fee not to exceed twenty dollars per document to expedite a request for copies of documents and records it maintains. This fee is in addition to the normal fees associated with the request. Expedited requests must be available within seventy-two hours of receipt of the request and standard requests within thirty days. Nothing in this section may be construed as circumventing the requirements of Section 30-4-30 of the Freedom of Information Act. The funds collected pursuant to this section must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 2008 Act No. 353, Section 2, Pt 13A.1, eff July 1, 2008; 2016 Act No. 275 (S.1258), Section 22, eff July 1, 2016.

ARTICLE 2

Driver License Compact

SECTION 56-1-610. Short title.

This article is known and may be cited as the Driver License Compact.

HISTORY: 1987 Act No. 72 Section 1.

SECTION 56-1-620. Legislative findings and policy.

(A) The General Assembly and the states that are party to the compact find that:

(1) the safety of their streets and highways is materially affected by the degree of compliance with state laws and local ordinances relating to the operation of motor vehicles;

(2) the violation of a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property;

(3) the continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles in whichever jurisdiction the vehicle is operated.

(B) It is the policy of the General Assembly and of each of the party states to:

(1) promote compliance with the laws, ordinances, and administrative regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where the operators drive motor vehicles;

(2) make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized to operate a motor vehicle in any of the party states.

HISTORY: 1987 Act No. 72 Section 1.

SECTION 56-1-630. Definitions.

As used in this article:

(1) "Party state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(2) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.

(3) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance, or administrative regulation, or a forfeiture of bail, bond, or other security deposited to secure appearance by a person charged with having committed any of these offenses, and which conviction or forfeiture is required to be reported to the licensing authority.

(4) "Licensing authority" for purposes of South Carolina shall mean the Department of Motor Vehicles.

HISTORY: 1987 Act No. 72 Section 1; 1993 Act No. 181, Section 1329.

SECTION 56-1-640. Reciprocity in reporting convictions; information to be reported.

The Department of Motor Vehicles shall report each conviction of a person from another party jurisdiction, Canada, or Mexico occurring within South Carolina to the licensing authority of the home jurisdiction of the licensee. The report shall clearly identify the person convicted, describe the violation specifying the section of the statute or ordinance violated, identify the court in which action was taken, indicate whether a plea of guilty or not guilty was entered or the conviction was a result of the forfeiture of bail, bond, or other security, and include any special findings.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 101; 2010 Act No. 216, Section 2, eff June 7, 2010.

SECTION 56-1-650. Effect of certain convictions on status of license in home state.

(A) A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any of the following:

(1) manslaughter or homicide resulting from the operation of a motor vehicle as provided by Sections 56-1-280 and 56-5-2910;

(2) driving a motor vehicle while under the influence, as provided by Section 56-5-2930;

(3) any felony in the commission of which a motor vehicle is used, as provided by Section 56-1-280;

(4) failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another, as provided by Section 56-5-1210.

(B) If the laws of a member state do not describe the violations listed in subsection (A) in precisely the words used in that subsection, the member state shall construe the descriptions to apply to offenses of the member state that are substantially similar to the ones described. A state that is a member of the Drivers License Compact shall report to another member state of the compact a conviction for any other offense or any other information concerning convictions that the member states agree to report.

(C) For a conviction required to be reported under subsection (A), a member state shall give the same effect to the report as if the conviction had occurred in that state. For a conviction that is not required to be reported under subsection (A), the provisions of Section 56-1-320 shall govern the effect of the reported conviction in this State. For a conviction that is not required to be reported under subsection (A), notice of the conviction must be received by the Department of Motor Vehicles for purposes of suspension or revocation within one year of the date of conviction.

The department shall not post to an individual's driver's record any conviction that is not received by the department within the one-year period for offenses governed by this subsection. For purposes of this title, this means all convictions which occurred after June 4, 1995, which are not required to be reported pursuant to subsection (A). The department may not refuse to issue or renew a resident's driver's license when the individual's privilege to drive is suspended or revoked for an out-of-state conviction which was not reported to the department within one year of the date of conviction, as required in this subsection.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 102; 1997 Act No. 150, Section 3; 1998 Act No. 258, Section 2.

SECTION 56-1-660. Review of license status in other states upon application for license in party state.

Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of, a license to drive issued by any other party state. The licensing authority in the state where application is made may not issue a license to drive if:

(1) The applicant has held a license, but it has been suspended for a violation and the suspension period has not terminated.

(2) The applicant has held a license, but it has been revoked for a violation, and the revocation has not terminated, except that after the expiration of one year from the date the license was revoked, the person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any applicant if, after investigation, the licensing authority determines that it will not be safe to grant the person the privilege of driving a motor vehicle on the public highways.

(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders the license.

HISTORY: 1987 Act No. 72 Section 1.

SECTION 56-1-670. Effect on other laws or agreements.

Except as expressly required by provisions of the compact, nothing herein affects the right of the Department of Motor Vehicles to apply any of South Carolina's other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between South Carolina and a nonparty state.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 103.

SECTION 56-1-680. Administration; exchange of information.

(A) The director or his designee of the Department of Motor Vehicles is the administrator of this compact for South Carolina. The administrators, acting jointly, have the power to formulate all necessary procedures for the exchange of information under this compact.

(B) The department shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.

HISTORY: 1987 Act No. 72 Section 1; 1996 Act No. 459, Section 104.

SECTION 56-1-690. Withdrawal from compact.

Any party state may withdraw from the compact, but no withdrawal may take effect until six months after the executive heads of all other party states have received notice. Withdrawal does not affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.

HISTORY: 1987 Act No. 72 Section 1.

ARTICLE 3

Point System for Evaluating Operating Records of Drivers

SECTION 56-1-710. "Conviction" defined.

The term "conviction" as used in this article shall also include the entry of any plea of guilty, the entry of any plea of nolo contendere and the forfeiture of any bail or collateral deposited to secure a defendant's appearance in court.

HISTORY: 1962 Code Section 46-195; 1955 (49) 249.

SECTION 56-1-720. Point system established; schedule of points for violations.

There is established a point system for the evaluation of the operating record of persons to whom a license to operate motor vehicles has been granted and for the determination of the continuing qualifications of these persons for the privileges granted by the license to operate motor vehicles. The system shall have as its basic element a graduated scale of points assigning relative values to the various violations in accordance with the following schedule:

VIOLATION POINTS Reckless driving 6 Passing stopped school bus 6 Hit-and-run, property damages only 6 Driving too fast for conditions, or speeding: (1) No more than 10 m.p.h. above the posted limits 2 (2) More than 10 m.p.h. but less than 25 m.p.h. above the posted limits 4 (3) 25 m.p.h. or above the posted limits 6 Disobedience of any official traffic control device 4 Disobedience to officer directing traffic 4 Failing to yield right-of-way 4 Driving on wrong side of road 4 Passing unlawfully 4 Turning unlawfully 4 Driving through or within safety zone 4 Shifting lanes without safety precaution 2 Improper dangerous parking 2 Following too closely 4 Failing to dim lights 2 Operating with improper lights 2 Operating with improper brakes 4 Operating a vehicle in unsafe condition 2 Driving in improper lane 2 Improper backing 2 Endangerment of a highway worker, no injury 2 Endangerment of a highway worker, injury results 4

HISTORY: 1962 Code Section 46-196; 1955 (49) 249; 1962 (52) 1976; 1966 (54) 2383; 1970 (56) 2383; 1988 Act No. 532, Section 7; 2017 Act No. 81 (H.4033), Sections 2, 5.A, eff May 19, 2017.

Code Commissioner's Note

At the direction of the Code Commissioner, the item relating to improper backing is retained in the schedule of offenses; this item was inadvertently omitted in Section 5.A. of 2017 Act No. 81.

Effect of Amendment

2017 Act No. 81, Section 2, added the violations of "Endangerment of a highway worker, no injury" and "Endangerment of a highway worker, injury results" and the corresponding value of their point violations.

2017 Act No. 81, Section 5.A, deleted the offense of "Failing to give signal or giving improper signal for stopping, turning or suddenly decreased speed".

SECTION 56-1-730. Warning tickets not assigned point value.

Warning tickets shall not be assigned a point value.

HISTORY: 1962 Code Section 46-196.1; 1955 (49) 249.

SECTION 56-1-740. Suspension of driver's license or nonresident's privilege to drive; special restricted driver's licenses.

(A) The Department of Motor Vehicles may suspend, for not more than six months, the driver's license and privilege of a person upon a showing by its records, based on a uniform point system as authorized in this article, that the licensee has been convicted with such frequency of offenses against motor vehicle traffic laws or ordinances as to indicate a disrespect for the laws or ordinances and a disregard for the safety of other persons on the highways. For the purposes of this article, a total of twelve points

assessed against a driver as determined by the values designated in Section 56-1-720 indicates disrespect and disregard. The privilege of driving a motor vehicle on the highways of this State, given to a nonresident under the laws of this State, is subject to suspension by the department in like manner, and for like cause, the same as a driver's license issued by this State may be suspended.

Periods of suspension of the license or privilege of a person for various accumulation of points must be as follows, with the person having the privilege to request a review of his driving record:

(1) twelve to fifteen points-three months' suspension;

(2) sixteen or seventeen points-four months' suspension;

(3) eighteen or nineteen points-five months' suspension;

(4) twenty points and over-six months' suspension.

(B)(1) If a person is employed or enrolled in a college or university at any time while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work or his place of education and in the course of his employment or education during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the person that he is employed or enrolled in a college or university, and that he lives further than one mile from his place of employment or place of education.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the person may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, or residence must be reported immediately to the department by the licensee.

(3) The fee for each special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Of this fee, eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167. The remainder of the fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1962 Code Section 46-196.2; 1955 (49) 249; 1988 Act No. 623, Section 1; 1993 Act No. 181, Section 1330; 1996 Act No. 459, Section 105; 1999 Act No. 115, Section 4; 2001 Act No. 79, Section 2.E; 2005 Act No. 176, Section 9, eff June 14, 2005; 2016 Act No. 275 (S.1258), Section 23, eff July 1, 2016.

SECTION 56-1-746. Suspension of driver's license for alcohol-related offenses; penalties; special restricted licenses.

(A) The Department of Motor Vehicles shall suspend the driver's license of a person convicted of an offense contained in Sections 56-1-510(2), 56-1-510(5), 56-1-515, 61-4-60, 63-19-2440, and 63-19-2450 as follows:

(1) for a conviction for a first offense, for a period of one hundred twenty days; and

(2) for a conviction for a second or subsequent offense, for a period of one year.

(B) For the purposes of determining a prior offense, a conviction for an offense enumerated in subsection (A) within ten years of the date of the violation is considered a prior offense.

(C) Notwithstanding the provisions of Section 56-1-460, a person convicted pursuant to the provisions of this section must be punished pursuant to Section 56-1-440 and is not required to furnish proof of financial responsibility as provided for in Section 56-9-500. The conviction may not result in an insurance penalty pursuant to the Merit Rating Plan promulgated by the Department of Insurance.

(D)(1) If an individual is employed or enrolled in a college or university, or a court-ordered drug program, while his driver's license is suspended pursuant to this section, he may apply for a special restricted driver's license permitting him to drive only to and from work, his place of education, or the court-ordered drug program, and in the course of his employment, education, or a court-ordered drug program during the period of suspension. The department may issue the special restricted driver's license only upon a showing by the individual that he is employed or enrolled in a college, university, or court-ordered drug program, that he lives further than one mile from his place of employment, education, or court-ordered drug program, and that there is no adequate public transportation between his residence and his place of employment, his place of education, or court-ordered drug program.

(2) If the department issues a special restricted driver's license, it shall designate reasonable restrictions on the times during which and routes on which the individual may operate a motor vehicle. A change in the employment hours, place of employment, status as a student, status of attendance in his court-ordered drug program, or residence must be reported immediately to the department by the licensee.

(3) The fee for a special restricted driver's license is one hundred dollars, but no additional fee is due because of changes in the place and hours of employment, education, or residence. Twenty dollars of this fee must be deposited in the state general fund and eighty dollars must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

(4) The operation of a motor vehicle outside the time limits and route imposed by a special restricted license by the person issued that license is a violation of Section 56-1-460.

HISTORY: 1990 Act No. 602, Section 5; 1992 Act No. 421, Section 2; 1993 Act No. 181, Section 1332; 1996 Act No. 459, Section 106; 2001 Act No. 79, Section 2.G; 2002 Act No. 348, Section 14; 2002 Act No. 354, Section 7; 2007 Act No. 103, Section 8, eff July 1, 2007; 2016 Act No. 275 (S.1258), Section 24, eff July 1, 2016.

SECTION 56-1-747. What constitutes conviction for purposes of Section 56-1-746.

For purposes of Section 56-1-746 a conviction is defined as provided in Section 56-1-2030 and includes being adjudicated under juvenile proceedings.

HISTORY: 1990 Act No. 602, Section 5; 1994 Act No. 357, Section 4.

SECTION 56-1-748. Persons issued restricted driver's license ineligible for issuance of special restricted driver's license; route restricted driver's license.

(A) No person issued a restricted driver's license under the provisions of Section 56-1-170, 56-1-320, 56-1-740, 56-1-745, 56-1-746, 56-5-750, 56-9-430, 56-10-260, 56-10-270, or 56-5-2951 shall subsequently be eligible for issuance of a restricted driver's license under these provisions.

(B) A person who obtains a route restricted driver's license and who is required to attend an Alcohol and Drug Safety Action Program or a court-ordered drug program as a condition of reinstatement of the person's driving privileges may use the route restricted driver's license to attend the Alcohol and Drug Safety Action Program classes or court-ordered drug program in addition to the other permitted uses of the route restricted driver's license.

HISTORY: 1992 Act No. 421, Section 5; 1999 Act No. 115, Section 5; 2008 Act No. 201, Section 3, eff February 10, 2009; 2014 Act No. 158 (S.137), Section 5, eff October 1, 2014.

Editor's Note

Section 56-1-745 was repealed by 2011 Act No. 13, Section 1. Section 56-10-270 was repealed by 2002 Act No. 324, Section 10.

SECTION 56-1-750. Computation of points.

In computing the total number of points charged to any person after a particular violation, those accrued as a result of violations which have occurred during the twelve months' period including and immediately preceding the last violation shall be counted at their full value, those accrued from twelve to twenty-four months preceding the last violation shall be counted at one half their established value and those resulting from violations which occurred more than twenty-four months prior to the last violation shall not be counted.

HISTORY: 1962 Code Section 46-196.3; 1955 (49) 249.

SECTION 56-1-760. Violations considered in suspension to be disregarded in subsequent suspension.

When the driver's license of a person is suspended under the provisions of this article, all violations considered in such suspension shall be disregarded in so far as any subsequent suspension under this article or under the provisions of Section 56-5-2920 is concerned.

HISTORY: 1962 Code Section 46-196.4; 1955 (49) 249.

SECTION 56-1-770. Points reduced for completing defensive driving course.

(A) Any driver who has accumulated points under the provisions of this article shall have the number of his points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that he has completed the National Safety Council's "Defensive Driving Course" or its equivalent, if the course is completed after the points have been assessed. The course must be taught by an instructor accredited by the National Safety Council whose procedures for accreditation are set forth in the "Manual of Rules and Procedures" published by the National Safety Council or equivalent accreditation procedures. The department shall establish procedures by which driver training schools may apply to the department for approval of a defensive driving course which will qualify those successfully completing the course for a reduction in points pursuant to this section. The department shall approve the National Safety Council's "Defensive Driving Course" or its equivalent when offered by driver training schools and taught by an instructor accredited by the National Safety Council or equivalent accreditation procedures.

(B) Any driver with a Class M (motorcycle) endorsement who has accumulated points under the provisions of this article shall have the number of his points reduced by four upon proving to the satisfaction of the Department of Motor Vehicles that he has successfully completed a South Carolina technical college motorcycle safety course or its equivalent. All courses offered for point reduction must be at least eight hours in length and be taught by an instructor accredited through a training program in which the procedures for accreditation are equivalent to those set forth in "Manual of Rules and Procedures" published by the National Safety Council.

(C) No person's points may be reduced more than one time in any three-year period, pursuant to the provisions contained in this section.

HISTORY: 1962 Code Section 46-196.4:1; 1974 (58) 2067; 1979 Act No. 49; 1988 Act No. 612, Section 1; 1993 Act No. 181, Section 1333; 1996 Act No. 459, Section 107; 2018 Act No. 127 (S.456), Section 2, eff February 5, 2018.

Effect of Amendment

2018 Act No. 127, Section 2, in (A), added the paragraph identifier and deleted the fifth sentence, which had provided that no person's points may be reduced more than one time in any three-year period; and added (B) and (C).

SECTION 56-1-780. Reports of certain convictions to Department of Motor Vehicles.

The provisions of Section 56-5-2970, shall also apply to convictions in cases involving other traffic violations as listed in Section 56-1-720.

HISTORY: 1962 Code Section 46-196.5; 1955 (49) 249.

SECTION 56-1-790. Reports of out-of-state, federal or court-martial convictions; recording against drivers.

The Department of Motor Vehicles may enter into a reciprocal agreement with the proper agency of any other state for the purpose of reporting convictions in one state by a person holding a driver's license in the other state. Such convictions in another state of a violation therein which, if committed in this State, would be a violation of the traffic laws of this State, may be recorded against a driver the same as if the conviction had been made in the courts of this State. When a resident of this State has been convicted of a motor vehicle violation in another state for which there is no corresponding offense in this State, excluding the offenses listed in Section 56-1-650(A), the conviction must not be recorded on the person's driving record in this State.

Guilty pleas, failure to respond to charges or convictions by courts-martial or post or base commanders of any of the various branches of the Armed Forces of the United States or by a United States Commissioner of a violation either on or off government property which, if committed in this State, would be a violation of the laws of this State, may, in the discretion of the department, be recorded against a driver the same as if the plea of guilty, forfeiture of bond, or conviction had been made in the courts of this State.

HISTORY: 1962 Code Section 46-196.6; 1955 (49) 249; 1969 (56) 690; 1993 Act No. 181, Section 1334; 1996 Act No. 459, Section 108; 1998 Act No. 258, Section 15.

SECTION 56-1-800. Certified copies of reports as evidence of convictions.

In all proceedings held under the provisions of this article, photostatic, optical disk, or other copies of the reports filed with the Department of Motor Vehicles, including official reports received from directors of the motor vehicle divisions, court officials, or other agencies of other states charged with the duty of keeping records of offenses against the traffic laws of such states and reports of courts-martial or United States Commissioners, are deemed to be true copies, when such copies are duly certified by the director or his designee as true copies of the original on file therewith, and as such shall be deemed prima facie evidence of the information contained on such reports for the purpose of showing any conviction.

HISTORY: 1962 Code Section 46-196.7; 1955 (49) 249; 1993 Act No. 181, Section 1335; 1996 Act No. 459, Section 109.

SECTION 56-1-810. Notice of suspension; surrender of license.

Upon the determination by the Department of Motor Vehicles that a person has accumulated sufficient points to warrant the suspension of his license, the department shall notify such licensee in writing, return receipt requested, that his license has been suspended, and such licensee shall return his license to the department within the time required by Section 56-1-350 and subject to the penalties thereof for failing to do so.

HISTORY: 1962 Code Section 46-196.8; 1955 (49) 249; 1959 (51) 421; 1993 Act No. 181, Section 1336; 1996 Act No. 459, Section 110.

SECTION 56-1-820. Hearing on suspension.

The licensee may, within ten days after notice of suspension, request in writing a contested case hearing before the Office of Motor Vehicle Hearings, and upon receipt of the request the Office of Motor Vehicle Hearings shall afford him a hearing in accordance with the State Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

HISTORY: 1962 Code Section 46-196.9; 1955 (49) 249; 1959 (51) 421; 1988 Act No. 623, Section 2; 1988 Act No. 616, Section 2; 1993 Act No. 181, Section 1337; 1996 Act No. 459, Section 111; 2008 Act No. 279, Section 4, eff October 1, 2008.

SECTION 56-1-850. Other provisions for mandatory suspension, revocation, or cancellation unaffected.

Nothing contained in this article shall affect the action of the Department of Motor Vehicles in suspending, revoking, or canceling any driver's license when such action is mandatory under the provisions of any law of this State.

HISTORY: 1962 Code Section 46-196.12; 1955 (49) 249; 1993 Act No. 181, Section 1340; 1996 Act No. 459, Section 112.

ARTICLE 5

Habitual Offenders

SECTION 56-1-1010. Legislative declaration of policy.

It is hereby declared to be the policy of this State:

(a) To provide maximum safety for all persons who use the public highways of this State; and

(b) To deny the privilege of operating motor vehicles on such highways to persons who by their conduct and record have demonstrated their indifference to the safety and welfare of others and their disrespect for the laws of this State; and

(c) To discourage repetition of unlawful acts by individuals against the peace and dignity of this State and her political subdivisions and to impose additional penalties upon habitual offenders who have been convicted repeatedly of violations of the traffic laws of this State.

HISTORY: 1962 Code Section 46-197; 1973 (58) 424; 1974 (58) 2998.

SECTION 56-1-1020. "Habitual offender" and "conviction" defined.

An habitual offender shall mean any person whose record as maintained by the Department of Motor Vehicles shows that he has accumulated the convictions for separate and distinct offenses described in subsections (a), (b) and (c) committed during a three-year period; provided, that where more than one included offense shall be committed within a one-day period such multiple offenses shall be treated for the purposes of this article as one offense:

(a) Three or more convictions, singularly or in combination of any of the following separate and distinct offenses arising out of separate acts:

(1) Voluntary manslaughter, involuntary manslaughter or reckless homicide resulting from the operation of a motor vehicle;

(2) Operating or attempting to operate a motor vehicle while under the influence of intoxicating liquor, narcotics or drugs;

(3) Driving or operating a motor vehicle in a reckless manner;

(4) Driving a motor vehicle while his license, permit, or privilege to drive a motor vehicle has been suspended or revoked, except a conviction for driving under suspension for failure to file proof of financial responsibility;

(5) Any offense punishable as a felony under the motor vehicle laws of this State or any felony in the commission of which a motor vehicle is used;

(6) Failure of the driver of a motor vehicle involved in any accident resulting in the death or injury of any person to stop close to the scene of such accident and report his identity;

(b) Ten or more convictions of separate and distinct offenses involving moving violations singularly or in combination, in the operation of a motor vehicle, which are required to be reported to the department for which four or more points are assigned pursuant to Section 56-1-720 or which are enumerated in subsection (a) of this section.

(c) The offenses included in subsections (a) and (b) shall be deemed to include offenses under any federal law, any law of another state or any municipal or county ordinance of another state substantially conforming to the above provisions.

(d) For purposes of determining the number of convictions for separate and distinct offenses committed during any three-year period, a person shall be deemed to be convicted of an offense on the date the offense was committed if he is subsequently convicted of committing such offense.

HISTORY: 1962 Code Section 46-197.1; 1973 (58) 424; 1974 (58) 2998; 1984 Act No. 516, Section 1; 1993 Act No. 181, Section 1341; 1996 Act No. 459, Section 113.

SECTION 56-1-1030. Habitual offender determination; revocation of license; notice of determination and appeal.

(A) When a person is convicted of one or more of the offenses listed in Section 56-1-1020(a), (b), or (c), the Department of Motor Vehicles must review its records for that person. If the department determines after review of its records that the person is an habitual offender as defined in Section 56-1-1020, the department must revoke or suspend the person's driver's license.

(B) If the department determines the person is an habitual offender, the department shall give notice of its determination to the person and direct the person not to operate a motor vehicle on the highways of this State and to surrender his driver's license or permit to the department. The notice must provide that a person aggrieved by the department determination may file a request for a contested case hearing with the Office of Motor Vehicle Hearings in accordance with its rules of procedure. The Office of Motor Vehicle Hearings has exclusive jurisdiction to conduct these hearings.

HISTORY: 1962 Code Section 46-197.2; 1973 (58) 424; 1974 (58) 2998; 1988 Act No. 532, Section 3; 1990 Act No. 602, Section 1; 1993 Act No. 181, Section 1342; 1996 Act No. 459, Section 114; 2006 Act No. 381, Section 5, eff June 13, 2006; 2008 Act No. 279, Section 5, eff October 1, 2008.

SECTION 56-1-1090. Request for restoration of privilege to operate motor vehicle; conditions; appeal of denial of request.

(A) No license to operate motor vehicles in this State may be issued to an habitual offender nor shall a nonresident habitual offender operate a motor vehicle in this State for a period of five years from the date of a determination by the Department of Motor Vehicles that a person is an habitual offender unless the period is reduced to two years as permitted in item (1) or (2).

(1) Upon request to the department on a form prescribed by it, the department may restore to the person the privilege to operate a motor vehicle in this State subject to other provisions of law relating to the issuance of drivers' licenses. The request permitted by this item may be filed after two years have expired from the beginning date of the habitual offender suspension and if the following conditions are met:

(a) the person must not have had a previous habitual offender suspension in this or another state;

(b) the person must not have driven a motor vehicle during the habitual offender suspension period;

(c) the person must not have been convicted of or have charges pending for any alcohol or drug violations committed during the habitual offender suspension period;

(d) the person must not have been convicted of or have charges pending for any offense listed in Section 56-1-1020 committed during the habitual offender suspension period; and

(e) the person must not have any other mandatory driver's license suspension that has not yet reached its end date.

The department will issue its decision within thirty days after receipt of the request.

(2) If the department denies the request referenced in item (1), the person may seek relief from the department's determination by filing a request for a de novo contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings. For good cause shown, the Office of Motor Vehicle Hearings may restore to the person the privilege to operate a motor vehicle in this State subject to other provisions of law relating to the issuance of driver's licenses. The provisions of item (1) shall not be construed to limit the discretion or authority of the Office of Motor Vehicle Hearings in considering the person's request for a reduction of the five-year suspension period; however, those provisions may be used as guidelines for determinations of good cause for relief from the normal five-year suspension period.

(B) If a reduction is granted, it will begin on the date of the department's decision or on the date of the final decision by the Office of Motor Vehicle Hearings. If a reduction is not granted, no request for reduction may be filed again.

(C) If a person's privilege to operate a motor vehicle is restored pursuant to this section, but the department subsequently determines that the person failed to give the required or correct information in his request or during a hearing, or committed any fraud in making the request or during his hearing, the department must suspend the person's driver's license pursuant to Section 56-1-240 for the remaining balance of the habitual offender suspension period. The person may seek relief from the department's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

(D) If a person's privilege to operate a motor vehicle is restored pursuant to subsection (A)(1) or (A)(2), and if the person is convicted of a violation of any offense listed in Section 56-1-1020(A) that occurred during the original five-year habitual offender suspension period, the department must suspend the person's driver's license for the time period by which the habitual offender suspension had been reduced. The person may seek relief from the department's determination by filing a request for a contested case hearing with the Office of Motor Vehicle Hearings pursuant to the Administrative Procedures Act and the rules of procedure for the Office of Motor Vehicle Hearings.

HISTORY: 1962 Code Section 46-197.8; 1973 (58) 424; 1974 (58) 2998; 1984 Act No. 516, Section 2; 1988 Act No. 532, Section 4; 1990 Act No. 602, Section 2; 1993 Act No. 181, Section 1343; 1996 Act No. 459, Section 115; 2006 Act No. 381, Section 6, eff June 13, 2006; 2008 Act No. 201, Section 15, eff February 10, 2009; 2008 Act No. 279, Section 6, eff October 1, 2008.

SECTION 56-1-1100. Penalties.

A person found to be an habitual offender under the provisions of this article, who subsequently is convicted of operating a motor vehicle in this State while the decision of the Department of Motor Vehicles prohibiting the operation is in effect, is guilty of a felony and must be imprisoned not more than five years.

For the purpose of enforcing this section, in any case in which the accused is charged with driving a motor vehicle while his driver's license or permit is suspended or revoked or is charged with driving without a license, the department, before hearing the charges, shall determine whether the person has been adjudged an habitual offender and is barred from operating a motor vehicle on the highways of this State. If the person is found to be an habitual offender, the department shall notify the solicitor or Attorney General and he shall cause the appropriate criminal charges to be lodged against the offender.

HISTORY: 1962 Code Section 46-197.9; 1973 (58) 424; 1974 (58) 2998; 1988 Act No. 532, Section 5; 1993 Act No. 181, Section 1344; 1993 Act No. 184, Section 81; 1996 Act No. 459, Section 116.

SECTION 56-1-1105. Penalties for driving while license cancelled, suspended, or revoked.

(A) For purposes of this section:

(1) "Great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(2) "Habitual offender" has the same meaning as in Section 56-1-1020.

(B) An habitual offender who drives a motor vehicle on any public highway of this State when the offender's license to drive has been canceled, suspended, or revoked, and when driving does any act forbidden by law or neglects any duty imposed by law in the driving of the motor vehicle, which act or neglect proximately causes great bodily injury or death to a person other than himself, is guilty of a felony, and, upon conviction, guilty plea, or nolo contendere plea must be punished:

(1) by a fine of not more than five thousand dollars and imprisonment for not more than ten years when great bodily injury results; or

(2) by a fine of not less than five thousand dollars nor more than ten thousand dollars and imprisonment for not more than twenty years when death results.

(C) The Department of Motor Vehicles must suspend the driver's license of an habitual offender who is convicted, pleads guilty, or pleads nolo contendere pursuant to this section for a period to include incarceration plus two years when great bodily injury results and three years when death results. The period of incarceration must not include any portion of a suspended sentence such as probation, parole, supervised furlough, or community supervision. For suspension purposes of this section, convictions arising out of a single incident shall run concurrently.

HISTORY: 2010 Act No. 273, Section 18.B, eff June 2, 2010.

SECTION 56-1-1110. Article does not affect existing laws.

Nothing in this article shall be construed as affecting any existing law of this State or any existing ordinance of any political subdivision of the State relating to the operation of motor vehicles, the licensing of persons to operate motor vehicles or providing penalties for the violation thereof.

HISTORY: 1962 Code Section 46-197.10; 1973 (58) 424; 1974 (58) 2998.

SECTION 56-1-1130. Notification of potential offenders.

The Department of Motor Vehicles shall send a written notice to any person who it determines is in danger of becoming an habitual offender.

HISTORY: 1962 Code Section 46-197.12; 1973 (58) 424; 1974 (58) 2998; 1993 Act No. 181, Section 1346; 1996 Act No. 459, Section 117.

ARTICLE 7

Provisional Drivers' Licenses

SECTION 56-1-1320. Provisional drivers' licenses.

(A) A person with a South Carolina driver's license, a person who had a South Carolina driver's license at the time of the offense referenced below, or a person exempted from the licensing requirements by Section 56-1-30, who is or has been convicted of a first offense violation of a law of this State that prohibits a person from operating a vehicle while under the influence of intoxicating liquor, drugs, or narcotics, including Sections 56-5-2930 and 56-5-2933, and whose license is not presently suspended for any other reason, may apply to the Department of Motor Vehicles to obtain a provisional driver's license of a design to be determined by the department to operate a motor vehicle. The person shall enter an Alcohol and Drug Safety Action Program pursuant to Section 56-1-1330, and shall pay to the department a fee of one hundred dollars for the provisional driver's license. The provisional driver's license is not valid for more than six months from the date of issue shown on the license. The determination of whether or not a provisional driver's license may be issued pursuant to the provisions of this article as well as reviews of cancellations or suspensions under Sections 56-1-370 and 56-1-820 must be made by the director of the department or his designee.

(B) Ninety-five dollars of the collected fee must be credited to the state's general fund for use of the Department of Public Safety in the hiring, training, and equipping of members of the South Carolina Highway Patrol and Transportation Police and in the operations of the South Carolina Highway Patrol and Transportation Police. Five dollars of the collected fee must be placed by the Comptroller General into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167.

HISTORY: 1975 (59) 66; 1982 Act No. 355, Section 1; 1988 Act No. 532, Section 31; 1990 Act No. 602, Section 4; 1993 Act No. 181, Section 1347; 1996 Act No. 459, Section 118; 2000 Act No. 390; 2001 Act No. 79, Section 2.A; 2014 Act No. 158 (S.137), Section 7, eff October 1, 2014; 2016 Act No. 275 (S.1258), Section 25, eff July 1, 2016.

SECTION 56-1-1330. Applicant required to complete alcohol traffic safety program.

The provisional driver's license provision must include a mandatory requirement that the applicant enroll in an Alcohol and Drug Safety Action Program certified by the Department of Alcohol and Other Drug Abuse Services and successfully complete services pursuant to the requirements specified in Section 56-5-2990. If the applicant fails to complete successfully the services as directed by the Alcohol and Drug Safety Action Program, the Department of Alcohol and Other Drug Abuse Services shall notify the Department of Motor Vehicles, the provisional driver's license issued by the department must be revoked, and the suspension imposed for the full period specified in Section 56-5-2990, which shall begin on date of notification to the individual.

HISTORY: 1975 (59) 66; 1976 Act No. 637; 1981 Act No. 178 Part II Section 7; 1982 Act No. 355, Section 2; 1985 Act No. 201, Part II, Section 39A; 1988 Act No. 658, Part II, Section 38A; 1993 Act No. 181, Section 1348; 1996 Act No. 459, Section 119; 1999 Act No. 100, Part II, Section 11.

SECTION 56-1-1340. License must be kept in possession; issuance of license and convictions to be recorded.

The applicant shall have a provisional driver's license in his possession at all times while driving a motor vehicle, and the issuance of such license and the violation convictions shall be entered in the records of the Department of Motor Vehicles for a period of ten years as required by Sections 56-5-2940 and 56-5-2990 of the 1976 Code.

HISTORY: 1975 (59) 66; 1993 Act No. 181, Section 1349; 1996 Act No. 459, Section 120.

SECTION 56-1-1360. Revocation of license for additional violations.

In the event the holder of a provisional driver's license issued pursuant to this article is convicted of violations under Section 56-1-720 of the 1976 Code totaling four or more points or any other law relative to the operation of a motor vehicle for which suspension of a driver's license is made mandatory by law during specified suspension period, the provisional driver's license shall be revoked and the full suspension imposed.

HISTORY: 1975 (59) 66.

SECTION 56-1-1370. Second violations during specified suspended period.

In the event the holder of a provisional driver's license issued pursuant to this article is convicted of a second violation under Section 56-5-2930, during the specified suspended period, the provisional driver's license shall be revoked and the full suspension imposed.

HISTORY: 1975 (59) 66.

SECTION 56-1-1380. Effect of convictions outside of State.

Upon conviction of the offense stated in Section 56-1-1320, outside the jurisdiction of the State, the person convicted may apply for the provisional driver's license in the event his South Carolina driver's license is revoked as a result of such conviction.

HISTORY: 1975 (59) 66.

SECTION 56-1-1390. Appeals; notice of hearing.

Any person applying for the provisional driver's license provided for in this article whose application is denied by the Department of Motor Vehicles may appeal to the circuit court or county court of the county in which he resides. The department shall be given at least ten days' notice of the hearing of the appeal.

HISTORY: 1975 (59) 66.

ARTICLE 9

Operation of Mopeds

SECTION 56-1-1710. Reserved.

HISTORY: Former Section, titled Definition of "moped", had the following history: 1986 Act No. 528, Section 1; 1991 Act No. 94, Section 1. Reserved by 2017 Act No. 89, Section 6, eff November 19, 2018.

SECTION 56-1-1720. Licensing requirement; minimum age; violations and penalties.

(A) To operate a moped on public highways, a person must possess a valid driver's license issued under Article 1 of this chapter or a valid moped operator's license issued under this article. The department may issue a moped operator's license to a person who is fifteen years of age or older.

(B) A person younger than sixteen years of age with a moped operator's license may operate a moped:

(1) alone during daylight hours only; and

(2) during nighttime hours when accompanied by a licensed driver twenty-one years of age or older who has had at least one year of driving experience. The accompanying driver must be a passenger or within a safe viewing distance of the operator when the operator is operating a moped.

(C) A person sixteen years of age or older with a moped license may drive a moped alone any time.

(D) A person who operates a moped in violation of the provisions of this section is guilty of a misdemeanor and, upon conviction of a first offense, must be fined not more than one hundred dollars and, upon conviction of a second or subsequent offense, must be fined not more than two hundred dollars.

HISTORY: 1986 Act No. 528, Section 1; 2017 Act No. 89 (H.3247), Section 7, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 7, amended the section, revising the form of licensure a person must possess to operate a moped, and deleting the provision that prohibits the Department from issuing a beginner's permit or a special restricted license to certain persons convicted of a moped violation for a certain period of time.

SECTION 56-1-1730. Eligibility, suspension, revocation, or cancellation of moped operator's license.

(A) A person is eligible for a moped operator's license without regard to his eligibility for or the status of any other driver's license or permit.

(B) The Department of Motor Vehicles may suspend, revoke, or cancel a moped operator's license only for violations committed while operating a moped. A moped operator's license may be suspended, revoked, or canceled in the same manner and upon the same grounds for which any other motor vehicle operator's license or permit may be suspended, revoked, or canceled.

HISTORY: 1986 Act No. 528, Section 1; 1993 Act No. 181, Section 1350; 1996 Act No. 459, Section 121; 2017 Act No. 89 (H.3247), Section 8, eff November 19, 2018.

Effect of Amendment

2017 Act No. 89, Section 8, inserted the paragraph identifiers, and designated the first sentence as (A) and the remainder of the section as (B).

SECTION 56-1-1740. Examination of applicants for moped operator's license; fees; expiration and renewal of license.

The Department of Motor Vehicles shall examine every applicant for a moped operator's license. The examination shall include a test of the applicant's eyesight and, as pertains to the operation of a moped, a test of his ability to read and understand highway signs regulating, warning, and directing traffic and his knowledge of the traffic laws of this State. The Department may require further physical and mental examination as it considers necessary to determine the applicant's fitness to operate a moped upon the highways, the further examination to be at the applicant's expense. The Department shall make provisions for giving an examination in the county where the applicant resides. The Department shall charge a fee of two dollars for each complete examination or reexamination required in this article.

The expiration and renewal of moped operator's licenses must be in accordance with Sections 56-1-210, 56-1-220, and 56-1-225.

HISTORY: 1986 Act No. 528, Section 1.

SECTION 56-1-1760. Requirement that license be in immediate possession of operator of moped and that it be displayed upon demand of certain state officers.

Every licensee shall have his license in his immediate possession at all times when operating a moped and shall display it upon demand of any officer or agent of the Department of Public Safety or any police officer of the State.

HISTORY: 1986 Act No. 528, Section 1; 1993 Act No. 181, Section 1351; 1996 Act No. 459, Section 122.

SECTION 56-1-1770. Application for moped operator's license.

Application for a moped operator's license must be in accordance with the procedures and requirements of Article 1, Chapter 1 of Title 56.

HISTORY: 1986 Act No. 528, Section 1.

SECTION 56-1-1780. Applicability of Sections 56-1-100 and 56-1-230 to holders of moped operator's licenses.

The provisions of Sections 56-1-100 and 56-1-230 apply to persons with moped operator's licenses.

HISTORY: 1986 Act No. 528, Section 1.

ARTICLE 13

South Carolina Commercial Driver License Act

SECTION 56-1-2005. Administration of South Carolina Commercial Driver's License program.

The South Carolina Department of Motor Vehicles shall administer the South Carolina Commercial Driver's License Program in accordance with the Federal Motor Carrier Safety Regulations. The rules adopted by and regulations promulgated by the United States Department of Transportation (USDOT) relating to safety of operation and to equipment (49 CFR Parts 380, 382-385, and 390-399 and amendments thereto) and the rules adopted by and regulations promulgated by the USDOT relating to hazardous material (49 CFR Parts 171-180 and amendments thereto) must be adopted and enforced in South Carolina.

HISTORY: 2005 Act No. 42, Section 1, eff May 3, 2005.

SECTION 56-1-2010. Short title.

This article may be cited as the South Carolina Commercial Driver License Act.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2020. Construction.

This article is a remedial law and must be construed liberally to promote the public health, safety, and welfare. To the extent that this article conflicts with general driver licensing provisions, this article prevails. Where this article is silent, the general driver licensing provisions apply.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2025. Waiver of licensing and registration requirements of motor carriers providing humanitarian relief during time of emergency.

(A) The Governor may authorize the Department of Motor Vehicles to waive temporarily any requirements under the provisions of this title relating to any permits, authorizations, or licenses required to operate a motor vehicle in this State. However, a temporary waiver must be for the sole purpose of facilitating the response of motor carriers providing humanitarian relief during a time of emergency officially declared by the President of the United States, the Governor of this State, or the chief executive of another state or jurisdiction, and must satisfy the following conditions:

(1) the driver of the vehicle must be properly licensed in his jurisdiction of residency;

(2) the motor vehicle must be properly licensed and registered in this or another jurisdiction; and

(3) the motor vehicle satisfies all motor vehicle insurance requirements or provisions of its jurisdiction of registration. Proof of the insurance must be carried in the cab of the motor vehicle.

(B) A motor vehicle operating pursuant to this section must be issued a statement from the person or entity authorizing the transport of goods or materials which certifies that the motor carrier is providing humanitarian relief without compensation on a volunteer basis and include a description of the materials or goods being transported during the time of declared emergency while it is in this State. The statement must be carried in the cab of the motor vehicle and be made available for inspection upon request of an employee of the Department of Motor Vehicles, or any law enforcement officer.

(C) The Department of Motor Vehicles shall determine, at the time the temporary waiver is issued, the length of time the waiver shall be in effect. However, all temporary waivers issued pursuant to this section become void upon the termination of the time of the emergency as determined by the President of the United States, the Governor of this State, or the chief executive of another state or jurisdiction.

HISTORY: 2008 Act No. 189, Section 1, eff March 31, 2008.

SECTION 56-1-2030. Definitions.

As used in this article:

(1) "Commercial driver's license" means a license issued in accordance with the requirements of the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570) to an individual which authorizes the individual to drive a class of commercial motor vehicle.

(2) "Commercial Driver's License Information System" means the information system established pursuant to the Commercial Motor Vehicle Safety Act of 1986 to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

(3) "Commercial driver's instruction permit" means a permit issued pursuant to Section 56-1-2080(D) of this article.

(4) "Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property if the vehicle:

(a) has a gross vehicle weight rating of twenty-six thousand one or more pounds;

(b) is designed to transport sixteen or more persons, including the driver; or

(c) is transporting hazardous materials and is required to be placarded in accordance with 49 CFR Part 172, subpart F.

(5) "CMVSA" means the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Public Law 99-570).

(6) "Controlled substance" means a substance classified under Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) listed on Schedules I through V of 21 CFR Part 1308, as revised.

(7) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

(8) "Disqualification" means a withdrawal of the privilege to drive a commercial motor vehicle.

(9) "Drive" means to drive, operate, or be in physical control of a motor vehicle.

(10) "Driver" means a person who drives a commercial motor vehicle or who is required to hold a commercial driver's license.

(11) "Driver's license" means a license issued to an individual which authorizes the individual to drive a motor vehicle.

(12) "Employer" means a person, including the United States, a state, or a political subdivision of a state who owns or leases a commercial motor vehicle or assigns a person to drive a commercial motor vehicle.

(13) "Endorsement" means a special authorization to drive certain types of vehicles or to transport certain types of property or a certain number of passengers.

(14) "Felony" means an offense under state or federal law that is punishable by death or imprisonment for more than one year.

(15) "Foreign jurisdiction" means a jurisdiction other than a state of the United States.

(16) "Gross vehicle weight rating" means the weight or the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle (commonly referred to as the "gross combination weight rating") is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of a towed unit.

(17) "Hazardous materials" means any material that has been designated as hazardous under 49 C.F.R. Section 383.5 and 49 U.S.C. 5103 and is required to be placarded under 49 C.F.R. Part 172, subpart F or any quantity of a material listed as a select agent or toxin in 42 C.F.R. Part 73.

(18) "Motor vehicle" means a vehicle which is self- propelled and a vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails, except a vehicle moved solely by human power and motorized wheelchairs.

(19) "Out-of-service order" means declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a person, a commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 CFR Sections 386.72, 390.5, 392.5, 395.13, 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria. For purposes of this article, regulations requiring disqualifications for violations of out-of-service orders affect all vehicles with a gross combination weight rating or gross vehicle weight rating greater than 10,000 pounds, as contained in 49 CFR Sections 383, 390.5, and 393 of the Federal Motor Carrier Regulations.

(20) "Recreational vehicle" means a self-propelled or towed vehicle that is equipped to serve as temporary living quarters for recreational, camping, or travel purposes and is used solely as a family/personal conveyance.

(21) "Restriction" means a prohibition against driving certain types of vehicles or a requirement that the driver comply with certain conditions when driving a motor vehicle.

(22) "Serious traffic violation" means a conviction when operating a motor vehicle of:

(a) excessive speeding, involving a single charge for a speed fifteen miles an hour or more above the speed limit;

(b) reckless driving, including charges of driving a commercial motor vehicle in a wilful or wanton disregard for the safety of persons or property;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) a violation of a state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with an accident or collision resulting in death or serious bodily injury to a person;

(f) driving a commercial motor vehicle without obtaining a commercial driver's license;

(g) driving a commercial motor vehicle without a commercial driver's license in the driver's possession. A person who provides proof to the law enforcement authority that issued the citation, by the date the individual must appear in court or pay any fine for the violation, that the individual held a valid commercial driver's license on the date the citation was issued, is not guilty of this offense; or

(h) driving a commercial motor vehicle without the proper class of commercial driver's license, or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported, or both.

(23) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

(24) "State" means a state or territory of the United States and the District of Columbia and the federal government and a province or territory of Canada.

(25) "Tank vehicle" means a commercial motor vehicle that is designed to transport a liquid or gaseous material within a tank that either is attached permanently or temporarily to the vehicle or its chassis. These vehicles include, but are not limited to, cargo tanks and portable tanks as defined in 49 CFR Part 171. This definition does not include portable tanks having a rated capacity under one thousand gallons.

(26) "United States" means the fifty states and the District of Columbia.

(27) "Farm related vehicle" means a vehicle used:

(a) in custom harvester operations;

(b) in livestock feeding operations; or

(c) by an agri-chemical business or a company which hauls agri-chemical products to a farm.

(28) "Seasonal restricted commercial driver's license" means a commercial driver's license issued under the authority of the waiver promulgated by the Federal Department of Transportation (57 Federal Register 13650) by the department to an individual who has not passed the knowledge or skill test required of other commercial driver's license holders. This license authorizes operation of a commercial motor vehicle only on a seasonal basis, stated on the license, by a seasonal employee of a custom harvester, livestock feeder, agri-chemical operation, and company hauling agri-chemical products to a farm within one hundred fifty miles of the place of business.

(29) "Traffic violation" means the offenses contained in 49 CFR 383.51(d) regarding driving disqualifications for violating railroad-highway grade crossing violations.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 134, Section 2; 1993 Act No. 149, Section 1; 1998 Act No. 258, Section 18; 1998 Act No. 333, Section 1; 1998 Act No. 434, Section 3; 2005 Act No. 42, Section 4, eff May 3, 2005; 2010 Act No. 216, Section 3, eff June 7, 2010.

SECTION 56-1-2040. Commercial drivers to have one driver's license only; exception.

No person who drives a commercial motor vehicle may have more than one driver's license except during the ten-day period beginning on the date the person is issued a driver's license.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2045. Qualifications to be student at truck driver training school.

A person qualifies to be a student at a South Carolina truck driver training school, which offers instruction toward a South Carolina Class Three truck driver's license, if he has a Class Three learner's permit or an equivalent permit issued by his state of residence.

HISTORY: 1990 Act No. 391, Section 1.

SECTION 56-1-2050. Notification of convictions; notification of suspension, revocation, or cancellation of license; information to be supplied to employer.

(A) Notification of Convictions.

(1) A driver holding a commercial driver license issued by this State, who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in any other state, other than a parking violation, shall notify the Department of Motor Vehicles in the manner specified by the department within thirty days of conviction.

(2) A driver holding a commercial driver license issued by this State, who is convicted of violating a state law or local ordinance relating to motor vehicle traffic control in this or any other state, other than a parking violation, shall notify his employer in writing of the conviction within thirty days of the conviction.

(B) A driver whose commercial driver license is suspended, revoked, or canceled by a state, or who loses the privilege to drive a commercial motor vehicle in any state for any period, including being disqualified from driving a commercial motor vehicle, or who is subject to an out of service order, shall notify his employer of that fact before the end of the business day following the day the driver received notice of that fact.

(C) A person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following information for the ten years preceding the date of application:

(1) a list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;

(2) the dates between which the applicant drove for each employer;

(3) the reason for leaving that employer;

(4) any additional information required by the employer;

(5) certification that all information furnished is true and complete.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1352; 1996 Act No. 459, Section 123.

SECTION 56-1-2060. Employer's responsibilities.

(A) Each employer shall require the information specified in Section 56-1-2050(C).

(B) An employer knowingly may not allow, permit, or authorize a person to drive a commercial motor vehicle during a period in which:

(1) the person's commercial driver's license is suspended, revoked, or canceled by a state, has lost the privilege to drive a commercial motor vehicle in a state, is disqualified from driving a commercial motor vehicle, or is subject to an out-of-service order in a state;

(2) the person has more than one driver's license, except during the ten- day period beginning on the date the employee is issued a driver's license;

(3) an employer who knowingly allows, permits, or authorizes a person to drive a commercial motor vehicle during a period in which either the vehicle or the person is subject to an out-of-service order is subject to a civil penalty of not less than two thousand seven hundred fifty dollars nor more than eleven thousand dollars; or

(4) the employer is in violation of a federal, state, or local law or regulation pertaining to railroad-highway grade crossings.

(C) An employer who is convicted of a violation of 49 CFR 383.37(d) is subject to a civil penalty of not more than ten thousand dollars.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 19; 2005 Act No. 42, Section 5, eff May 3, 2005.

SECTION 56-1-2070. Driving commercial motor vehicle without valid license prohibited; exceptions; driving while license suspended, revoked, or cancelled; violations.

(A) Except as provided in subsection (C) or when driving under a commercial driver instruction permit and accompanied by the holder of a commercial driver license valid for the vehicle being driven, no person may drive a commercial motor vehicle on the highways of this State, unless the person has been issued, and is in immediate possession of, a valid commercial driver license and applicable endorsements valid for the vehicle which the person is driving.

(B) A person operating a commercial motor vehicle as defined in Section 56-1-2030 and 49 CFR 383.5, without the proper class commercial license or permit with all applicable endorsements or restrictions as defined in Section 56-1-2100 must be placed out of service and is guilty of a misdemeanor and upon conviction of a first offense, must be fined not less than one hundred fifty dollars and not more than two hundred dollars or imprisoned for thirty days and upon conviction of a second offense or subsequent offense must be fined not less than two hundred fifty dollars and not more than five hundred dollars or imprisoned forty-five days or both.

(C) The following persons may operate commercial motor vehicles without a commercial driver license:

(1) active duty military personnel; members of the military reserve; members of the South Carolina National Guard who are on active duty, including personnel on full-time South Carolina National Guard duty; personnel on part-time South Carolina National Guard training and South Carolina National Guard Military technicians required to wear uniforms; and active duty military United States Coast Guard personnel while operating vehicles owned or operated by the United States government or this State for military purposes. This exception does not apply to technicians in the United States Reserves.

(2) operators of a farm vehicle which is:

(a) controlled and operated by a farmer;

(b) used to transport agricultural products, farm machinery, farm supplies, or a combination of them to or from a farm including the transportation of hazardous materials which do not pose a substantial danger to the public health and safety including fuels, fertilizers, and other agricultural chemicals used in normal farming operations as exempted pursuant to 49 C.F.R Part 173.5;

(c) not used in the operation of a common or contract motor carrier; and

(d) used within one hundred fifty miles of the person's farm.

(3) persons operating authorized emergency vehicles as defined in Section 56-5-170;

(4) operators of recreational vehicles used solely for personal use.

(D) No person may drive a commercial motor vehicle on the highways of this State while:

(1) his commercial driver license or privilege to drive is suspended, revoked, or canceled;

(2) subject to a disqualification; or

(3) in violation of an out-of-service order.

(E) A person violating the requirements of subsection (D)(3) must be punished as follows, while all other violations of this section must be punished as though convicted of a violation of Section 56-1-460. A person is disqualified for not less than:

(1) ninety days nor more than one year if the person is convicted of a first violation of an out-of-service orders. Additionally, a person who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than two thousand five hundred dollars;

(2) one year nor more than five years if during a ten-year period the person is convicted of two violations of out-of-service orders in separate incidents. Additionally, a person who, within a ten-year period, is convicted of two violations of out-of-service orders in separate incidents is subject to a civil penalty of five thousand dollars;

(3) three years nor more than five years if during a ten-year period the person is convicted of three or more violations of out-of-service orders in separate incidents. Additionally, a person who, within a ten-year period, is convicted of three or more violations of out-of-service orders in separate incidents is subject to a civil penalty of five thousand dollars;

(4) one hundred eighty days nor more than two years if the driver is convicted of a first violation of an out-of-service orders while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if during a ten-year period the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport more than fifteen passengers, including the driver. Additionally, a driver who is convicted of violating an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101-5127), or while operating motor vehicles designed to transport more than fifteen passengers, including the driver, is subject to a civil penalty of two thousand five hundred dollars for a first violation and five thousand dollars for a second or subsequent violation.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 20; 1998 Act No. 357, Section 1; 2000 Act No. 265, Section 2; 2010 Act No. 216, Section 5, eff June 7, 2010.

SECTION 56-1-2080. Qualifications for license; administration of skills test; persons to whom license may not be issued; commercial driver instruction permit.

(A)(1) A person may not be issued a commercial driver's license unless that person is a resident of this State and has passed a knowledge and skills test for driving a commercial motor vehicle which complies with the minimum federal standards established by 49 C.F.R. Part 383, subparts F, G, and H and has satisfied all other requirements of the CMVSA as well as any other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. The first commercial driver's license skills test administered by the department to an individual is free of charge; thereafter, the Department of Motor Vehicles is authorized to charge a fee of twenty-five dollars for each subsequent commercial driver's license skills test administered to that individual. State agency and school district employees who are required to possess a commercial driver's license in the course of their normal job duties are exempt from this requirement. This fee must be placed into the State Highway Fund as established by Section 57-11-20, to be distributed as provided in Section 11-43-167 by the Comptroller General.

(2) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility or other private institutions, or a department, agency, or instrumentality of local government, to administer the skills test required by this subsection if:

(a) the test is the same which otherwise would be administered by the department; and

(b) the third party has entered into an agreement with the department which contains at least the following provisions:

(i) authorization for the department or the Federal Motor Carrier Safety Administration or its representatives to conduct random examinations, inspections, and audits without prior notice and randomly test commercial driver's license applicants or holders at least annually. An applicant or holder who fails retesting shall lose his commercial driver's license;

(ii) permission for the department or its representative to conduct onsite inspections at least annually;

(iii) requirement that all third-party examiners meet the same qualifications and training standards as the department's examiners to the extent necessary to conduct the driving skill tests;

(iv) authorization for the department to charge a fee, as determined by the department, which is sufficient to defray the actual costs incurred by the department for administering and evaluating the employer testing program and for carrying out any other activities considered necessary by the department to assure sufficient training for the persons participating in the program.

(B) A commercial driver license or commercial driver instructional permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver license be issued to a person who has a commercial driver license issued by any other state unless the person first surrenders all those licenses, each of which must be returned to the issuing state for cancellation.

(C)(1) A commercial driver instruction permit may be issued to an individual who holds a valid Class "D" license and who has passed the appropriate vision and written test for the type of commercial driver license sought.

(2) The holder of a commercial driver instruction permit, unless otherwise disqualified, may drive a commercial motor vehicle but only when accompanied by the holder of a commercial driver license with applicable endorsements which is valid for the type of vehicle driven, and who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle.

Text of (C)(3) effective until November 24, 2019.

(3) The commercial driver instruction permit may not be issued for longer than six months. Only one renewal or reissuance may be granted within a two-year period.

Text of (C)(3) effective November 24, 2019.

(3) The commercial driver instruction permit may not be issued for longer than one year.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 21; 2005 Act No. 42, Section 6, eff May 3, 2005; 2008 Act No. 353, Section 2, Pt 13D, eff July 1, 2009; 2016 Act No. 275 (S.1258), Section 26, eff July 1, 2016; 2019 Act No. 86 (H.3789), Section 7, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 7, substituted "one year" for "six months" and deleted the second sentence, which provided that only one renewal or reissuance may be granted within a two-year period.

SECTION 56-1-2085. Seasonal restricted commercial driver's license; proof of seasonal employment and other requirements; privileges granted; duration.

(A) No person may drive a commercial vehicle in this State in violation of any of the restrictions or limitations stated on the person's commercial license or restricted commercial license.

(B) The Department of Motor Vehicles may issue a seasonal restricted commercial driver's license in accordance with this section.

(C) A South Carolina seasonal restricted commercial driver's license may be issued only to a person who:

(1) is a seasonal employee of a custom harvester, livestock feeder, or an agri-chemical business;

(2) holds a valid South Carolina Class E (2) or F (3) driver's license or takes and successfully completes the required written and skill test for a class E (2) license;

(3) has at least one year driving experience as a licensed driver; and

(4) has satisfied every requirement for issuance of a commercial driver's license, except successful completion of the knowledge and skill test.

(D) The department may not issue or renew a seasonal restricted commercial driver's license for the operation of a commercial vehicle unless the applicant has not and certifies that he has not at any time during the two years immediately preceding the date of application:

(1) had more than one driver's license;

(2) had any driver's license or driving privileges suspended, revoked, or canceled;

(3) been subject to disqualification listed in 383.51 of the Federal Motor Carrier Regulations;

(4) contributed to an accident;

(5) received more than four points against his license.

(E) The applicant shall certify and provide evidence satisfactory to the department that he is employed on a seasonal basis by a custom harvester, livestock feeder, agri-chemical business, or a company hauling agri-chemical products to a farm in a job requiring the operation of a commercial vehicle.

(F) A seasonal restricted commercial driver's license entitles the licensee to operate type B and C commercial vehicles only, with the proper restriction or endorsement, or both.

(G) A seasonal restricted commercial driver's license does not entitle the licensee to operate a Class A type commercial vehicle or a vehicle placarded for hazardous materials.

(H) A seasonal restricted commercial driver's license is valid for one hundred eighty days from the date of issue in one calendar year.

(I) A seasonal restricted commercial driver's license allows the driver to operate within one hundred fifty miles of the place of business as shown on the vehicle registration.

HISTORY: 1993 Act No. 149, Section 2.

SECTION 56-1-2090. Application; change of licensee's name or address; penalties for falsifying information.

(A) The application for a commercial driver license or commercial driver instruction permit must include:

(1) the full name and both the current mailing and residential address of the person;

(2) a physical description of the person including sex, height, and weight;

(3) date of birth;

(4) the applicant's Social Security number;

(5) the person's signature;

(6) the person's consent to be photographed;

(7) certifications including those required by 49 C.F.R. part 383.71(a);

(8) any other information required by the Department of Motor Vehicles;

(9) a consent to release driving record information; and

(10) a nonrefundable application fee of fifteen dollars, except for public school bus drivers.

(B) When the holder of a commercial driver license changes his name, mailing address, or residence, an application for a renewal license must be made as provided in Section 56-1-230.

(C) No person who has been a resident of this State for thirty days or longer may drive a commercial motor vehicle under the authority of a commercial driver license or commercial driver instruction permit issued by another state.

(D) A person who knowingly falsifies information or certifications required under subsection (A) of this section is subject to cancellation of his commercial driver license and may not obtain a commercial driver license or commercial driver instruction permit for at least sixty consecutive days after the time he otherwise would be eligible for a commercial driver license or commercial driver instruction permit.

(E) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund as provided in the following schedule based on the actual date of receipt by the Department of Motor Vehicles:

Fees and Penalties General Fund Department of Collected After of the State Transportation State Non-Federal Aid Highway Fund June 30, 2005 60 percent 40 percent June 30, 2006 20 percent 80 percent June 30, 2007 0 percent 100 percent.

HISTORY: 1989 Act No. 151, Section 2; 2005 Act No. 176, Section 10, eff June 14, 2005.

SECTION 56-1-2100. Commercial driver license; contents; classifications of vehicles.

(A) The commercial driver license must be marked "Commercial Driver License" or "CDL", and must be, to the maximum extent practicable, tamper proof. It must include, but not be limited to, the following information:

(1) the name and residential address of the person;

(2) the person's color photograph;

(3) a physical description of the person including sex, height, and weight;

(4) date of birth;

(5) a number or identifier considered appropriate by the Department of Motor Vehicles;

(6) the person's signature;

(7) the class or type of commercial motor vehicles which the person may drive together with any endorsements or restrictions;

(8) the name of this State; and

(9) the dates between which the license is valid.

(B) The holder of a valid commercial driver license may drive all vehicles in the class for which that license is issued and all lesser classes of vehicles except motorcycles. Vehicles which require an endorsement may not be driven unless the proper endorsement appears on the license. Commercial driver licenses may be issued with the following classifications, endorsements, and restrictions:

(1) Classifications:

(a) Class A: A combination of vehicles with a gross combination weight rating of twenty-six thousand one pounds or more provided the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds.

(b) Class B: A single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating.

(c) Class C: A single vehicle, or combination of vehicles, that are not Class A or B vehicles but either designed to transport sixteen or more passengers including the driver, or are required to be placarded for hazardous materials under 49 C.F.R. Part 172, subpart F.

(2) Endorsements are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations.

(3) Restrictions are added to commercial driver licenses as required under Part 383.153 of the Federal Motor Carrier Safety Regulations.

(C) Before issuing a commercial driver license, the department must obtain a driving record through the Commercial Driver License Information System, the National Driver Register, and from each state in which the person has been licensed.

(D) Within ten days after issuing a commercial driver license, the department must notify the Commercial Driver License Information System of that fact, providing all information required to insure identification of the person.

Text of (E) effective until November 24, 2019.

(E) A commercial driver license issued by the department expires on the licensee's birth date on the fifth calendar year after the calendar year in which it is issued.

Text of (E) effective November 24, 2019.

(E) Upon payment of a fee of twenty-five dollars and any fee assessed by any associated federal agency, a commercial driver license for which there is no associated HAZMAT endorsement issued by the department expires eight years from the date of issue. Upon payment of a fee of fifteen dollars and any fee assessed by any associated federal agency, a commercial driver license for which there is an associated HAZMAT endorsement issued by the department expires five years from the date the applicant passed the Transportation Security Administration threat assessment.

(F) A person applying for renewal of a commercial driver's license must complete the application form required by Section 56-1-2090(A), and provide updated information and required certifications. Every applicant must take and pass the written test for hazardous material endorsement to obtain or retain the endorsement. The person also shall submit to and pass a vision test.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1353; 1996 Act No. 459, Section 124; 1998 Act No. 258, Section 22; 2000 Act No. 265, Section 1; 2005

Act No. 42, Sections 7, 8, eff May 3, 2005; 2010 Act No. 216, Section 4, eff June 7, 2010; 2014 Act No. 274 (H.5014), Section 1, eff June 9, 2014; 2019 Act No. 86 (H.3789), Section 5, eff November 24, 2019.

Effect of Amendment

2019 Act No. 86, Section 5, rewrote (E).

SECTION 56-1-2110. Disqualification from driving commercial motor vehicle.

(A) A person is disqualified from driving a commercial motor vehicle for not less than one year if convicted of a first violation of:

(1) driving a motor vehicle under the influence of alcohol, a controlled substance, or a drug which impairs driving ability as prescribed by state law;

(2) driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath or other bodily substance is four one-hundredths or more;

(3) leaving the scene of an accident involving a motor vehicle driven by the person;

(4) using a motor vehicle in the commission of a felony as defined in this article;

(5) refusal to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle;

(6) driving a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle;

(7) causing a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the crimes of motor vehicle manslaughter, homicide by a motor vehicle, and negligent homicide. If any of the above violations occur while transporting a hazardous material required to be placarded, the person is disqualified for not less than three years.

(B) A person is disqualified for life if convicted of two or more violations of any of the offenses specified in subsection (A) or a combination of those offenses, arising from two or more separate incidents.

(C) Only offenses committed after the effective date of this article may be considered in applying this subsection.

(D) The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (B) may be reduced to not less than ten years.

(E) A commercial driver's license holder is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(F) A person is disqualified from driving a commercial motor vehicle for not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations committed in a motor vehicle arising from separate incidents occurring within a three-year period.

(G) A person is disqualified from driving a commercial motor vehicle if a report pursuant to Section 56-1-2220 has been received by the Department of Motor Vehicles that the person has received a verified positive drug test or positive alcohol confirmation test, or refused to take a drug or alcohol test. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by a substance abuse professional meeting the requirements of 49 C.F.R. 40, and the substance abuse professional certified in a manner approved by the Department of Alcohol and Other Drug Abuse Services that the person has successfully completed a drug or alcohol treatment or education program as recommended by the substance abuse professional. A person who is disqualified under this subsection more than three times in a five-year period is disqualified for life.

(H) After suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action immediately. After suspending, revoking, or canceling a nonresident commercial driver's privilege, the department shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit within ten days.

(I) For purposes of this section, serious traffic violations are those violations contained in Section 56-1-2030(22) and 49 C.F.R. 383.5 and 383.51.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1354; 1996 Act No. 459, Section 125; 2005 Act No. 42, Section 9, eff May 3, 2005; 2008 Act No. 232, Section 2, eff May 21, 2008.

SECTION 56-1-2111. Circumstances barring issuance of license.

The department shall not issue a commercial driver's license or a commercial special license or permit which includes a provisional, route restricted hardship, or temporary license that permits a person to drive a commercial motor vehicle during a period in which:

(1) the person is disqualified from operating a commercial motor vehicle as defined by Section 383.5, or under the provisions of Sections 383.73(g) or 384.231(b)(2) of the FMCSR;

(2) the commercial driver's license holder's noncommercial driving privilege has been revoked, suspended, or cancelled; or

(3) any driver's license held by the person is suspended, revoked, or cancelled by the State where the driver is licensed for any state or local law related to motor vehicle traffic control other than a parking violation.

HISTORY: 2005 Act No. 42, Section 2, eff May 3, 2005.

SECTION 56-1-2112. Offenses resulting in disqualification from operating commercial motor vehicle; time periods.

(A) A driver who is convicted of operating a commercial motor vehicle in violation of a federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing is disqualified from operating a commercial motor vehicle for the period of time specified in subsection (B):

(1) for drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train;

(2) for drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear;

(3) for drivers who are always required to stop, failing to stop before driving onto the crossing;

(4) for all drivers, failing to have sufficient space to drive completely through the crossing without stopping;

(5) for all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing;

(6) for all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(B) A person is disqualified from driving a commercial motor vehicle for committing an offense contained in subsection (A) for not less than:

(1) sixty days for the first conviction committed in a commercial motor vehicle;

(2) one hundred twenty days for the second conviction committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period; and

(3) one year for the third or subsequent conviction committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

HISTORY: 2005 Act No. 42, Section 3, eff May 3, 2005.

SECTION 56-1-2115. Commercial driver's license re-examination.

(A) A person who has been disqualified from driving a commercial vehicle pursuant to the provisions contained in Section 56-1-2110 for one year or more, must complete successfully the requirements contained in Section 56-1-2080 and satisfy all other requirements imposed by state or federal law before the person is eligible to be re-examined pursuant to the provisions contained in subsection (B).

(B) The re-examination consists of the commercial driver license standards contained in 49 CFR of the Federal Motor Carrier Regulations which includes successful completion of the applicable knowledge tests and the complete road test which includes pre-trip inspection, basic control skills, and the on-road test.

HISTORY: 1998 Act No. 258, Section 17.

SECTION 56-1-2120. Driving with measurable amount of alcohol prohibited; possession of alcoholic beverage.

(A) A person may not drive a commercial motor vehicle within this State while having a measurable amount of alcohol in his body.

(B) A person who drives a commercial motor vehicle within this State while having a measurable amount of alcohol in his system or who refuses to submit to an alcohol test under Section 56-1-2130 must be placed out-of-service for twenty-four hours.

(C) A person who drives a commercial motor vehicle in this State with an alcohol concentration of four one-hundredths of one percent or more must be disqualified from driving a commercial motor vehicle under Section 56-1-2110.

(D) A person must not be on duty or operate a commercial motor vehicle while he possesses an alcoholic beverage that is not part of the manifest and transported as part of the shipment.

HISTORY: 1989 Act No. 151, Section 2; 1998 Act No. 258, Section 23.

SECTION 56-1-2130. Tests for alcohol or drugs; presumption of consent; administration of tests; warnings; refusal to take test; reports required.

(A) A person who drives a commercial motor vehicle within this State is considered to have given consent, subject to provisions of Section 56-5-2950, to take a test of that person's blood, breath, or urine for the purpose of determining that person's alcohol concentration or the presence of other drugs.

(B) Tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the driver of a commercial motor vehicle, has probable cause to believe that the driver was driving a commercial motor vehicle while having a measurable amount of alcohol in his system.

(C) A person requested to submit to a test as provided in subsection (A) must be warned by the law enforcement officer requesting the test, that a refusal to submit to the test must result in that person being placed out of service immediately for twenty-four hours and being disqualified from operating a commercial motor vehicle for not less than one year under Section 56-1-2110.

(D) If the person refuses testing, or submits to a test which discloses an alcohol concentration of four one-hundredths of one percent or more, the law enforcement officer shall submit a report to the Department of Motor Vehicles certifying that the test was requested pursuant to subsection (A) and that the person refused to submit to testing, or submitted to a test which disclosed an alcohol concentration of four one-hundredths of one percent or more.

(E) Upon receipt of the report of a law enforcement officer submitted under subsection (D), the department shall disqualify the driver from driving a commercial motor vehicle under Section 56-1-2110.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1355; 1996 Act No. 459, Section 126.

SECTION 56-1-2140. Report of conviction of nonresident licensee; required action.

Within ten days after receiving a report of the conviction of a nonresident holder of a commercial driver license for a violation of state law or local ordinance relating to motor vehicle traffic control, other than a parking violation, committed in a commercial motor vehicle, the Department of Motor Vehicles shall notify the driver licensing authority in the licensing state of the conviction.

HISTORY: 1989 Act No. 151, Section 2; 1993 Act No. 181, Section 1356; 1996 Act No. 459, Section 127.

SECTION 56-1-2150. Authorized drivers of commercial motor vehicles.

A person may drive a commercial motor vehicle if the person has a commercial driver license issued by a state in accordance with the minimum federal standards for the issuance of commercial motor vehicle driver licenses, if the person's license is not suspended, revoked, or cancelled and if the person is not disqualified from driving a commercial motor vehicle.

HISTORY: 1989 Act No. 151, Section 2.

SECTION 56-1-2156. Failure of commercial motor vehicle drivers to comply with lane restrictions.

Notwithstanding any other provision of law, a commercial motor vehicle driver may not be assessed points against his driving record for failing to comply with lane restrictions posted on the interstate highway system by the Department of Transportation. For purposes of this section, a driver record means a commercial driver's license issued pursuant to Article 13, Chapter 1 of Title 56 and a driver's license issued pursuant to Section 56-1-130 for which points are assessed in Section 56-1-720.

HISTORY: 1999 Act No. 17, Section 6.

SECTION 56-1-2160. Penalties.

An offense for which no specific penalty is provided by this article must be punished in accordance with Section 56-5-6190.

HISTORY: 1989 Act No. 151, Section 2.

ARTICLE 14

South Carolina Commercial Driver's License Drug Testing Act

SECTION 56-1-2210. Definitions

(1) Unless otherwise specified, the terms used in this article have the same meaning as those terms defined in 49 C.F.R. 40.3.

(2) For purposes of this article, "employer" includes all motor carriers or employers who employ drivers who operate commercial motor vehicles and who are required to have a drug and alcohol testing program pursuant to the Federal Motor Carrier Safety Regulations, 49 C.F.R. 382, or to a consortium to which the carrier or employer belongs and consortiums or third party administrators who perform drug and alcohol testing services pursuant to 49 C.F.R. 382 for an owner-operator.

(3) For purposes of this article, "employee" includes a person holding a resident or nonresident commercial motor vehicle driver's license employed by an employer described in subsection (2) who performs a safety sensitive function, or an owner-operator subject to testing by a consortium or third party administrator who performs drug and alcohol testing services pursuant to 49 C.F.R. 382.

(4) For purposes of this article, "applicant" means a person holding a resident or nonresident commercial motor vehicle driver's license seeking employment with an employer described in subsection (2) who will perform a safety sensitive function as part of his employment.

HISTORY: 2008 Act No. 232, Section 1, eff May 21, 2008.

SECTION 56-1-2220. Providing and testing specimens; reports of refusal to provide and results of tests to employer and department; records; admissibility of test results.

(A) All employers shall report to the Department of Motor Vehicles within three business days a refusal by an employee or applicant made to the employer to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under 49 C.F.R. 40.

(B) All medical review officers or breath alcohol technicians hired by or under contract to an employer shall report to the employer within three business days:

(1) a verified positive drug test or positive alcohol confirmation test of an employee or applicant;

(2) a refusal by an employee or applicant to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under 49 C.F.R. 40; or

(3) the submission of an adulterated specimen, a diluted positive specimen, or a substituted specimen by an employee or applicant.

(C) Employers shall make it a written condition of their contract or agreement with a medical review officer or breath alcohol technician, regardless of the state where the medical review officer or breath alcohol technician is located, that the medical review officer or breath alcohol technician is required to report to the employer the information required by subsection (B).

(D) Upon receipt of the notification from a medical review officer or a breath alcohol technician, employers shall report to the department within three business days:

(1) a verified positive drug test or positive alcohol confirmation test of an employee or applicant;

(2) a refusal by an employee or applicant made to a medical review officer or breath alcohol technician to provide a specimen for a drug or alcohol test under circumstances that constitute the refusal of a test under 49 C.F.R. 40; or

(3) the submission of an adulterated specimen, a diluted positive specimen, or a substituted specimen by an employee or applicant.

(E) The notification required by this section must be made in a manner approved by the department and must include on the notification submitted to the department a coding method that indicates whether the person who is the subject of the notification is an employee or applicant.

(F) An employer must maintain a record of the notification to the department on each employee or applicant for three years.

(G) The records required by this section are subject to inspection by the Department of Public Safety.

(H) Evidence included in a person's motor vehicle record that indicates the person tested positive on a drug or alcohol confirmation test, refused to submit to a drug or alcohol confirmation test, or submitted a diluted or adulterated specimen is not admissible in any action unless probative to demonstrate that the person was under the influence of drugs or alcohol at the time of an accident that is the subject of the action.

HISTORY: 2008 Act No. 232, Section 1, eff May 21, 2008.

SECTION 56-1-2230. Failure to report and employing disqualified employee; fines.

(A) An employer, medical review officer, or breath alcohol technician who knowingly fails to make a report to the Department of Motor Vehicles as required by this article is subject to a fine of up to five hundred dollars.

(B) An employer who employs a person in a safety sensitive function when the employer knows the employee is disqualified from driving a commercial motor vehicle pursuant to Section 56-1-2110(G) is subject to a fine of up to two thousand dollars.

(C) The penalties provided by this section do not apply to the State, a state agency, or a political subdivision.

(D) Any person or entity is immune from liability for the good faith performance of any duty imposed by this article.

(E) Fines collected pursuant to this section must be credited to the Department of Public Safety's Transport Police Division.

HISTORY: 2008 Act No. 232, Section 1, eff May 21, 2008.

ARTICLE 15

Identification Card

SECTION 56-1-3350. Issuance of special identification card; veteran designation; fees and fee waivers.

(A) Upon application by a person five years of age or older, who is a resident of South Carolina, the department shall issue a special identification card as long as the:

(1) application is made on a form approved and furnished by the department;

(2) applicant presents to the person issuing the identification card a birth certificate or other evidence acceptable to the department of his name and date of birth; and

(3) applicant, who wishes to obtain a special identification card that indicates the applicant is autistic, complies with subsections (A)(1) and (2) and provides documentation that he is autistic from a physician licensed in this State, as defined in Section 40-47-20(35). The special identification requested must be indicated by a symbol designated by the department on the person's special identification card.

Text of (B) effective until November 24, 2019.

(B) An applicant for a new, renewed, or replacement South Carolina driver's license may apply to the Department of Motor Vehicles to obtain a veteran designation on the front of his driver's license by providing a:

(1) United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service in the United States Armed Forces; and

(2) payment of a one dollar fee that must be collected by the department and 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.

Text of (B) effective November 24, 2019.

(B) An applicant for a new, renewed, or replacement South Carolina identification card may apply to the Department of Motor Vehicles to obtain a veteran designation on the front of his identification card by providing a:

(1) United States Department of Defense discharge certificate, also known as a DD Form 214, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service in the United States armed forces;

(2) National Guard Report of Separation and Record of Service, also known as an NGB Form 22, that shows a characterization of service, or discharge status of "honorable" or "general under honorable conditions" and establishes the person's qualifying military service of at least twenty years in the National Guard; or

(3) Veterans Identification Card (VIC) or a letter from a Military Reserve component notifying the recipient of the person's eligibility for retirement pay at age sixty (twenty-year letter). A Veterans Health Identification Card (VHIC) may not be accepted.

Text of (C) effective until November 24, 2019.

(C)(1) The fee for the issuance of the special identification card is five dollars for a person between the ages of five and sixteen years.

(2) An identification card must be free to a person aged seventeen years or older.

Text of (C) effective November 24, 2019.

(C)(1) The fee for the issuance of the special identification card is fifteen dollars for a person between the ages of five and sixteen years.

(2) One identification card must be issued free to a person aged seventeen years or older per issuance cycle. A ten-dollar fee must be charged to replace a special identification card before its expiration date.

Text of (D) effective until November 24, 2019.

(D) The identification card expires five years from the date of issuance.

Text of (D) effective November 24, 2019.

(D) The identification card expires eight years from the date of issuance. A person is not permitted to have more than one valid motor vehicle driver's license or identification card at any time.

(E) Special identification cards issued to persons under the age of twenty-one must be marked, stamped, or printed to readily indicate that the person to whom the card is issued is under the age of twenty-one.

(F) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund.

HISTORY: 1993 Act No. 181, Section 1357; 1996 Act No. 459, Section 128; 2000 Act No. 227, Section 1; 2005 Act No. 176, Section 11, eff June 14, 2005; 2010 Act No. 277, Section 4, eff July 1, 2011; 2011 Act No. 27, Section 6, eff May 18, 2011; 2012 Act No. 147, Section 2, eff April 23, 2012; 2016 Act No. 275 (S.1258), Section 27, eff July 1, 2016; 2017 Act No. 19 (S.344), Section 2, eff May 9, 2017; 2019 Act No. 86 (H.3789), Section 6, eff November 24, 2019.

Editor's Note

2010 Act No. 277, Section 7, provides:

"This act takes effect July 1, 2011, and applies to all persons convicted of a crime of violence as defined in Section 16-23-10(3)."

2011 Act No. 27, Sections 7 and 8, provide as follows:

"SECTION 7. The State Elections Commission must establish an aggressive voter education program concerning the provisions contained in this legislation. The State Elections Commission must educate the public as follows:

"(1) Post information concerning changes contained in this legislation in a conspicuous location at each county board of registration and elections, each satellite office, the State Elections Commission office, and their respective websites.

"(2) Train poll managers and poll workers at their mandatory training sessions to answer questions by electors concerning the changes in this legislation.

"(3) Require documentation describing the changes in this legislation to be disseminated by poll managers and poll workers at every election held following preclearance by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

"(4) Coordinate with each county board of registration and elections so that at least two seminars are conducted in each county prior to December 15, 2011.

"(5) Coordinate with local and service organizations to provide for additional informational seminars at a local or statewide level.

"(6) Place an advertisement describing the changes in this legislation in South Carolina newspapers of general circulation by no later than December 15, 2011.

"(7) Coordinate with local media outlets to disseminate information concerning the changes in this legislation.

"(8) Notify each registered elector who does not have a South Carolina issued driver's license or identification card a notice of the provisions of this act by no later than December 1, 2011. This notice must include the requirements to vote absentee, early, or on election day and a description of voting by provisional ballot. It also must state the availability of a free South Carolina identification card pursuant to Section 56-1-3350.

"In addition to the items above, the State Elections Commission may implement additional educational programs in its discretion.

"SECTION 8. The State Election Commission is directed to create a list containing all registered voters of South Carolina who are otherwise qualified to vote but do not have a South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles as of December 1, 2011. The list must be made available to any registered voter upon request. The Department of Motor Vehicles must provide the list of persons with a South Carolina driver's license or other form of identification containing a photograph issued by the Department of Motor Vehicles at no cost to the commission. The commission may charge a reasonable fee for the provision of the list in order to recover associated costs of producing the list."

Effect of Amendment

2017 Act No. 19, Section 2, in (A), added (3), relating to autism designations placed on a special identification card, and made other nonsubstantive changes.

2019 Act No. 86, Section 6, in (B), substituted "identification card" for "driver's license" in two places, made nonsubstantive changes in (1), rewrote (2), and added (3); in (C), in (1), substituted "fifteen dollars" for "five dollars", and in (2), in the first sentence, substituted "One identification card must be issued free" for "An identification card must be free" and inserted "per issuance cycle" at the end", and added the second sentence; and in (D), in the first sentence, substituted "eight years" for "five years", and added the second sentence.

SECTION 56-1-3360. Misuse of card prohibited.

It is unlawful for any person to:

(1) alter a special identification card so as to provide false information on the card or to sell or issue a fictitious special identification card;

(2) use a special identification card not issued to the person, an altered special identification card, or a special identification card containing false information to defraud another or violate the law;

(3) to lend his special identification card to any person or knowingly permit its use by another.

Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for not more than thirty days.

HISTORY: 1993 Act No. 181, Section 1357.

SECTION 56-1-3370. Size, shape, design, photograph; card to be distinguishable from driver's license.

The special identification card issued pursuant to this article shall be similar in size, shape, and design to a motor vehicle driver's license, including a color photograph of the person to whom it is issued. Provided, however, that the card shall be readily distinguishable from a driver's license by a difference in color, and there shall be printed on the face of such card a statement that the card does not enable the person to whom it is issued to operate a motor vehicle.

HISTORY: 1993 Act No. 181, Section 1357.

SECTION 56-1-3380. Information submitted in application for card confidential; exceptions.

Any information obtained from an application for the issuance, renewal, or replacement of a special identification card shall be confidential and shall not be divulged to any person, association, corporation or organization, public or private, except to the legal guardian or attorney of the applicant, or to a person, association, corporation or organization named in writing by the applicant, his legal guardian or his attorney. Provided, however, that this restriction shall not prevent furnishing the application or any information thereon to a law enforcement agency.

HISTORY: 1993 Act No. 181, Section 1357.

SECTION 56-1-3400. False or fictitious information or fraud a violation.

Any person who shall use a false or fictitious name or give a fictitious address in any application for an identification card or renewal thereof, or knowingly make a false statement or conceal a material fact or otherwise commit a fraud in any such application, shall be fined not more than five hundred dollars or imprisoned for not more than six months.

HISTORY: 1993 Act No. 181, Section 1357.

EXHIBIT L

South Carolina Division of Motor Vehicle Hearings

All News Maps Shopping Images More Settings Tools

About 9,070,000 results (0.77 seconds)

SC Office of Motor Vehicle Hearings - Home

https://www.scomvh.net

The **Office of Motor Vehicle Hearings** (OMVH) was created in 2005 and is an **office** within the **South Carolina** Administrative Law Court. There are five **hearing** officers who conduct **hearings** in accordance with Chapter 23 of Title 1, the Administrative Procedures Act, and the rules of procedure for the OMVH.

You've visited this page many times. Last visit: 10/27/19

Contact - SC Office of Motor Vehicle Hearings

https://www.scomvh.net › contact

Sam Johnson, **Hearing** Officer. Adrienne Malcolm, **Office** Assistant, (803) 734-3203. Phil Addington, Senior **Hearing** Officer. Frances Inabinet, **Office** Assistant ...

Phil Addington: Senior Hearing Officer **Tracy G. Holland**: Hearing Officer
Ester Haymond: Senior Staff Counsel **Brigette Autry**: Hearing Officer

[PDF] rules of procedure office of motor vehicle hearings - South ...

https://dc.statelibrary.sc.gov › bitstream › handle › ALC_OMVH_Rules_of...

OFFICE OF MOTOR VEHICLE HEARINGS. Effective April 30, 2009 ..... **South Carolina** Administrative Procedures Act. D. Appeal means the review conducted by ...

EXHIBIT M

SOUTH CAROLINA

SC Administrative Law Court

OFFICE OF MOTOR VEHICLE HEARINGS

Office of Motor Vehicle Hearings

The Office of Motor Vehicle Hearings (OMVH) was created in 2005 and is an office within the South Carolina Administrative Law Court. There are five hearing officers who conduct hearings in accordance with Chapter 23 of Title 1, the Administrative Procedures Act, and the rules of procedure for the OMVH.

The OMVH provides a neutral forum for fair, prompt, and objective hearings for persons affected by an action or proposed action of the South Carolina Department of Motor Vehicles, ensuring due process and respecting the dignity of all.

The Chief Judge of the Administrative Law Court is responsible for the administration of the OMVH, the assignment of cases, and the administrative duties and responsibilities of the hearings officers and staff.

Proposed Rules Amendment

The Office of Motor Vehicle Hearings has submitted a proposed amendment to Rule 4(C) to the General Assembly, pursuant to S.C. Code Ann. §1-23-660(A). This proposed amendment is non-substantive and conforms the rule to current practice. To view the text of the proposed amendment, click here.

FILING FEE FOR OMVH IS $200

Please be advised that Act No. 212 of the 2012 General Assembly changed the filing fee from $150 to $200, effective June 7, 2012. On September 10, 2012, the Office of Motor Vehicle Hearings began enforcing the filing fee increase. Cases will not be processed until the $200 fee is received.

South Carolina Administrative Law Court
Office of Motor Vehicle Hearings
Edgar A. Brown Building
1205 Pendleton Street, Suite 325
Columbia, S.C. 29201
Voice: (803) 734-3201
Fax: (803) 734-3200

EXHIBIT N

SOUTH CAROLINA

SC Administrative Law Court

OFFICE OF MOTOR VEHICLE HEARINGS

OMVH Rules

The below Rules of Procedure for the Office of Motor Vehicle Hearings (OMVH) have been promulgated in accordance with S.C. Code Ann. § 1-23-660. You will also find other links below that may assist you in preparing for a hearing before the OMVH.

Click the links below to access the rules

Official Rules - Effective May 1, 2011

OMVH Guide

Subpoena Instructions:

- Attorney Subpoena
- Non-attorney Subpoena

A PDF reader or viewer is required to view these documents. If Adobe Reader is used, the bookmarks for the rules should be available as well.

GET Adobe Acrobat Reader

EXHIBIT O

RULES OF PROCEDURE
FOR THE
OFFICE OF MOTOR VEHICLE HEARINGS

Effective May 1, 2011

TABLE OF CONTENTS

RULES OF PROCEDURE
FOR THE
OFFICE OF MOTOR VEHICLE HEARINGS

1. **Authority and Applicability.** The promulgation of these Rules is authorized by S.C. Code Ann. §1-23-660 (as amended). These Rules shall be the exclusive rules governing all proceedings before the Office of Motor Vehicle Hearings.

Note to 2009 Amendments

Act 279 of 2008 changed the name of the Division of Motor Vehicle Hearings to the Office of Motor Vehicle Hearings. All references in these Rules to the "Division of Motor Vehicle Hearings," "DMVH," or "Division," have been amended accordingly.

2. **Definitions.**

A. **Administrative Law Court** means an independent body of administrative law judges who preside over public hearings involving the promulgation of regulations, as authorized in S.C. Code Ann. § 1-23-111, and decide contested cases and appellate cases pursuant to the authority in S.C. Code Ann. § 1-23-310, et seq. and as otherwise provided by law.

B. **Administrative Law Judge** means a judge as defined in S.C. Code Ann. §§ 1-23-310(1) and 1-23-500 and as elected pursuant to S.C. Code Ann. § 1-23-510.

C. **Administrative Procedures Act** means Article 3, Chapter 23 of Title 1, the South Carolina Administrative Procedures Act.

D. **Appeal** means the review conducted by an administrative law judge of a final decision of a hearing officer of the Office of Motor Vehicle Hearings on the record established in the Office and any additional evidence presented to the administrative law judge pursuant to the Administrative Procedures Act.

E. **Chief Judge** means the Chief Administrative Law Judge of the Administrative Law Court as defined in S.C. Code Ann. §§ 1-23-510, 1-23-540, 1-23-570 and 1-23-600.

F. **Contested Case** is defined in S.C. Code Ann. § 1-23-310. It is a case for which an administrative hearing is conducted pursuant to the Administrative Procedures Act, and includes hearings conducted by the Office of Motor Vehicle Hearings pursuant to Section 1-23-660.

G. **Court** means the Administrative Law Court. It is defined in S.C. Code Ann. §1-23-500 as a court of record.

H. **Hearing Officer** means a hearing officer of the Office of Motor Vehicle Hearings who is appointed by the Chief Judge of the Administrative Law Court to conduct contested case hearings.

I. **Office** means the Office of Motor Vehicle Hearings.

J. **Office of Motor Vehicle Hearings** means the Office of Motor Vehicle Hearings created by S.C. Code Ann. §1-23-660. Its purpose is to provide contested case hearings arising from determinations by the South Carolina Department of Motor Vehicles.

K. **Party** means each person or agency as defined in S.C. Code Ann. § 1-23-310 named or admitted as a party or properly seeking and entitled to be admitted as a party, including a law enforcement agency as provided by S.C. Code Ann. §1-23-660. An applicant or licensee whose application or license is the subject of a request for a contested case hearing shall be deemed a party and shall be served with copies of all papers filed in the case.

3. Time.

A. Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.

B. Enlargement. For good cause shown, the hearing officer to whom a case is assigned may extend or shorten the time to take any action, except as otherwise provided by rule or law.

C. Service by Mail. Unless otherwise provided in these Rules, whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail or upon a person designated by statute to accept service, five days shall be added to the prescribed period.

Note

The method of calculating time in ALC Rule 3(A) is adopted. An additional five days if service is made by mail is available unless otherwise provided in these Rules.

4. Filing; Request for Contested Case Hearing.

A. Filing with the Office. A request for a contested case hearing, accompanied by a filing fee as provided by Rule 21, must be filed with the Office. The Office must serve a copy of the request on each party, including the Department of Motor Vehicles. After the request for hearing and filing fee are delivered to the Office, all subsequent filings must contain the docket number assigned. The Office will maintain its official file from the receipt of the request for hearing until a final order is issued by the hearing officer.

B. Time for Filing Request. Unless otherwise provided by statute, a request for a contested case hearing must be filed within thirty days after actual notice of the Department of Motor Vehicles' determination.

C. Content of the Request. The request for a contested case hearing may be submitted on a form prescribed by the Office and shall contain the following information:

(1) the name, address, telephone number and e-mail address of the party requesting the hearing;
(2) the issue for which the hearing is requested;
(3) information sufficient to identify the matter which is the subject of the hearing;
(4) a copy of the Department's written determination or letter;
(5) the relief requested.

The request for the hearing will not be assigned to a hearing officer until all required information and the filing fee is received. If a representative of a party files the request for hearing, the request must contain the name, address, telephone number and e-mail address of the representative. If an attorney is

retained to represent a party after the initial request for a hearing is filed, the attorney must file a letter or notice of representation with the Office which contains the name, address, telephone number and e-mail address of the attorney.

D. **Filing Defined.** The date of the filing of the request is the date of delivery or the date of mailing. All documents filed with the Office, other than the request for a contested case hearing as provided in subsection (A), shall be accompanied by proof of service of such document on all parties, and, if filed by mail, shall be accompanied by a certificate of the date of mailing. A document, pleading or motion or other paper is deemed filed with the Office by:

(1) delivering the document to the Office; or

(2) depositing the document in the U.S. mail, properly addressed to the Office, with sufficient first class postage attached.

E. **Paper Size.** All papers filed with the Office shall be on letter-size (8½ by 11 inches) paper. Exhibits or copies of exhibits in their original form which exceed that size shall be reduced by photocopying or otherwise to letter-size so long as such documents remain legible after reduction.

Note

All filed papers must be served upon all parties to the case, including the Department of Motor Vehicles, and must be accompanied by proof of service. The Office shall serve a copy of the request for a contested case hearing upon all parties, but all other documents filed with the Office must be served upon all parties by the proponent of the document and must be accompanied by proof of service.

Note to 2011 Amendments

Rule 4(C) has been amended to require an attorney retained to represent a party after the initial hearing request is filed to file a notice of representation with the Office containing the specified information.

5. **Service.** Any document, pleading, motion, brief or memorandum or other paper filed with the Office, other than the request for a contested case hearing as provided in Rule 4(A), shall be served by the proponent of the document upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by delivery, or by mail to the last known address. Service is deemed complete upon mailing. Service that complies with Rule 5(b)(1), SCRCP, also shall satisfy this Rule. A party who furnishes an e-mail address to the Office pursuant to Rule 4(C) or Rule 6 consents to the service of notices of hearing or other notices issued by the Office via e-mail.

Note

Service is required of all documents filed with the Office, except for the initial request for a contested case hearing, which is served by the Office. It is deemed complete upon mailing. The method of service is by delivery or mailing, but not fax. However, if a party furnishes an e-mail address to the Office, that party thereby consents to the services of notices issued by the Office, including notices of hearings, via e-mail.

6. **Content of Papers.** The Office shall assign a docket number to each case. All papers, to include pleadings, motions and orders, shall be filed with the Office and a copy served on all other parties of record. All papers shall be signed and contain:

A. a caption setting forth the title of the case and a brief description of the document;

B. the case docket number assigned by the Office;

C. the name, address, telephone number and e-mail address of the person who prepared the document, to include the name, address, telephone number and e-mail address of the attorney representing the party.

7. Forms. The Chief Administrative Law Judge shall prescribe the content and format of forms required by these rules. The use of required forms as prescribed is mandatory.

8. Right of Parties to Participate. Parties in a contested case have the right to participate or to be represented in all hearings or other proceedings related to their case. Any party may be represented by an attorney admitted to practice, either permanently or *pro hac vice*. A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the rules contained in the Administrative Procedures Act.

9. Assignment of Case to Hearing Officer; Hearing Officer's Powers and Duties.

A. Assignment of Case and Notice of Hearing. Upon receipt of the request for contested case hearing and payment of the filing fee, the case shall be assigned to a hearing officer. The Office shall issue a Notice of Hearing at least thirty days before the hearing date, that sets forth the date, time, place, and purpose of the hearing and the name of hearing officer assigned to the case.

B. Manner of Service of Notices. The Notice of Hearing and any other notices issued by the Office or the hearing officer in the case may be served on all parties via e-mail.

C. Hearing Officer's Powers and Duties. The hearing officer assigned to the case shall determine the appropriate procedures applicable to the case, rule on all motions, preside at the hearing, rule on the admissibility of evidence, issue orders and rulings to ensure the orderly conduct of the proceedings and issue the final order. In cases involving *pro se* litigants or those without substantial knowledge and experience in administrative matters, the hearing officer shall make reasonable efforts to ensure that the hearing is fair.

D. Assignment of Cases on Remand. When a case is remanded to the Office from an appellate body, the case shall be assigned to the same hearing officer who conducted the original contested case hearing.

Note

The Office issues the notice of the contested case hearing at least thirty days before the hearing date, except in matters brought pursuant to S.C. Code Ann. § 56-5-2951(F), which requires that the notice of hearing be issued within thirty days after the request for a hearing is received by the Office. The Office or the hearing officer may serve any notices issued in the case by e-mail, if a party has furnished an e-mail address. Once a case is assigned to a hearing officer, that hearing officer is responsible for all decisions in the case, and will conduct any further proceedings in the case in the event of a remand.

Note to 2009 Amendments

Section 56-5-2951 no longer requires issuance of a notice of hearing within thirty days after the request for a hearing is received by the Office. Therefore, subsection (A) is amended to reflect this change in the law.

10. Motions.

A. Content and Filing. All motions shall be written, contain the caption of the case and the title of the motion, the docket number and the name, address, telephone number and e-mail address of the person or representative filing the motion. The

motion shall state with specificity the grounds for relief and the relief sought. All motions pertaining to the hearing shall be filed not later than ten days before the hearing date. Any party may file a written response to the motion within ten days unless the time is extended or shortened by the hearing officer.

B. **Motions for Continuance.** A motion for continuance shall be in writing, state with specificity the reasons therefor, and be signed by the requesting party or representative. All motions must be filed at least two business days prior to the scheduled hearing. Motions filed less than two business days prior to the scheduled hearing will be granted only for good cause shown. Motions not served upon all parties will not be granted except in an emergency. Attorneys with court conflicts must include documentation of the call to court with the motion and the documentation must include the case name, the court, the county, the docket number, the presiding judge's name and telephone number, and the date the attorney received notice of the conflicting court appearance. Attorneys must notify the Office as soon as possible when a court conflict occurs. Law enforcement officers with court conflicts must include documentation of the call to court with the motion and the documentation must include the case name, the court, the county, the docket number, the presiding judge's name and telephone number, and the date the officer received notice of the conflicting court appearance. Law enforcement officers with training conflicts must submit documentation that sets out the date, place, and time of training, and the date the officer received notice of the conflicting training. Officers must notify the Office as soon as possible when a conflict occurs.

Note

Motions generally must be made at least ten days before the contested case hearing. An exception to this rule is provided for continuances, which should be requested at least forty-eight hours prior to the hearing. A party requesting a continuance less than forty-eight hours prior to the hearing must show good cause for the continuance to be granted. Motions must be served upon all parties, and a motion for continuance not served upon all parties will only be granted in the event of an emergency where prior notice is not feasible. Attorneys requesting a continuance because of a court conflict must include the required information with the motion, and they are obligated to notify the Division as soon as possible after they receive notice of the conflict.

Note to 2009 Amendments

Rule 10(A) is amended to provide a procedure for the filing of written responses to motions.

Note to 2011 Amendments

Rule 10(B) has been amended to provide that all motions for continuance must be filed at least two business days prior to the scheduled hearing and to set forth the documentation which is required from both attorneys and law enforcement officers to support a motion for continuance.

11. **Discovery.** With the exception of subpoenas as set out in Rule 12, discovery shall not be available in cases before the Office.

Note to 2009 Amendments

The amendments to Rule 11 delete all references to discovery under Rules 26-37 of the South Carolina Rules of Civil Procedure. Therefore, for all cases filed on or after April 30, 2009, the only discovery available will be the issuance of subpoenas as provided in Rule 12.

12. **Subpoenas.**

A. **Issuance and Service.** Subpoenas by or on behalf of any party shall be issued in blank by the Office. The party requesting the subpoena shall complete the form and return the completed form to the Office for signature before service, and

shall file a copy of the subpoena and the return of service with the Office upon service. An attorney authorized to practice before the courts of the State of South Carolina, as an officer of the court, may also issue and sign a subpoena on behalf of the Office. The attorney shall complete the form before service and file a copy of the subpoena and the return of service with the Office upon service. The party requesting the subpoena shall be responsible for service of the subpoena, and, when the subpoena compels the appearance of a witness at a hearing, for the payment of fees and mileage in accordance with Rule 45, SCRCP.

A subpoena may be served on any law enforcement officer personally or by serving the officer or his law enforcement agency by certified mail, return receipt requested. For subpoenas compelling the appearance of a witness at a hearing, the witness shall comply with the subpoena by appearing at the hearing at the date, time, and place set forth in the subpoena. For subpoenas compelling the production of documents or other tangible objects, the proponent of the subpoena must serve the subpoena at least ten days prior to the scheduled hearing date, and the person or agency served with the subpoena shall be required to deliver to the proponent of the subpoena or make available at the office of the producer the subpoenaed items a minimum of five days prior to the scheduled hearing date, unless otherwise ordered by the hearing officer for good cause shown. Failure to comply with this section may result in the exclusion of evidence not produced in compliance with the subpoena. Failure to comply with this section may also result in the exclusion of testimony related to tangible evidence not produced in compliance with the subpoena.

B. **Enforcement of Subpoenas.** Upon request by a party to the Administrative Law Court pursuant to S.C. Code Ann. § 1-23-320(d), the assigned administrative law judge shall enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of records, books, and papers, documents, photographs, tapes, tangible objects or any other subpoenaed item, and shall have the power to punish as for contempt of court, by fine or imprisonment or both, the unexcused failure or refusal to attend and give testimony, to produce any requested items as set forth and required by a subpoena to be produced, or to comply with any order the administrative law judge issues in the matter.

C. **Motions to Quash or Modify Subpoenas.** A person to whom a subpoena has been issued may move before the Administrative Law Court pursuant to S.C. Code Ann. § 1-23-320(d) for an order quashing or modifying the subpoena.

Note

The Office issues subpoena forms in blank. An unrepresented party requesting a subpoena must complete the blank form and return the completed form to the Office for signature before service. Attorneys may also issue and sign subpoenas on behalf of the Office. In either case, a person requesting a subpoena must file a copy of the subpoena and the return of service with the Office after the subpoena has been served. The rule sets forth procedures by which law enforcement officers may be served, and deadlines for compliance with subpoenas. If a party fails to comply with this rule, the hearing officer may exclude the evidence not produced in compliance with the subpoena. However, pursuant to S.C. Code Ann. § 1-23-320(d), only administrative law judges have the power to enforce, quash, or modify a subpoena issued by the Office.

Note to 2009 Amendments

Rule 12(A) has been amended to specify that a person served with a subpoena compelling the production of documents or tangible objects must comply with the subpoena either by delivering

the subpoenaed items to the proponent of the subpoena or making the items available at the producer's office. In either event, the subpoenaed items must be made available at least five days prior to the hearing. The rule is further amended to provide that failure to comply with the rule may result in the exclusion of not only the evidence not produced, but also any testimony which is related to that evidence.

13. **Default.** The hearing officer may dismiss a contested case or dispose of a contested case adverse to the defaulting party. A default occurs when a party fails to plead or otherwise prosecute or defend, fails to appear at a hearing without the proper consent of the hearing officer or fails to comply with any interlocutory order of the hearing officer. Any non-defaulting party may move for an order dismissing the case or terminating it adversely to the defaulting party. Any order issued which disposes of a case pursuant to this rule must contain specific findings supporting the dismissal.

14. **Evidence.**

A. **Governing Statute.** S.C. Code Ann. §1-23-330 (1976) (as amended) shall govern questions of evidence.

B. **Objections.** Objections to evidence shall be timely made and noted in the record. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony. If the evidence excluded consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

C. **Documentary Evidence Submitted by Department.** For matters in which the Department of Motor Vehicles is not required to appear at the hearing pursuant to S.C. Code Ann. § 1-23-660, any records submitted by the Department as documentary evidence prior to the hearing must be in the form of certified copies.

Note

As required by the Administrative Procedures Act, the rules of evidence apply to contested case hearings before the Division. In certain cases, the Department of Motor Vehicles is not required to appear at the hearing. Therefore, to ensure the reliability of documentary evidence submitted by the Department in such cases, the rule requires this evidence to be in the form of certified copies.

15. **Contested Case Hearings.**

A. **Order of Proceedings.** The hearing officer shall conduct the hearing in the following manner:

(1) The hearing officer shall give a brief opening statement describing the nature of the proceeding.

(2) The parties may be given an opportunity to present brief opening statements.

(3) Parties shall present their evidence in the order determined by the hearing officer. Normally, the party with the burden of proof will be the first to present evidence, all other parties being allowed to cross-examine in an orderly fashion. When that party rests, other parties will then be allowed to present their evidence, again allowing for orderly cross-examination.

(4) Each witness shall be sworn or affirmed by the hearing officer and be subject to examination.

(5) All objections to procedure, admission of evidence or any other matter shall be timely made and stated on the record.

(6) When all of the parties and witnesses have been heard, the parties may be given the opportunity to present brief final arguments.

B. Burden of Proof. In matters involving the assessment of fines, the imposition of sanctions, including the suspension or revocation of a license, or the enforcement of administrative orders, the Department of Motor Vehicles shall have the burden of proof. The burden must be met by a preponderance of the evidence.

C. Decision. Pursuant to S.C. Code Ann. § 1-23-350, the hearing officer shall issue the decision in a written order which shall include separate findings of fact and conclusions of law. Issues raised in the proceedings but not addressed in the order are deemed denied.

D. Motion for Reconsideration. Any party may move for reconsideration of a final decision of a hearing officer in a contested case, subject to the grounds for relief set forth in Rule 59, SCRCP, as follows:

(1) Within ten (10) days after notice of the order concluding the matter before the hearing officer, a party may move for reconsideration of the decision, provided that an appeal to the Administrative Law Court has not been filed.

(2) The hearing officer shall act on the motion for reconsideration within thirty (30) days after it is filed, and if no action is taken by the hearing officer within that period, the inaction shall be deemed a denial of the relief sought in the motion.

(3) Pursuant to S.C. Code §1-23-660(B) (as amended), if the Department of Motor Vehicles does not appear either through a representative at any implied consent hearing, or through the submission of documentary evidence at any habitual offender, financial responsibility, or point suspension hearing, it must first file a motion of reconsideration before appealing a hearing officer's decision. The motion must be filed within ten days after receipt of the hearing officer's decision. The hearing officer must issue a written order within thirty days.

(4) The filing of a motion for reconsideration shall not, of itself, stay the order of the hearing officer or excuse or delay compliance with the order of the hearing officer.

(5) The time for appeal for all parties shall be stayed by a timely motion for reconsideration, and shall run from receipt of an order granting or denying such motion, or if no order is filed regarding the motion, thirty (30) days after the expiration of the time to issue an order.

The filing of a motion for reconsideration is not a prerequisite to filing a notice of appeal from a final decision of a hearing officer, except as set out in (3).

E. Stay of Final Order. A hearing officer who issues a final order subject to review by the Administrative Law Court may in the order stay its effect. At any time prior to the filing of an appeal, and upon the motion of any party, with notice to all parties, the hearing officer may stay the final order upon appropriate terms. The filing of a motion for a stay does not alter the time for filing an appeal.

Note

Subsections (A) and (B) describe the procedure at the hearing which follows the standard civil trial format. In certain actions, which include the assessment of fines, the imposition of sanctions, or the enforcement of administrative orders, the Department of Motor Vehicles, as the party

seeking the enforcement, has the burden of proof. The decision is to be written with separate statements of fact and law. Issues raised in the proceedings but not addressed in the final decision are deemed denied.

Subsection (D) provides for a motion for reconsideration of the decision of a hearing officer in a contested case. The hearing officer must decide the motion within thirty days or it is deemed denied.

Subsection (E) permits the hearing officer to stay the effect of any final order subject to review by the Administrative Law Court. The authority to stay the order is derived from S.C. Code Ann. § 1-23-380(A)(2), which gives the agency or the reviewing court the power to stay the order. Motions for stay do not alter the time for filing an appeal, which is jurisdictional.

Note to 2009 Amendments

Subsection (B) has been amended to provide that the burden of proof is the preponderance of the evidence. Subsection (D) has been amended to incorporate the provisions of Act 279 of 2008, which amended S.C. Code Ann. § 1-23-660 to provide that the Department of Motor Vehicles must file a motion for reconsideration in certain cases prior to appealing a hearing officer's decision. Finally, subsection (D) has further been amended to provide that, in the event the hearing officer does not rule on the motion for reconsideration, the time for filing an appeal begins to run from thirty days after the expiration of the thirty-day time limit for the issuance of the order.

16. Record After Final Decision. The record of the contested case shall consist of:

A. All pleadings, motions, intermediate rulings and depositions filed with the Office;
B. All evidence received or considered;
C. A statement of matters judicially noticed;
D. All proffers of proof of excluded evidence;
E. The final order or decision of the hearing officer;
F. The transcript of the testimony taken during the proceeding, if prepared.

17. Appeal of Final Order.

A. Notice of Appeal and Request for Transcript. The decision of the hearing officer may be appealed to the Administrative Law Court as provided by law and in accordance with the rules of procedure for the Administrative Law Court. An appellant shall file a copy of the notice of appeal with the Office at the same time the notice of appeal is filed with the clerk of the Administrative Law Court. The appellant shall order the transcript within ten days after the date of the service of the notice of appeal, and, unless otherwise agreed by all parties in writing, the appellant must order the entire transcript.

B. Transmission of Record. The Office shall prepare an index listing each document contained in the record, transmit the index and the record of the contested case to the Court upon receipt of a notice of appeal and the transcript, and serve one (1) copy upon each party to the appeal, unless the time for filing the record is extended by the administrative law judge assigned to the appeal.

Note to 2009 Amendments

Rule 17 has been amended to provide that appeals to the Administrative Law Court must be filed in accordance with the Court's rules, and to specify that the Office must prepare the record on appeal upon receipt of both the notice of appeal and the transcript of the proceeding.

18. **Recordings and Transcript of Proceedings.** The hearings concerning a contested case shall be available for transcription as required by S.C. Code Ann. §1-23-660 (as amended). The hearing officers will record the proceedings for this purpose and no other party shall be allowed to record the hearing. The cost of preparing a copy of a transcript shall be borne by the party requesting the transcript.

19. **Clerical Mistakes.** Clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the hearing officer at any time of his own initiative or on the motion of any party and after such notice, if any, as the hearing officer orders. During the pendency of an appeal from the decision of a hearing officer, leave to correct the mistake must be obtained from the administrative law judge hearing the appeal.

20. **Applicability of Rules of the Office.** Once the Office acquires jurisdiction of a matter, the OMVH Rules shall govern all procedural aspects of the matter, notwithstanding any other agency regulation or procedural rule.

21. **Filing Fee.** Each request for a contested case hearing before the Office must be accompanied by a filing fee in the amount established by law. A case will not be assigned to a hearing officer until the filing fee has been paid. This fee is not required for contested cases brought by the State of South Carolina or its departments or agencies.

Note

The filing fee for contested case hearings before the Division is currently one hundred fifty dollars, as provided by S.C. Code Ann. § 56-5-2952 (Supp. 2006).

22. **Admission *Pro Hac Vice*.** An attorney desiring to appear *pro hac vice* in a proceeding before the Office must file an Application for Admission *Pro Hac Vice* as provided in Rule 404, SCACR.

EXHIBIT P

South Carolina Administrative law court

All News Maps Images Shopping More Settings Tools

About 26,400,000 results (0.66 seconds)

Decision Search - SC Administrative Law Court

https://www.scalc.net › search

Administrative Law Court Edgar A. Brown building 1205 Pendleton St., Suite ...

You've visited this page 2 times. Last visit: 10/27/19

ALC Rules - SC Administrative Law Court - Rules

https://www.scalc.net › rules

ALC Rules. Effective May 2, 2019 click here. To view the South Carolina ...

You've visited this page 3 times. Last visit: 10/2/19

Contact - SC Administrative Law Court

https://www.scalc.net › contact

Organizational Listing. Ralph K. Anderson, III, Chief Administrative Law Judge.

Judges - SC Administrative Law Court

https://www.scalc.net › judges

Because administrative law judges exercise quasi-judicial powers, they are ...

You visited this page on 10/27/19.

Administrative Law Court - South Carolina State Library Digital ...

https://dc.statelibrary.sc.gov › handle

The **South Carolina Administrative Law Court** is an autonomous quasi-judicial agency within the executive branch of state government. The Court was created ...

EXHIBIT Q

SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

EDGAR A. BROWN BUILDING 1205 PENDLETON ST., SUITE 224 COLUMBIA, SC 29201 VOICE: (803) 734-0550 FAX: (803) 734-6400

CLICK HERE FOR IMPORTANT NOTICE REGARDING DESTRUCTION OF EXHIBITS

Mission of the Administrative Law Court

The mission of the Administrative Law Court is to provide a neutral forum for fair, prompt and objective hearings for any person affected by an action or proposed action of certain agencies of the State of South Carolina.

Creation of the Administrative Law Court

The Administrative Law Court is an agency and court of record within the executive branch of state government. The Court was created by the South Carolina General Assembly by Act No. 181 of 1993, to provide an independent forum for hearing the contested cases of state agencies. Previously, citizens desiring an evidentiary hearing to challenge the action of a State agency were heard by hearing officers employed by that particular agency.

Jurisdiction

Appeals from the Department of Employment and Workforce (DEW) - Click here for information on filing DEW appeals.

The Court's jurisdiction is statutory in nature. Because the Court is an agency within the executive branch of state government, its power to hear a particular type of case from a particular agency is derived exclusively from the legislative branch of state government, the General Assembly.

Learn more about the jurisdiction click here of the Administrative Law Court.

Disclaimer

This website is operated by the Administrative Law Court (ALC) as a public service. The ALC makes every effort to ensure that the content of this website is accurate at the time of publication. The information is updated periodically and is subject to change or modification without notice. The information on this website is not a substitute for legal counsel. Please contact a private attorney if you need legal advice or assistance. Direct consultation of the state statutes, case law, court opinions, and other reference materials should be made for legal research purposes. Nothing contained herein shall be construed to bind the presiding Administrative Law Judge or the ALC to any practice described herein. As a convenience to the user, this website also contains links to other external websites that are not under the control of the ALC. The ALC is not responsible for the content on any linked sites.

EXHIBIT R


SOUTH CAROLINA
Office of Motor
ADMINISTRATIVE LAW COURT
EDGAR A. BROWN BUILDING 1205 PENDLETON ST, SUITE 224 COLUMBIA, SC 29201 VOICE: (803) 734-0550 FAX: (803) 734-6100
Home
ALC Rules
Forms
Decisions
Judges
Organizational Listing
OMVH
Annual Report and Fees/Fines
ALC Forms
Click on the links to access the forms:
Agency Information Sheet Form
Proof of Service Form
Information on Contested Cases
Motion to Intervene Form
Request for Contested Case Hearing Form
Request for Transcript Form
Request to Waive Filing Fee
Request for Waiver and Affidavit
Financial Statement
Subpoena
Instructions
Subpoena for Attorneys Form
Subpoena for Non-Attorneys Form
Return of Service Form
A PDF reader or viewer is required to view the forms. For a free version:
GET
Adobe Acrobat Reader

EXHIBIT S

South Carolina Administrative Law Court (SC ALC)

Request for Contested Case Hearing FORM

Mail to: 1205 Pendleton St., Suite 224, Columbia, SC 29201

Last Name:	First:	Middle:	❑ Mr. ❑ Mrs.	❑ Miss ❑ Ms.	Docket No. (To Be Completed by ALC)
Mailing Address:		City:			State and Zip:
Home Number:	Work Number:	Cell Number:			*E-Mail Address:

*By providing your e-mail address, you consent to receive court orders and notices via electronic transmission

REPRESENTATION

Are you representing yourself? ❑ Yes ❑ No

Are you represented by an Attorney? ❑ Yes ❑ No	Name of Attorney:
Attorney Mailing Address:	City, State and Zip:
Attorney Work Number and Cell Number:	Attorney E-Mail Address:

CASE INFORMATION

Name of Agency that Issued the Decision:
(Example – Dept. of Revenue, Dept. of Insurance, DHEC)

In order to have your case processed, **you must attach the agency decision**. Is it attached?: ❑ Yes ❑ No	If no, please explain:
Date the decision was issued:	Date the decision was received:
Please provide a brief statement regarding why the hearing is being requested and the relief sought:	

Payment via ❑ Check ❑ Money Order ❑ Cash for $ (applicable **filing fee pursuant to** ALC Rule 71) is being submitted today to the Administrative Law Court via ❑ U.S. Postal Service ❑ Hand-delivery

_____	_____
X *Your Signature or Signature of Attorney*	*Date*

PROOF OF SERVICE (MUST BE COMPLETED)

Your Name:	Date:	City:	State:

I hereby certify that on the date and place listed above, I served a copy of the foregoing Request for Contested Case Hearing **on all other parties** to this matter by depositing the same in the United States Mail, postage paid, and addressed as follows (use the reverse side for any additional names):

_____	_____	_____
Name and/or Agency Name	Address	City, State and Zip
_____	_____	_____
Name and/or Agency Name	Address	City, State and Zip

_____	_____
X *Your Signature or Signature of Attorney*	*Date*

Attention: All cases filed in the Administrative Law Court are subject to the Rules of Procedure found at the Court's website www.scalc.net or from the Clerk of Court. Failure to follow these rules may result in dismissal of your case.

EXHIBIT T

SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Office of Motor Vehicle Hearings
EDGAR A. BROWN BUILDING 1205 PENDLETON ST., SUITE 224 COLUMBIA, SC 29201 VOICE: (803) 734-0550 FAX: (803) 734-6400

ALC Rules

Effective May 2, 2019 click here

To view the South Carolina Appellate Court Rules, Rules of Civil Procedure, and Rules of Evidence, please visit the South Carolina Judicial Department website click here.

For previous versions of the ALC Rules, click here

- A PDF reader or viewer is required to view the rules. If Adobe Reader is used, the bookmarks for the 2013 Rules should be available as well.
-

GET Adobe Acrobat Reader

EXHIBIT U

RULES OF PROCEDURE

FOR THE

ADMINISTRATIVE LAW COURT

Effective May 2, 2019

TABLE OF CONTENTS

I. GENERAL PROVISIONS

1. Authority and Applicability. The promulgation of these Rules is authorized by S.C. Code Ann. §1-23-650 (1976) (as amended). As provided in S.C. Code Ann. § 1-23-650(C), these Rules apply exclusively in all proceedings before the Administrative Law Court. These Rules should be cited "SCALC Rule ____."

2019 Revised Notes

These Rules are applicable to all matters within the jurisdiction of the Court, whether they are contested cases under the Administrative Procedures Act or heard pursuant to a constitutional command for a hearing. ***Stono River EPA v. S.C. Dep't of Health and Envtl Control***, 305 S.C. 90, 406 S.E.2d 340 (1991); ***League of Women Voters v. Litchfield-by-the-Sea,*** 305 S.C. 424, 406 S.E.2d 378 (1991). Pursuant to S.C. Code Ann. § 1-23-650(C), these Rules of Procedure apply in the Administrative Law Court to the exclusion of any individual agency rules of procedure, whether those rules are contained in statutes, regulations, or agency rules. The Rule contains a uniform citation form for the Administrative Law Court Rules of Procedure.

2. Definitions.

A. **Administrative Law Court** means an independent body of administrative law judges who preside over public hearings involving the promulgation of regulations, as authorized in S.C. Code Ann. § 1-23-111 and decide contested cases and appellate cases pursuant to the authority in S.C. Code Ann. § 1-23-310, et seq. and as otherwise provided by law.

B. **Administrative Law Judge** means a judge appointed pursuant to S.C. Code Ann. § 1-23-510 (1976) (as amended) who is assigned a particular matter by the Chief Administrative Law Judge, or if no administrative law judge has been assigned for a particular matter, the Chief Administrative Law Judge.

C. **Agency** means a state agency, department, board or commission whose action is the subject of a contested hearing, an appeal heard by an administrative law judge, or a public hearing on a proposed regulation presided over by an administrative law judge.

D. **Appeal** means the review conducted by an administrative law judge of an agency decision on the record established in the agency and any additional evidence presented to the administrative law judge pursuant to the Administrative Procedures Act.

E. **Contested Case** is defined in Section 1-23-505.

F. **Court** means the Administrative Law Court.

G. **Docket** means the roster of matters pending before the Court, including contested cases, appeals, and hearings on proposed regulations.

H. **Party** means each person or agency named or admitted as a party or properly seeking and entitled to be admitted as a party, including a license or permit applicant. An applicant or licensee whose application or license is the subject of a request for a contested case hearing shall be deemed a party and shall be served with copies of all papers filed in the case.

2019 Revised Notes

The definition of a contested case, as set forth in S.C. Code Ann. §1-23-505, includes matters which are heard pursuant to a constitutional command for a hearing and matters, such as county tax cases, which do not come directly from a state agency. The definition of a party makes it clear that the licensee or applicant is to be made a party to any matter which involves the license or permit, and that he shall be served with copies of all papers filed in the action.

3. Time.

A. Computation. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.

B. Enlargement. For good cause shown, the administrative law judge may extend or shorten the time to take any action, except as otherwise provided by rule or law.

C. Service By Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, by e-mail, or upon a person designated by statute to accept service, five days shall be added to the prescribed period.

2013 Revised Notes

The method of calculating time in Rule 6 (a) and 6 (e), SCRCP, is adopted. A simplified procedure for extending time is adopted rather than Rule 6 (b), SCRCP. The 10 day notice requirement for motions in Rule 6 (d) is not adopted, but the additional five days available if service is made by mail is included in this Rule. Parties served with a notice or paper by the Court via e-mail in accordance with Rule 5 have the same amount of time to respond as if the party had been served by mail.

4. Filing.

A. Filing with Court. After the request for hearing and filing fee are delivered to the Court, all filings must be made with the administrative law judge assigned to the case and shall contain the docket number assigned. The Court will maintain its official file from the receipt of the request for hearing until a final order is issued by the administrative law judge.

B. Filing Defined. The date of the filing is the date of delivery or the date of mailing. Any document filed with the Court shall be accompanied by proof of service of such document on all parties, and, if filed by mail, shall be accompanied by a certificate of the date of mailing. A document is deemed filed with the Court by:

(1) delivering the document to the Court;

(2) by depositing the document in the U.S. mail, properly addressed to the Court, with sufficient first class postage attached; or

(3) as otherwise approved by the Court through administrative order.

C. Paper Size. All papers filed with the Court shall be on letter-size (8½ by 11 inches) paper. Exhibits or copies of exhibits in their original form which exceed that size shall be reduced by photocopying or otherwise to letter-size so long as such documents remain legible after reduction. All papers filed with the Court must be printed only on one side of a page, unless the document exceeds 30 pages.

2019 Revised Notes

All filings are to be made with the assigned administrative law judge after the request for hearing and filing fee are delivered to the Court. All filed papers must be served upon all parties and, if filed by mail, must be accompanied by a certificate of service. All papers filed with the Court must be letter size and must be printed only on one side of a page, unless the document exceeds 30 pages in length. Exhibits or other documents that exceed that size are to be reduced before filing unless the process of reduction would make them illegible. The Court is responsible for the official record

from the receipt of the request for a hearing until the administrative law judge issues the final order. Filing with the Court is defined as the date delivered to the Court or the date mailed by first class mail to the Court, along with a certificate of service. Filing with the Court may also be effectuated by methods which may be specifically approved by the Court through administrative order. Unless otherwise approved by administrative order of the Court, parties may not file documents with the Court by e-mail.

5. Service. Any document filed with the Court shall be served upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by delivery, by mail to the last known address, or as otherwise approved by the Court through administrative order. Service is deemed complete upon mailing. Service that complies with Rule 5(b)(1), SCRCP, also shall satisfy this Rule. A party who furnishes an e-mail address to the Court consents to the service of documents issued by the Court via e-mail, and the date of the e-mail is the date of service.

2019 Revised Notes

Service is required of all documents filed. It is complete upon mailing. The method of service is by delivery or mailing, but not fax. Any service that satisfies Rule 5, SCRCP also satisfies this Rule. Service of documents may also be effectuated by methods which may be specifically approved by the Court through administrative order. Parties who furnish an e-mail address to the Court consent to the service of documents issued by the Court via e-mail, and the date of the e-mail is the date of service. Unless otherwise approved by administrative order of the Court, e-mail service applies only to documents issued and served upon a party by the Court, such as prehearing statements, notices of hearing, or final orders, and parties may not serve documents by e-mail.

.

6. Documents Filed with the Court.

A. Content of Documents. The clerk of the Court shall assign a docket number to each case. All documents filed with the Court shall be signed and contain:

1. a caption setting forth the title of the case and a brief description of the document;
2. the case docket number assigned by the Court;
3. the name, address, telephone number and e-mail address of the person who prepared the document.

Documents filed with the Court must not be stapled or bound together except with a removable clip.

B. Privacy Protection for Filings Made with the Court.

1. Redaction Required. Unless the court orders otherwise, a party or nonparty making an electronic or paper filing with the court shall not include, or will redact where inclusion is necessary, the following personal data identifiers:

a. Social Security Numbers. If a Social Security Number must be included, only the last four digits of the number should be used.

b. Dates of Birth. If a date of birth must be included, only the year should be used.

c. Names of Minor Children. If the name of a minor child must be included, only the minor's first name and first initial of the last name should be used (e.g., John S.). If the parent's name also must be included, then only the parent's first name and first initial of the last name should be used (e.g., Amy S.).

d. Financial Account Numbers. If a checking account, savings account, credit card, or debit card number or any other financial account number must be

included, only the last four digits of the number should be used.

e. Driver's license, state identification, or passport number.

2. Filings Made Under Seal.

a. If a person wishes to file documents containing the personal data identifiers listed in (1), the person may file unredacted documents under seal, together with redacted versions for public view. No order of the court will be required to file the unredacted documents under seal.

b. Subject to the waiver in (6), if the person filing a document fails to redact the personal data identifiers listed in (1), the court, on its own motion or the motion of a party or affected nonparty, may order the unredacted documents to be sealed and order the person to file redacted versions for public view.

c. The sealed, unredacted documents shall be filed separately and the bottom of each page shall be marked "Sealed and Confidential." Only one original unredacted document shall be filed unless otherwise ordered by the court.

3. Caption. If the caption of the case contains any of the personal identifiers listed in (1), the court, on its own motion or the motion of a party or affected nonparty, shall redact the identifier.

4. Additional Considerations. Any person filing a document with the court should exercise caution in including other sensitive personal data in the filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information. Upon motion by the person filing the document, a party, or an affected nonparty, the court may order the unredacted documents to be sealed and order the person to file redacted versions for public view.

5. Request for Redaction from Electronic Document. A person has a right to request the court remove from an image or copy of an official record placed on a publicly available Internet web site any of the personal data identifiers in (1). The request must be made in writing and delivered by mail, facsimile, or electronic transmission or in person, to the clerk of the court. The request must specify the identification page number that contains the personal data identifier. There is no fee for the redaction pursuant to this request.

6. Waiver of Protection of Identifiers. The responsibility for ensuring that personal data identifiers set forth in (1) are redacted or sealed rests with the person filing the document. A person waives the protection of this Rule as to the person's own information by filing it or producing it pursuant to a discovery request without redaction and not under seal.

2014 Revised Notes

Rule 6 is amended to eliminate obsolete references to pleadings, to renumber former Rule 6 (which prescribes the content of documents filed with the Court) as Rule 6(A), and to add new Rule 6(B) in lieu of the former second paragraph of Rule 6(A), regarding privacy protection for documents filed with the Court. Rule 6(B) specifies the personal data identifiers which must be redacted from documents before they are filed with the Court. Parties may file unredacted documents containing such identifiers under seal without prior Court order. If a person files a document or produces it pursuant to a discovery request without having redacted these identifiers or filing the document under seal, that person waives any protection for his or her own information. Affected nonparties may move to seal unredacted documents containing either the specified personal data identifiers or other sensitive information. In addition, subsection (4) of Rule 6(B) sets forth other types of information which should only be included with caution, and which may be subject to a motion to seal.

Finally, subsection (5) provides procedures for requesting the removal of personal data identifiers from court documents available on the Internet.

Notes to 2019 Amendments

Rule 6(A) is amended to provide that documents filed with the Court must not be stapled or bound together. Removable clips are permitted.

7. Forms. The Court shall prescribe the content and format of forms required by these rules. The use of required forms as prescribed is mandatory. The Court may also prescribe the content and format of other forms which would facilitate administrative efficiency and judicial economy.

8. Right of Parties to Participate.

A. Parties and Their Representatives. Parties in a proceeding before the Court have the right to participate or to be represented in all hearings or pre-hearing conferences related to their case. Any party may be represented by an attorney admitted to practice, either permanently or pro hac vice. No one shall be permitted to represent a party where such representation would constitute the unauthorized practice of law. Any party which is not a natural person must be represented by an attorney. However, in cases arising under the Occupational Safety and Health Act, a partnership, corporation, or other business entity may be represented by an officer or employee. A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act. This Rule shall not be construed to permit law student practice except to the extent authorized by Rule 401 of the South Carolina Appellate Court Rules.

B. Notice of Appearance. After a case is assigned to an administrative law judge, an attorney or other person authorized to represent a party pursuant to this rule must file a notice of appearance with the presiding administrative law judge within ten days of being retained or authorized to represent the party.

C. Motion to Withdraw from Representation. An attorney or other person authorized to represent a party pursuant to these Rules must file a written motion to withdraw from representation**.**

D. Request for Protection. An attorney or other person authorized to represent a party pursuant to these Rules who wishes to receive protection from the Court from having a case set for hearing on certain dates must file a separate written request for protection with the assigned judge in each case the attorney or other representative has docketed with the Court,

2019 Revised Notes

A party may be represented only by an attorney, or in OSHA cases only, a business entity may be represented by an officer or employee. Representation by a certified public accountant in tax matters is no longer permitted. Representation of a party before the Court is permitted only to the extent that such representation does not conflict with the rules governing the unauthorized practice of law. Any party which is not a natural person, such as corporations, partnerships, and other business entities, must be represented by an attorney in proceedings before the Court. Parties representing themselves are not relieved of the responsibility to comply with these Rules and the Administrative Procedures Act. A representative who is retained after assignment of the case must file a notice of appearance with the presiding administrative law judge within ten days of being retained, and any person representing a party before the Court must file a written motion with the presiding judge to withdraw from representation of that party. Subsection (D) is added to require attorneys seeking protection from having cases set for certain dates must file a separate request with the presiding judge in each case pending before the Court.

II. CONTESTED CASES

GENERAL PROCEDURES

9. Powers and Duties of Administrative Law Judge. Upon assignment of a case, the administrative law judge shall rule on all motions, preside at the contested case hearing, rule on the admissibility of evidence, require the parties to submit briefs when appropriate, issue orders and rulings to insure the orderly conduct of the proceedings and issue the final order.

10. Simplification of Procedures. The administrative law judge, upon being assigned a contested case, shall review the request for a contested case hearing and determine the procedure appropriate to the complexity of the issues presented and the types of proof likely to be introduced so that the matter may be fully and fairly presented without unnecessary burden on either the agency or individuals involved in the hearing. The administrative law judge may limit the pre-hearing procedures and simplify the pre-hearing exchange of materials and otherwise take such reasonable measures so that the burdens of procedure do not unfairly prevent the presentation of the facts.

2009 Revised Notes

The statutory authority of the Court encompasses a wide range of administrative actions from the very simple review of hunting and fishing license revocations to complex environmental cases. This section provides specific direction to the administrative law judge to review the case and limit the pre-hearing procedures if they are unnecessary to a full development of the case. The administrative law judge, through the scheduling conference, which can be held by telephone, can consider the comments of the parties and then issue an appropriate order defining the pre-hearing procedures.

11. Request for a Contested Case Hearing.

A. Place of Filing. A request for a contested case hearing, accompanied by a filing fee as provided in Rule 71, must be filed with the clerk of the Court.

B. Service of Copies of the Request. A copy of the request must also be served on each party and on the affected agency or county official, in accordance with Rule 5. Proof of service must be included with the request.

C. Time for Filing. Unless otherwise provided by statute, a request must be filed and served within thirty (30) days after actual or constructive notice of the agency's determination. However, if the requesting party has not received actual or constructive notice of the agency's determination within thirty days of its issuance, no request shall be filed more than ninety (90) days after the date of the issuance of the order or determination unless the administrative law judge assigned to the case finds that substantial cause exists for allowing the filing beyond the ninety (90) day period.

D. Content of the Request. The request may be submitted on a form prescribed by the Court and shall contain the following information:

1. The name, address, telephone number and e-mail address of the party requesting the hearing and the issue(s) for which the hearing is requested;
2. The caption or other information sufficient to identify the decision, order, letter, determination, action or inaction which is the subject of the hearing;
3. A copy of the written agency decision, order, letter or determination, if any, which gave rise to the request;
4. The relief requested.

E. Incomplete Requests. Any request which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and the filing fee is processed.

2019 Revised Notes

The request for a contested case hearing contains basic information so that the matter may be identified. The request must be filed directly with the clerk of the Court rather than with the affected agency and must include the requesting party's address, telephone number and e-mail address. The request must be accompanied by both a filing fee as provided in Rule 71, and proof of service upon all parties, including the affected agency or county official. The use of an official request form provided by the Court is optional. A copy of the written agency decision must also be included with the request for a hearing. Unless otherwise provided by statute, the thirty-day time period for filing a request for a contested case hearing begins to run when the party filing the request has actual or constructive notice of the agency order or determination. A request based upon failure to receive notice of the agency determination within thirty days of its issuance may not be filed more than 90 days after the date of the agency order or determination, unless for substantial cause shown the administrative law judge allows the filing to be made. A case will not be assigned to an administrative law judge until all information required by the rule, and the filing fee, is received.

12. Agency Information Sheet. The agency requesting a contested case hearing or receiving a notice of a request for a contested case hearing from a party shall, within ten (10) working days of the date of the notice of assignment of the case to an administrative law judge, file with the clerk of the Court and serve upon all parties an information sheet on the form prescribed by the Court, containing the following information:

A. the name of the affected agency, along with the name, telephone number, and e-mail address of the contact person in the agency responsible for the matter;

B. the name or title of the agency proceeding and the file number or any other identifying information of the agency action or inaction that is the subject of the hearing, and a copy of the written agency decision, if any, which gave rise to the request for a hearing;

C. the names, addresses, telephone numbers and e-mail addresses of all known parties, and their attorneys or authorized representatives;

D. the names, addresses and telephone numbers, if known, of any persons who have exercised their legal right to object to the issuance of a permit or license.

If the agency fails to file the requested materials with the Court within ten working days, the party requesting the hearing may move before the presiding administrative law judge for an order directing the agency to respond forthwith.

2013 Revised Notes

Within ten working days from the date of the notice of assignment to an administrative law judge, the agency must file with the Court and serve upon all parties an agency information sheet on the form prescribed by the Court, containing the information formerly submitted in the agency transmittal form. The agency information sheet must include the e-mail addresses of the agency's contact person, as well as the e-mail addresses of known parties and their representatives. A copy of the written agency decision must be included with the agency information sheet. If the agency fails to comply with this Rule, the party requesting the hearing may move for an order compelling the agency to respond.

13. Assignment of Case to Administrative Law Judge. Upon receipt of the request for contested case hearing and filing fee the case shall be assigned to an administrative law judge as provided in S.C. Code Ann. §1-23-570 (1976) (as amended).

2009 Revised Notes

The request for a contested case hearing and filing fee must be received before a contested case is assigned to an administrative law judge. Once a case is assigned to a judge, that judge will be responsible for all decisions in the case.

14. Notification of Assignment and Prehearing Statement. Upon receipt of the request for contested case hearing and filing fee, the Court shall notify all parties of the assignment of an administrative law judge, and the administrative law judge assigned to the case, by pre-hearing order, may request each party to prepare and return a Prehearing Statement setting forth with particularity the issues in the contested case.

Notes to 2014 Amendments

Rule 14 is amended to require that prehearing statements must set forth with particularity the issues for consideration in the contested case.

15. Notice of Contested Case Hearing. The administrative law judge assigned to the case must issue a Notice of Contested Case Hearing at least thirty (30) days before the hearing date that sets forth the date, time, place, and purpose of the hearing, the administrative law judge who will conduct the hearing, and any other matters necessary for the prompt resolution of the matter. This Notice may be issued via e-mail pursuant to Rule 5.

2013 Revised Notes

In accordance with the Administrative Procedures Act, the administrative law judge assigned to the case issues the notice of the contested case hearing at least 30 days before the hearing date. The Court may issue notices of hearing to the parties via e-mail. Parties are responsible for ensuring that the Court is provided with an accurate e-mail address.

16. Preliminary Relief. Requests for preliminary or injunctive relief other than in a pending case shall be governed according to the procedures set forth in this section (II) for contested cases The administrative law judge may issue remedial writs as are necessary to give effect to its jurisdiction and with respect to injunctions shall follow the procedure in Rule 65, SCRCP.

2014 Revised Notes

This section provides that the administrative law judge may issue remedial writs as provided in S.C. Code Ann. §1-23-630 (2005) (as amended). The procedure for issuing the injunction is provided by Rule 65, SCRCP. Requests for preliminary or injunctive relief other than those made in a pending case are governed by the Rules of Procedure for contested cases.

PRE-HEARING PROCEDURES

17. Scheduling Conferences and Orders.

A. Scheduling Conference. At any time after the case has been assigned, the administrative law judge may hold a scheduling conference with the parties of record, by telephone if convenient, to determine:

(1) the necessity or desirability of prehearing statements or amendments;
(2) the simplification of the issues;
(3) the possibility of obtaining stipulations of fact and of documents to avoid unnecessary proof;
(4) the limitation and exchange of expert testimony;
(5) the scheduling of discovery;
(6) the possibility of resolving the matter through settlement, reference to mediation or other alternative forms of dispute resolution.

B. Scheduling Order. The administrative law judge, after the conference, may issue an appropriate order containing the action, if any, taken at the scheduling conference.

2009 Revised Notes

This rule gives the judge the power to hold a pre-hearing conference in any case, preferably by telephone. The matters discussed include the opportunity for settlement conferences or alternative dispute resolution if appropriate. The administrative law judge issues an appropriate order to guide the pre-hearing proceedings.

Note to 2013 Amendments

In accordance with the repeal of former Rule 18, this Rule is revised to substitute "prehearing statements" for "pleadings" in subpart (A)(1). Subpart (A)(3) is also amended to substitute "stipulations" for "admissions."

18. Amendment of Documents. Any document filed with the Court may be amended at any time upon motion and for good cause shown, unless the amendment would prejudice any other party in the presentation of its case.

Note to 2013 Amendments

Former Rule 18, which provided for pleadings, has been repealed and replaced with a new Rule 18 providing for amendment of documents filed with the Court upon motion and for good cause shown. In lieu of pleadings, the Court may order the submission of prehearing statements.

19. Motions.

A. Content and Filing. All pre-hearing motions shall be written, contain the caption of the case and the title of the motion, the contested case docket number assigned by the Court and the name and address of the person preparing it. The motion shall also state the grounds for relief and the relief sought. Except as provided in Rule 20, all motions shall be filed not later than thirty (30) days before the hearing date, unless otherwise ordered by the administrative law judge. Any party may file a written response to the motion within ten (10) days of the service of the motion unless the time is extended or shortened by the administrative law judge. Any party may file a written reply within five (5) days of the service of a response, unless otherwise ordered by the administrative law judge.

B. Motions for Continuance. A motion for continuance shall be in writing, state the reasons therefor, and be signed by the requesting party or representative. No application for a continuance may be made or granted ex parte (without notice) except in an emergency where notice is not feasible.

C. Motions Regarding Discovery. Any motion relating to discovery shall state that the moving party has made a good faith attempt to resolve all the issues raised by the motion with the opposing party. Opposing parties may respond within ten (10) days of the service of the motion unless the time is otherwise altered by the administrative law judge, who may rule on the basis of the written motion and any response thereto or may order argument on the motion.

D. Motions for Consolidation. When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters at issue at each such hearing, the administrative law judge may upon motion by any party or on his own motion order that a consolidated hearing be conducted. Where consolidated hearings are held, a single record of the proceedings may be made and evidence introduced in one matter may be considered as introduced in others, and a separate or joint decision shall be made, at the discretion of the administrative law judge as appropriate.

E. Motions for Expedited Hearing. All requests for an expedited hearing must be made by motion as provided in subsection (A) above and must be accompanied by a filing fee as provided in Rule 71.

2019 Revised Notes

Subsection (A) contains the requirement that motions be made at least thirty days before the contested case hearing. All motions filed with the Court must be accompanied by a filing fee as provided in Rule 71(D). Responses to the motion must be filed within ten days after the motion is served, and replies must be made within five days after the response is served. The presiding judge may extend or shorten any of these time frames. A special rule for continuances was added because of their common usage. Notice to all parties is required. Subsection (C) contains a standard provision that the parties must consult with opposing counsel before filing of a discovery motion to discourage frivolous motions. Subsection (D) provides for consolidation of two or more cases if the same or substantially similar evidence is relevant and material in the cases to be consolidated. The language of the subsection is adapted from 29 C.F.R., Part 18, Subpart A §18.11, which is applicable to proceedings before Federal administrative law judges. Motions for leave to intervene are governed by Rule 20 rather than this rule. Requests for an expedited hearing must be made by motion and must be accompanied by a filing fee as provided in Rule 71.

20. Intervention.

A. Motions for Intervention. A motion for leave to intervene shall be served on all parties and shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of the intervention on the proceedings.

B. Grounds for Intervention. Any person may intervene in any pending contested case hearing upon a showing that:

(1) the movant will be aggrieved or adversely affected by the final order;

(2) the interests of the movant are not being adequately represented by existing parties, or that it is otherwise entitled to intervene;

(3) that intervention will not unduly prolong the proceedings or otherwise prejudice the rights of existing parties.

C. Time for Motion for Intervention. The motion for leave to intervene shall be filed as early in the proceedings as possible to avoid adverse impact on the existing parties or the disposition of the proceedings. Unless otherwise ordered by the administrative law judge, the motion to intervene shall be filed at least twenty (20) days before the hearing. Any later motion shall contain a statement of good cause for the failure to intervene earlier.

D. Conditions of Intervention. A person granted leave to intervene is a party to the proceeding. The intervenor shall be bound by any agreement, arrangement or other matter previously determined in the case. The order granting intervention may restrict the issues to be raised or otherwise condition the intervenor's participation in the proceeding. If appropriate, the administrative law judge may order consolidation of petitions and briefs and limit the number of representatives allowed to participate in the proceedings.

2009 Revised Notes

This rule contains the standard for intervention and specifically provides that the intervenor's participation can be limited in the discretion of the administrative law judge. The rule encourages early joinder of parties and requires a good cause explanation if intervention is sought immediately before the hearing.

Note to 2013 Amendments

Rule 20(A) is amended to delete the requirement that a proposed answer or position in intervention must be attached to a motion for leave to intervene.

21. Discovery.

A. In General. Discovery shall be available as provided under these rules. Discovery shall be conducted according to the procedures in Rules 26-37, SCRCP, except that only the standard interrogatories provided by SCRCP 33(b), as applicable to the pending contested case, are permitted; there shall be no more than three (3) depositions per party under Rule 30, SCRCP; and no more than ten (10) requests to admit per party, including subparts under Rule 36,

SCRCP. Unless otherwise provided by law, all discovery shall be completed within 90 days of the date of the Notice of Assignment. Upon motion for good cause shown or upon his own motion, discovery may be expanded or curtailed by the administrative law judge.

B. **Discovery in Certificate of Need Cases.** Discovery in Certificate of Need (CON) contested cases is limited to the issues presented or considered during the staff review. Only the standard interrogatories provided by Rule 33(b), SCRCP, as applicable to the pending contested case, and ten (10) interrogatories (including subparts) to each party are permitted; there shall be no more than thirty (30) requests for production (including subparts); there shall be no more than ten (10) witnesses called by each party in their case in chief; and no more than ten (10) requests to admit (including subparts) to each party are permitted. Any permitted discovery shall be conducted according to the procedures in Rules 26-37, SCRCP. Discovery may be curtailed by the administrative law judge upon a showing of good cause or expanded by the administrative law judge upon a showing of substantial prejudice to the party seeking expanded discovery.

2019 Revised Notes

The Administrative Procedures Act permits discovery by depositions, and this rule authorizes discovery by interrogatories, document production or requests to admit. The mechanism, timing and procedure of discovery is governed by the Rules of Civil Procedure, with specific limitations on interrogatories, depositions and requests to admit. The timeline for completion of discovery runs from the date of the Notice of Assignment. The presiding administrative law judge may expand or curtail discovery either sua sponte or upon motion. Subsection (B) provides parameters for discovery in Certificate of Need (CON) cases. The rule is designed to facilitate the resolution of CON cases in as prompt a manner as possible. The presiding administrative law judge in a CON case may establish a time frame for completion of discovery in a scheduling order.

22. Subpoenas.

A. **Issuance and Service.** Subpoenas by or on behalf of any party shall be issued in blank by the clerk of the Court. The party requesting the subpoena shall complete the form and return the completed form to the clerk of the Court for signature before service, and shall file a copy of the subpoena and the return of service with the clerk of the Court upon service. An attorney authorized to practice before the courts of the State of South Carolina, as an officer of the court, may also issue and sign a subpoena on behalf of the Court. The attorney shall complete the form before service and file a copy of the subpoena and the return of service with the clerk of the Court upon service. The party requesting the subpoena shall be responsible for service of the subpoena and the payment of fees and mileage in accordance with Rule 45, SCRCP.

B. **Enforcement.** The administrative law judge shall enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of records, books, and papers, and have the power to punish as for contempt of court, by fine or imprisonment or both, the unexcused failure or refusal to attend and give testimony or produce books, papers, and records that have been required by subpoena to be produced.

C. **Motions to Quash or Modify Subpoenas.** A person to whom a subpoena has been issued may move before the administrative law judge for an order quashing or modifying the subpoena.

2014 Revised Notes

Rule 22(A) provides the procedure for issuance and service of subpoenas. An unrepresented party requesting a subpoena must complete the blank form and return the completed form to the clerk for signature before service. The clerk will not sign a subpoena form which is incomplete or contains erroneous information. As officers of the Court, attorneys may

issue and sign subpoenas on behalf of the Court. Rule 22(C) provides the procedure for motions to quash or modify subpoenas. The administrative law judge has the power to enforce subpoenas and to sanction parties for failure to comply with subpoenas as for contempt.

23. Adverse Disposition of Contested Case.

A. Default. The administrative law judge may dismiss a contested case or dispose of a contested case adversely to the defaulting party. A default occurs when a party fails to plead or otherwise prosecute or defend, fails to appear at a hearing without the proper consent of the judge or fails to comply with any interlocutory order of the administrative law judge. Any non-defaulting party may move for an order dismissing the case or terminating it adversely to the defaulting party.

B. Dismissal of Contested Case for Failure to Comply with the Rules. Upon motion of any party, or on its own motion, the Court may dismiss a contested case or resolve the contested case adversely to the offending party for failure to comply with any of the rules of procedure for contested cases, including the failure to comply with any of the time limits provided in these rules or by order of the Court.

2014 Revised Notes

The administrative law judge may dispose of a contested case adversely to a defaulting party. Rule 23(B) also allows the administrative law judge to dismiss a contested case or resolve it adversely to the offending party for failure to comply with the ALC Rules of Procedure or an order of the Court.

24. Confidentiality. When, by statute or rule, a matter subject to the jurisdiction of the Court is required to be kept confidential, all documents filed with the Court, and served on all parties, shall bear the designation "CONFIDENTIAL" and such documents shall be maintained so that only authorized individuals shall have access to those documents.

Notes to 2014 Amendments

The 2014 amendments deleted obsolete references to pleadings.

HEARING PROCEDURES

25. Evidence.

A. Governing Statute. The South Carolina Rules of Evidence shall govern questions of evidence.

2019 Revised Notes

This section establishes that the South Carolina Rules of Evidence apply to administrative hearings as required by the Administrative Procedures Act. Former Rules 25(B) and (C) and Rule 26 have been deleted as redundant to the South Carolina Rules of Evidence.

26. [RESERVED]

27. Pre-Hearing Exchange of Evidence. Upon notice, the administrative law judge may, in appropriate cases, require the parties to exchange prior to the hearing:

A. a final list of witnesses the party reasonably expects to testify at the hearing;

B. a final list of all exhibits expected to be offered at the hearing;

C. a final list of all facts which the party intends to request be judicially noticed by the

administrative law judge and the information supporting the judicial notice of the facts requested.

Any witness list or exhibit not exchanged prior to the hearing may be excluded from admission into evidence. Multiple documents submitted as one exhibit must be consecutively numbered. The pre-hearing exchange may be amended upon motion and for good cause shown, unless the amendment would substantially prejudice any other party in the presentation of its case.

2009 Revised Notes

This rule provides the administrative law judge another technique for limited pre-hearing exchange of information. It might be appropriate with other pre-hearing procedures in complex cases, or be the only disclosure in simple hearings. A procedure is provided for the amendment of the pre-hearing exchange. Multiple documents submitted as one exhibit, such as an agency file, must be consecutively numbered in order to facilitate reference to the individual documents during a hearing.

28. Pre-Hearing Conference. The administrative law judge may hold a pre-hearing conference prior to the hearing. The purpose is to obtain stipulations of law and fact, rule on the admissibility of evidence and to identify matters which any party intends to have judicially noticed. The administrative law judge may consider pending motions, and any other matter that will expedite the hearing.

2009 Revised Notes

This rule provides another tool to help the administrative law judge manage the case. This conference is discretionary and may be held shortly before the hearing to permit the pre-hearing resolution of any matter that would expedite the hearing itself.

29. Contested Case Hearings.

A. Order of Proceedings. The administrative law judge shall conduct the hearing in the following manner:

(1) The parties shall be given an opportunity to briefly present opening statements.

(2) Parties shall present their evidence in the order determined by the administrative law judge.

(3) Each witness shall be sworn or affirmed by the administrative law judge or the court reporter and be subject to examination. In the discretion of the administrative law judge, witnesses may be sequestered during the hearing.

(4) Parties have the right to introduce evidence on the points at issue and to cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts.

(5) All objections to procedure, admission of evidence or any other matter shall be timely made and stated on the record, in accordance with Rule 103, SCRE.

(7) When all the parties and witnesses have been heard, the parties shall be given the opportunity to present final arguments.

(8) Proposed orders may be requested by the administrative law judge, and if served upon the administrative law judge shall be served at the same time and by the same method on all parties.

B. Burden of Proof. In matters involving the assessment of civil penalties, the imposition of sanctions, or the enforcement of administrative orders, the agency shall have the burden of proof.

C. Decision. The administrative law judge shall issue the decision in a written order which shall include separate findings of fact and conclusions of law.

D. Motion for Reconsideration. Any party may move for reconsideration of a final decision of an administrative law judge in a contested case to alter or amend the final decision, subject to the grounds for relief set forth in Rule 59, SCRCP, as follows:

(1) Within ten (10) days after notice of the order concluding the matter before the administrative law judge, a party may move for reconsideration of the decision, provided that a notice of appeal from the decision has not been filed. The opposing party may file a response to the motion within ten (10) days of the service of the motion.

(2) The administrative law judge shall act on the motion for reconsideration within thirty (30) days after it is filed if an opposing party does not file a response or within thirty (30) days after an opposing party files a response. If no action is taken by the administrative law judge within the applicable period, the inaction shall be deemed a denial of the relief sought in the motion.

(3) The filing of a motion for reconsideration shall not stay the order of the administrative law judge or excuse or delay compliance with the order of the administrative law judge.

(4) The time for appeal for all parties shall be stayed by a timely motion for reconsideration and shall run from receipt of an order granting or denying such motion. If no order is filed regarding the motion, the time for appeal shall begin to run thirty (30) days from the date the motion is deemed denied pursuant to subsection (D)(2).

E. Stay of Final Order. An administrative law judge who issues a final order subject to judicial review may in the order stay its effect. At any time prior to the filing of a petition for judicial review, and upon the motion of any party, with notice to all parties, the administrative law judge may stay the final order upon appropriate terms. The filing of a motion for a stay does not alter the time for filing a petition for judicial review.

2019 Revised Notes

Subsection (A) describes the procedure at the hearing which follows the standard civil trial format. In certain matters, such as enforcement actions, the agency has the burden of proof. The decision is to be written with separate statements of fact and law. Issues raised in the contested case proceedings but not addressed in the written order are no longer deemed denied, but must be raised by the parties in a motion for reconsideration in order to be preserved for appeal. Subsection (D) provides for a motion for reconsideration of the decision of an administrative law judge in a contested case. The motion for reconsideration is subject to the grounds for relief set forth in SCRCP 59. The opposing party has ten days from the date the motion is served to file a response to the motion. The administrative law judge must decide the motion within 30 days or it is deemed denied, but if an opposing party files a response to the motion, the 30-day time frame begins to run from the date the response is filed. The filing of a motion for reconsideration does not stay the effectiveness of the administrative law judge's order but does toll the time for appeal until the motion is resolved or deemed denied pursuant to subsection (D)(2). A motion for reconsideration made after a petition for judicial review has been filed is untimely because jurisdiction then resides in the Court of Appeals. In accordance with applicable case law on issue preservation, the last sentence of subsection (D), which stated a motion for reconsideration is not a prerequisite to filing a notice of appeal, has been deleted. Subsection (E) permits the administrative law judge to stay the effect of any final order that is subject only to judicial review. The authority to stay the order is derived from S.C. Code Ann. §1-23-380(A)(2) (2005) (as amended) which gives the agency or the reviewing court the power to stay an order. When the administrative law judge issues a final order subject only to judicial review, agency action is completed, and the administrative law judge is the appropriate authority to consider the issue of a stay. Motions for stay do not alter the time for filing a petition for judicial review, which is jurisdictional.

30. Record After Final Decision. The record of the contested case shall consist of:

A. All documents filed with or by the Court;

B. All evidence received or considered;
C. A statement of matters judicially noticed;
D. All proffers of proof of excluded evidence;
E. The transcript of the testimony taken during the proceeding, if prepared.

Notes to 2014 Amendments

The 2014 amendments deleted obsolete references to pleadings. Subsection (A) was amended to include documents filed by the Court as part of the record of the contested case, and former Subsection (E) was deleted because the final order of the Court is a document "filed by the Court" and is therefore included under Subsection (A). Former Subsection (F) has been redesignated as Subsection (E).

31. Appeal of Final Order. The decision of the administrative law judge may be appealed as provided by law. An appellant shall file a copy of the notice of appeal with the clerk of the Court at the same time the notice of appeal is filed with the reviewing authority.

2009 Revised Notes

Pursuant to Act 387 of 2006, the South Carolina Appellate Court Rules govern the procedure for appealing a final order of an administrative law judge. A copy of the notice of appeal must be filed with the clerk of the Court at the same time the notice is filed with the Court of Appeals.

32. Transcript. The hearings concerning a contested case shall be available for transcription as required by S.C. Code Ann. §1-23-600(C) (2005) (as amended). The cost of preparing a copy of a transcript shall be borne by the party requesting the transcript.

III. MATTERS HEARD ON APPEAL FROM FINAL DECISIONS OF CERTAIN AGENCIES

33. Notice of Appeal. The notice of appeal from the final decision of an agency shall be filed with the Court and a copy served on each party and the agency whose final decision is the subject of the appeal within thirty (30) days of receipt of the decision from which the appeal is taken. In appeals from decisions of the Department of Employment and Workforce, the notice of appeal must be filed and served within thirty (30) days of the date of mailing of the decision of the Department of Employment and Workforce Appellate Panel. The notice shall be accompanied by a filing fee as provided in Rule 71 and shall contain the following information:

A. the name, address, telephone number and e-mail address of the party requesting the appeal, and the name, address, telephone number and e-mail address of the attorney or other authorized representative, if any, representing that party;
B. a general statement of the grounds for appeal as provided in S.C. Code Ann. §1-23-380(5). The grounds for appeal may be amended, supplemented or modified in the statement of issues in the brief required by Rule 37(B)(1);
C. a copy of the final decision which is the subject of the appeal and the date received;
D. a copy of the request for a transcript;
E. proof of service of the notice of appeal on all parties.

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and the filing fee is processed.

2014 Revised Notes

The notice of appeal must be filed with the Court within thirty days of receipt of the decision being appealed. The notice

of appeal should include a general statement of the issues on appeal, but the statement of issues in the brief shall be considered the final statement of the issues on appeal. The notice of appeal must include the e-mail addresses of the appellant and the appellant's attorney or other authorized representative, and must be accompanied by a filing fee as provided in Rule 71 and proof of service of the notice on all parties. Any incomplete notice of appeal, or a notice not accompanied by the filing fee, will not be assigned to an administrative law judge until all required information and fees are received. Notices of appeal in Department of Employment and Workforce cases must be filed within 30 days of the date of mailing of the agency decision in accordance with the applicable statute.

34. A. Automatic Stay of Proceedings Upon Appeal. The filing of an appeal from the final decision of an agency shall stay the final decision of that agency unless the effect of filing an appeal is otherwise established by statute, the Administrative Procedures Act notwithstanding; or the administrative law judge has entered an order regarding the effect of the proceedings in the agency. Notwithstanding the foregoing, upon the filing of an appeal from the final decision of an agency, any party may apply to the administrative law judge for an order regarding the effect of the appeal on the agency decision.

B. Effect of Motions upon Time Limits. Unless otherwise ordered by the presiding administrative law judge, the filing of a motion or petition shall not stay the time limits imposed by these Rules. A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided. The time limits shall resume from the date of an order deciding the motion.

Note to 2016 Amendments

The Rule has been amended by adding subsection (B) which provides that motions (other than motions to dismiss or motions to be relieved as counsel) do not stay the time limits imposed by these Rules for filing the record on appeal and briefs. For those motions which do stay the time limits, the time frames for perfecting the appeal resume from the date of the order deciding the motion. The subsection is based upon SCACR 240(b).

35. Ordering and Filing of Transcript. The party filing the notice of appeal shall be responsible for ordering a transcript and shall file a copy of the request for a transcript with the notice of appeal. Unless otherwise agreed by all parties in writing, the appellant must order the entire transcript. The administrative law judge may also order the agency to prepare a transcript. The transcript of the proceedings shall be filed with the clerk of the Court by the agency pursuant to Rule 36.

2016 Revised Notes

The party filing the notice of appeal must order the transcript at the same time as the service of the notice of appeal. A copy of the request for a transcript must be filed with the notice of appeal. The appellant must order the entire transcript unless the parties agree otherwise in writing. The administrative law judge may order the agency to prepare a transcript in the event the agency fails to do so. However, any order issued by the court does not relieve the appellant of the obligation to pay for the preparation of the transcript.

36. Record on Appeal.

A. Time for Service and Filing. Within forty-five (45) days of the date of the notice of assignment to an administrative law judge, the agency with possession of the Record shall file an original and one (1) electronic copy of the Record with the Court and serve one (1) copy on each party to the appeal, unless the time for filing the Record is extended by the Administrative Law Judge assigned to the appeal. In appeals from decisions of the Department of Employment and Workforce, the Department must file and serve the Record within twenty (20) days of the date of the notice of assignment. In preparing the Record, the agency must comply with the provisions of Rule 6(B) regarding privacy protection. The time for filing the Record on Appeal is not tolled if the case is subsequently reassigned to another

administrative law judge and runs from the date of the initial notice of assignment.

B. **Content.** The Record shall consist of the following:

(1) All pleadings, motions, and intermediate rulings;
(2) All evidence received or considered;
(3) A statement of matters judicially noticed;
(4) All proffers of proof of excluded evidence;
(5) The final order or decision which is subject to review;
(6) The transcript of the testimony taken during the proceeding.

C. **Order of Record.** The Record shall be arranged in the following order: the title page, index, orders, judgments, decrees, pleadings, transcript, exhibits, other materials or documents, and a certificate of service. Each page of the Record shall be numbered consecutively beginning with the index.

D. **Title Page.** The title page shall contain only the caption, the docket number, and the title "Record on Appeal."

E. **Index.** Every Record shall contain an index to the principal matters therein, to include orders, judgments, pleadings, prehearing matters, opening statements, testimony, motions, closing arguments, post-hearing motions, and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect, and recross examination begins.

F. **Exhibits.** Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record where they can be reduced or drawn to a size which permits them to be printed and inserted in the Record, without folding more than one time. Where exhibits are larger, or do not reasonably lend themselves to accurate reproduction, they need not be included in the Record, but shall be filed separately. All exhibits other than paper exhibits must be delivered to the clerk of the Court.

G. **Review Limited to Record.** The Administrative Law Judge will not consider any fact which does not appear in the Record.

H. **Cover of Record.** The cover of the Record must be white in color and contain only the caption and the names, addresses, telephone numbers and e-mail addresses of counsel.

I. **Margins and Bindings.** Typewritten papers or reproductions must have a blank margin of an inch and a half on the left and must be securely fastened on the left margin.

2014 Revised Notes

The agency with possession of the record in the contested case (other than Department of Employment and Workforce (DEW) cases) must file an original and one electronic copy of the record with the Court within forty-five days of the date the case is assigned to an administrative law judge. This ensures that the agency must file the record only after the appellant has perfected the appeal by filing the notice of appeal and submitting the appropriate filing fee. The agency is responsible for compliance with Rule 6(B) regarding privacy protection. The format of the Record on Appeal is similar to that used in the South Carolina Appellate Court Rules. The administrative law judge's review is limited to those facts appearing in the record. For appeals involving the Department of Employment and Workforce (DEW), a shorter time frame for the filing and service of the Record on Appeal applies. The shorter time frame is designed to expedite the resolution of DEW appeals in accordance with S.C. Code Ann. § 41-35-750, which provides that these appeals must be heard in a summary manner.

Notes to 2019 Amendments

Rule 36(A) is amended to clarify that the original time frames for filing the record on appeal apply even when the case is subsequently reassigned to another administrative law judge. Rule 36(D) is amended to add requirements for the content of the title page of the record on appeal.

37. Briefs.

A. Time for Filing. The party first noticing the appeal shall file an original and one copy of its brief with the Court within thirty (30) days after the filing of the Record on Appeal. Within thirty (30) days thereafter, the respondent and other parties shall file an original and one copy of their briefs in response. A reply brief and one copy may be filed ten (10) days thereafter. The principal briefs shall not exceed thirty (30) pages and the reply brief shall not exceed ten (10) pages. In appeals from the Department of Employment and Workforce, the appellant shall file its brief with the Court within twenty (20) days after the Record on Appeal is filed, and the respondent must file its brief within twenty (20) days after the date the appellant's brief is filed. The appellant may file a reply brief within ten (10) days after the respondent's brief is filed.

B. Content of Brief. Each brief shall contain:

(1) Statements of the Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue and may be stated in question form. Broad general statements may be disregarded by the Court. Ordinarily, no point will be considered that is not set forth in the statement of issues on appeal.

(2) Statement of the Case. The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain as a minimum, the following information: the date of the commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of the service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal. Any matters stated or alleged in a party's statement shall be binding on that party.

(3) Argument. The brief shall be divided into as many parts as there are issues to be argued, and each such part shall bear an appropriate caption, followed by a discussion and citation of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize that party's contentions.

(4) Conclusion. A short conclusion stating the precise relief requested.

(5) Proof of Service. Proof of service of the brief on all parties of record.

C. Service of Brief. At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.

D. Cover of Brief. The cover of the appellant's brief shall be blue; that of the respondent red; that of an intervenor or amicus curiae green; and that of any reply brief gray. The cover of a brief shall contain only the caption and the names, addresses, telephone numbers and e-mail addresses of counsel. This subsection shall not apply to briefs filed by pro se litigants.

E. Amicus Curiae Brief. A brief of an amicus curiae may be filed only by leave of the presiding administrative law judge, or at the request of the presiding administrative law judge. The brief may be conditionally filed with the motion for leave to file. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. The brief shall be limited to argument of the issues on appeal as presented by the parties and shall comply with the requirements of Subsections (A) through (D) of this Rule. If leave to file an amicus curiae brief is granted, the court will specify the period in which a response to the brief may be filed.

2013 Revised Notes

Except in cases involving the Department of Employment and Workforce (DEW), the appellant's brief must be filed within thirty days after the filing of the Record on Appeal, and the respondent's brief must be filed within thirty days after the appellant's brief is filed. These deadlines provide a readily ascertainable time for the submission of the briefs. Statements of fact set forth in the briefs are binding upon the proponent of the statement. The format of the briefs is similar to that used in the South Carolina Appellate Court Rules. The requirements of subsection (D), which specify the colors to be used for the cover of the briefs, do not apply to briefs filed by pro se litigants. Briefs are not required to be bound. The original and one copy of each brief must be filed with the Court, and proof of service of the brief on all parties of record must be included. A shorter time frame for the filing of briefs applies in DEW appeals, in accordance with S.C. Code Ann. § 41-35-750, which provides that DEW appeals must be heard in a summary manner.

Notes to 2016 Amendments

This Rule has been amended by adding subsection (E), which provides form the filing of amicus curiae briefs. The presiding administrative law judge must request the filing of amicus briefs or must grant leave to file them. The subsection is based upon SCACR 223.

38. Dismissal of Appeal for Failure to Comply with the Rules. Upon motion of any party, or on its own motion, an administrative law judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided in these rules or by order of the Court.

2014 Revised Notes

In all cases involving pro se litigants or those without substantial knowledge and experience in administrative matters, the administrative law judge may make reasonable efforts to assure fairness. Nevertheless, such litigants remain responsible for complying with these Rules and all applicable statutes. An administrative law judge may dismiss an appeal or resolve an appeal adversely to the offending party for failure to comply with any of the ALC Rules of Procedure for appeals or for failure to comply with an order of the Court.

39. Oral Argument. The administrative law judge shall provide at least twenty (20) days notice of oral argument. The oral argument shall follow the procedure in Rule 218, SCACR. In the discretion of the administrative law judge, oral argument may not be required. Oral argument will ordinarily not be ordered by the Administrative Law Judge in appeals from the Office of Motor Vehicle Hearings or the Department of Employment and Workforce unless the proceeding involves a novel issue or a question of exceptional importance.

2013 Revised Notes

The administrative law judge, rather than the clerk of the Court, provides the notice of oral argument. Oral argument is discretionary with the presiding judge and is ordinarily not ordered in appeals from the Office of Motor Vehicle Hearings or the Department of Employment and Workforce (DEW) unless the appeal involves a novel issue or a question of exceptional importance.

40. Opinion. The administrative law judge shall render a decision in a written order which shall be served on all parties and filed with the clerk of the Court. The administrative law judge may affirm any ruling, order or judgment upon any ground(s) appearing in the Record and need not address a point which is manifestly without merit. Judicial review of any decision of the Court shall be as provided in S.C. Code Ann. §1-23-610 (2005) (as amended). Motions for rehearing may be allowed in the discretion of the presiding administrative law judge. Any motion for rehearing must be filed within ten days of receipt of the order. The time for appeal is stayed by a timely motion for rehearing and runs from receipt of an order granting or denying the motion.

2019 Revised Notes

The rules for hearing matters on appeal from the final decision of an agency are based on the South Carolina Appellate Court Rules as modified for the less complex matters heard by the Court. The South Carolina Appellate Court Rules should be examined to resolve novel issues of appellate procedure in the Court. The administrative law judge may affirm upon any ground appearing in the Record and may decline to address points which are without merit; however, issues raised on appeal but not addressed in the order are no longer deemed denied. Motions for rehearing must be filed within ten days of receipt of the order and are only allowed in the discretion of the presiding judge. The 2019 amendments deleted the last sentence of the rule, which provided that a motion for rehearing was not a prerequisite to filing a notice of appeal from the administrative law judge's decision.

41. Appeal of Final Order. The appellant shall file a copy of the notice of appeal from the decision of the administrative law judge with the clerk of the Court.

2009 Revised Notes

Pursuant to Act 387 of 2006, the South Carolina Appellate Court Rules govern the procedure for appealing a final order of an administrative law judge.

IV. REGULATION HEARING PROCEDURES

42. Request for Hearing on Proposed Regulation. An agency desiring a hearing on a proposed regulation pursuant to S.C. Code Ann. §1-23-111 (1976) (as amended) shall file with the clerk of the Court a transmittal form including a description of the subject matter of the regulation and a request that a hearing be scheduled. Within five (5) days the chief administrative law judge shall assign an administrative law judge to preside over the proceedings.

43. Documents Filed with Request for Hearing. At the time the request for a hearing is made, the agency shall file with the clerk of the Court the following:

(a) a copy of the drafting notice for the proposed regulation as published in the State Register;
(b) the State Register Document Number of the proposed regulation;
(c) the proposed date of submission of the proposed regulation to the State Register for publication;
(d) the proposed date of publication in the State Register of the text or synopsis of the proposed regulation;
(e) a suggested date for the hearing.

2009 Revised Notes

The Request for a Hearing on Proposed Regulations should include documentation showing that the requirements for publication in the State Register have been met.

44. Scheduling of Hearing on Proposed Regulation. Within ten (10) days of receipt of the request for a hearing and the required documents, the administrative law judge to whom the matter is assigned shall notify the agency of the location, date, and time of the hearing to allow participation by all affected interests and shall advise the agency to issue the proposed Notice of Hearing for the Proposed Regulation for publication in the State Register.

2009 Revised Notes

The administrative law judge notifies the agency of the hearing date, location, and time. The agency then publishes the Notice of Hearing for the Proposed Regulation in the State Register.

45. Documents to be Pre-Filed with Court. At least ten (10) days before the date scheduled for the hearing, the agency shall file a statement confirming whether or not there is a need for a hearing as required by S.C. Code Ann. §1-23-110 (1976) (as amended) on the basis that a request for a hearing was made by twenty-five (25) persons, a governmental subdivision or agency, or an association having not less than twenty-five (25) members.

A. Agency Statement of Need and Reasonableness. An agency desiring to adopt a regulation shall prepare and pre-file not later than ten (10) days before the date scheduled for the hearing, the full text of the proposed regulation, and a statement of need and reasonableness that contains a summary of anticipated evidence and argument to be presented by the agency at the hearing. The statement shall include citations to any statutes or case law, citations to any economic, scientific, or other manuals or treatises, and a list of any witnesses to be called by the agency to testify on its behalf with a summary of their anticipated testimony. The statement may contain evidence and argument in rebuttal of evidence and argument presented by the public.

B. Other Pre-Filed Documents. At the time the agency confirms the hearing, it also shall file a copy of the State Register containing the Notice; all materials received by the agency during the initial drafting period; a list of the agency personnel who will represent the agency at the hearing; a list of all persons who contacted the agency orally or in writing regarding the proposed regulation; and, a list of all persons expected to testify or present evidence at the hearing.

Note to 2013 Amendments

Rule 45 is amended to provide that an agency proposing regulations must notify the Court whether a hearing is needed or not.

46. Powers of Administrative Law Judge. Consistent with law, the administrative law judge is authorized to do all things necessary and proper to the performance of the foregoing and to promote justice, fairness, and economy, including, but not limited to the power to preside at the hearing; administer oaths or affirmations; hear and rule on objections and motions; question witnesses when appropriate to make a complete record; rule on the admissibility of evidence; and strike from the record objectionable evidence, limit repetitive or immaterial oral statements and questions, and determine the order of making statements and questions.

47. Order of Proceedings. All hearings held pursuant to S.C. Code Ann. §1-23-111 (1976) (as amended) shall proceed substantially in the following manner:

A. Registration of Participants. All persons intending to present evidence or ask questions shall register with the administrative law judge before the hearing begins by legibly printing their names, addresses, telephone numbers, and names of any individuals or associations that the person represents on a register provided by the administrative law judge.

B. Notice of Procedure. The administrative law judge shall convene the hearing at the proper time, and shall explain to all persons present the purpose of the hearing and the procedure to be followed at the hearing so that all persons are treated fairly and impartially. The administrative law judge may impose time limitations on testimony by the agency or interested persons. The administrative law judge also shall announce when the record of the hearing is to be closed, and in its discretion may permit the filing of additional written statements and materials within five (5) days after the hearing. The time period may be extended in the discretion of the administrative law judge, but not later than twenty (20) days after the hearing ends.

C. **Agency Presentation.** The agency representatives will identify themselves and the witnesses expected to testify on the agency's behalf for the record and make available copies of the proposed regulation at the hearing. The agency shall make its showing of the need for and the reasonableness of the regulation and shall present any other evidence it considers necessary to fulfill all statutory or regulatory requirements. The agency may rely on its pre-filed Statement of Need and Reasonableness to satisfy its burden, and it may also present oral evidence.

D. **Opportunity for Questions.** Interested persons shall be given an opportunity to address questions to the agency representatives or witnesses or to interested persons making oral statements. Agency representatives may question interested persons making oral statements. Questioning may extend to the proposed regulations or a suggested modification, or may be conducted for other purposes, if material to the evaluation or formulation of the proposed regulations.

E. **Opportunity for Presenting Statements and Evidence.** Interested persons shall be given an opportunity to present oral and written statements and evidence regarding the proposed regulations.

F. **Questioning by Administrative Law Judge.** The administrative law judge may question all persons, including the agency representatives.

G. **Further Agency Evidence.** The agency may present any further evidence that it considers appropriate in response to statements made by interested persons. Upon presentation by the agency, interested persons may respond thereto.

H. **Receipt of Written Materials.** The administrative law judge may permit any interested person to submit written materials after the close of oral testimony on such terms and conditions as permit all parties an opportunity to comment on subsequent submissions.

48. **Report of Administrative Law Judge.** After the time for the submission of all written materials, the administrative law judge shall issue a written report with findings as to the need and reasonableness of the proposed regulation, and if there is a finding of a lack of need or of reasonableness, may include suggested modifications to the proposed regulation.

49. **Record of Proceeding.** The hearing record for the proposed regulations shall be closed on the date established by the administrative law judge, but not later than twenty (20) days after the hearing ends. The full record shall include:

A. all pre-filed documents submitted to the Court;
B. copies of all publications in the State Register pertaining to these rules;
C. all written petitions, requests, submissions or comments received by the agency or the administrative law judge pertaining to the substance and jurisdiction of the proceeding on the proposed regulation;
D. the proposed regulation as submitted to the administrative law judge;
E. the transcript of the proceedings, if one has been prepared; and
F. the report of the administrative law judge.

50. **Transcript.** A transcript of the proceedings shall be prepared upon the order of the administrative law judge or the request of an agency or interested person. The party or person requesting the transcript shall pay for its production.

V. SPECIAL APPEALS

51. Applicability. The Rules in this section shall apply exclusively in matters heard on appeal from final decisions pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000).

2009 Revised Notes

The Special Appeals Rules are the exclusive rules of procedure used in appeals from final decisions of the Department of Corrections and the Department of Probation, Parole and Pardon Services. The Court's jurisdiction to hear such matters is derived entirely from the decisions of the South Carolina Supreme Court in Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), and Furtick v. S.C. Dep't of Probation, Parole and Pardon Services, 352 S.C. 594, 576 S.E.2d 146 (2003). These Rules are based upon the Court's existing general procedural and appellate rules, with adaptations for this specific type of appeal.

52. Computation of Time. In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default after the designated period of time begins to run is not included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a State or Federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday. When the period prescribed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as any other day and not as a holiday.

53. Filing.

A. Filing Defined. The date of the filing is the date of delivery or the date of mailing as shown by the postmark or by the date stamp affixed by the mail room at the appellant's correctional institution. Any document filed with the Court shall be accompanied by proof of service of such document on all parties. A document, pleading or motion or other paper is deemed filed with the Court by:

(1) delivering the document to the Court; or

(2) depositing the document in the U.S. mail or in the mail room at the appellant's correctional institution, properly addressed to the Court, with sufficient first class postage attached.

B. Paper Size. All papers filed with the Court shall be on letter-size (8 ½ by 11 inches) paper. Exhibits or copies of exhibits in their original form which exceed that size shall be reduced by photocopying or otherwise to letter-size so long as such documents remain legible after reduction.

54. Service. Any document, pleading, motion, brief or memorandum or other paper filed with the Court shall be served upon all parties to the proceeding. Service shall be made upon counsel if the party is represented, or if there is no counsel, upon the party. Service shall be made by delivery, or by mail to the last known address. Service is deemed complete upon mailing. Service that complies with Rule 5(b)(1), SCRCP, also shall satisfy this Rule.

55. Docket Number and Subsequent Filings. The clerk of the Court shall assign a docket number to each case. All documents thereafter shall be filed with the presiding administrative law judge and a copy served on all other parties of record. All documents shall be signed and contain:

A. a caption setting forth the title of the case and a brief description of the document;

B. the case docket number assigned by the Court;

C. the name, address and telephone number of the person who prepared the document.

2009 Revised Notes

After the Clerk assigns a docket number to the case, all filings must be made with the presiding administrative law judge, must be served upon all parties, and must contain the information prescribed in the Rule.

Notes to 2014 Amendments

The 2014 amendments deleted obsolete references to pleadings.

56. Legibility of Documents. Any document filed with the Court may be typewritten or handwritten, but in either event must be legible. In the discretion of the Court, any illegible document may be returned unfiled to the party who submitted it.

Notes to 2014 Amendments

The 2014 amendments deleted obsolete references to pleadings.

57. Forms. The Court shall prescribe the content and format of forms required by these rules. The use of required forms as prescribed is mandatory. The Court may also prescribe the content and format of other forms which would facilitate administrative efficiency and judicial economy.

58. Record After Final Decision. Where applicable, the record of the contested case shall consist of:

A. All documents filed;
B. All evidence received or considered, including copies of all relevant sentencing sheets in sentence calculation matters, and copies of specific policies relied upon by the agency;
C. A statement of matters judicially noticed;
D. All proffers of proof of excluded evidence;
E. The final order or decision which is subject to administrative review;
F. Any transcript taken of the testimony during the proceeding.

Notes to 2014 Amendments

Rule 58 is revised to provide that the record of the contested case must include copies of all relevant sentencing sheets in sentence calculation matters. In every case, copies of all specific policies relied upon by the agency must likewise be included in the record.

59. Notice of Appeal. The notice of appeal from the final decision to be heard by the Administrative Law Court shall be filed with the Court and a copy served on each party, including the agency, within thirty (30) days of receipt of the decision from which the appeal is taken. The notice shall be on the form prescribed by the Court pursuant to Rule 57 and shall contain the following information:

A. the name, address, SCDC number, and telephone number of the party requesting the appeal, and the name, address, and telephone number of the attorney or other authorized representative, if any, representing that party;
B. a brief factual basis for each expressly and specifically asserted constitutional violation;
C. a copy of the final decision which is the subject of the appeal and the date received;
D. proof of service of the notice of appeal on all parties.

Any notice of appeal which is incomplete or not in compliance with this rule or Rule 71 will not be assigned to an administrative law judge until all required information is received and any applicable filing fee is processed. Within seventy (70) days of the date the case is assigned to an Administrative Law Judge (date of assignment), the agency shall file the record with the Court, including a statement of the contents of the record, unless the time for filing the record is extended by the Administrative Law Judge assigned to the appeal. Motions to extend the time for filing the record will only be granted in exceptional circumstances. If the agency files a motion to dismiss the appeal prior to filing

the record, such a motion shall stay the time for the agency to prepare the transcript and file the record pending resolution of the motion. The time for filing briefs shall likewise be stayed by the filing of a motion to dismiss. Unless otherwise ordered, the initial time frames for the filing of the record and briefs shall begin upon the resolution of the motion by the court. The time frames shall run from the date of the order resolving the motion rather than the date of assignment, without regard to any time which elapsed prior to the filing of the motion. The filing of a motion other than a motion to dismiss shall not stay any time limits imposed by these Rules.

2019 Revised Notes

The notice of appeal must be on the Court's prescribed form and must be filed and served within 30 days of receipt of the order appealed from. The notice must contain the prescribed information and must be accompanied by proof of service and any applicable filing fee. Notices which are not in compliance with this Rule or Rule 71 will not be assigned to an administrative law judge until all required information and applicable fees are received. The record on appeal must be filed within seventy days of the date of assignment to an Administrative Law Judge. When the agency files a motion to dismiss prior to filing the record, the motion to dismiss stays the time for filing the record and for the submission of briefs. Upon resolution of the motion to dismiss, the initial time frames for filing the record and briefs are in effect, and the time runs from the date of the order resolving the motion rather than the date of assignment. Motions other than motions to dismiss do not stay any of the time limits imposed by the rules. Motions to extend the time for filing the record on appeal will only be granted in exceptional circumstances.

60. Briefs.

A. Time for Filing Briefs. Unless otherwise ordered or stayed by the operation of Rule 59, the party first noticing the appeal shall file an original brief within ninety (90) days after the date of assignment. Within one hundred ten (110) days after the date of assignment, the respondent shall file an original brief in response. A reply brief may be filed within one hundred twenty (120) days after the date of assignment. The principal briefs shall not exceed ten (10) pages and the reply brief shall not exceed five (5) pages. Motions to extend the time for filing briefs will only be granted in exceptional circumstances.

B. Content of Brief. Each brief shall contain:

(1) Statement of the Issues on Appeal. A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue and may be stated in question form. Broad general statements may be disregarded by the Court. Ordinarily, no point will be considered that is not set forth in the statement of issues on appeal.

(2) Statement of the Case. The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain as a minimum, the following information: the date of commencement of the action; the nature of the action; the nature of the defense or response; the date and nature of the agency action appealed from; the date of service of the notice of appeal; the date of and description of any orders or proceedings in the agency as may have affected the appeal, or may throw light upon the questions involved in the appeal. Any matters stated or alleged in a party's statement shall be binding on that party.

(3) Argument. The brief shall be divided into as many parts as there are issues to be argued, and each such part shall bear an appropriate caption, followed by a discussion and citation of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize that party's contentions. Any facts stated or alleged in a party's argument shall be binding on that party.

(4) Conclusion. A short conclusion stating the precise relief requested.

(5) Proof of Service. Proof of service of the brief on all parties of record.

C. Service of Brief. At the time of filing the brief with the Court, one copy of the brief and any appendix shall be served on each party to the appeal.

D. Multiple Briefs. Only one initial brief and reply brief will be considered by the court unless the court, upon motion, has allowed the filing of an additional brief.

2019 Revised Notes

This rule provides the time frames for filing, format, and content of appellate briefs. Statements of fact set forth in the briefs are binding upon the proponent of the statement. The brief must be accompanied by proof of service. Motions to extend the time for filing briefs will only be granted in exceptional circumstances. The court will consider only the first initial brief and reply brief filed by a party unless the court has granted the party's motion to file an additional brief.

61. Record on Appeal. The record on appeal shall consist of the transcript of the proceedings before the agency, if any, and the record of the contested case as described by Rule 58.

62. Dismissal of Appeal; Sanctions. Upon motion of any party, or on its own motion, an Administrative Law Judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals, including the failure to comply with any of the time limits provided by this section (V), or for the failure to provide a factual basis for each expressly and specifically asserted constitutional violation as prescribed by Rule 59(B). Notwithstanding the time frames established herein, the Administrative Law Judge has the discretion to determine that a document is timely filed upon a finding that the party who filed the document made a good faith effort to file the document within the applicable time limits. If the presiding judge determines that the appeal is frivolous or taken solely for purposes of delay, the judge may impose such sanctions as the circumstances of the case and discouragement of like conduct in the future may require.

2014 Revised Notes

Rule 62 allows an administrative law judge to dismiss an appeal or resolve it adversely to an offending party for failure to comply with the rules of procedure for appeals, or for the failure to provide a factual basis for each alleged constitutional violation. Furthermore, the presiding judge may impose appropriate sanctions for inmate appeals which are frivolous or taken solely for the purpose of delay.

63. Motions. Any motions filed shall be in written form and shall state the grounds for relief and the relief sought. Any response to the motion must be filed within ten (10) days after receipt of the motion, unless the time is extended or shortened by the Administrative Law Judge. Except as provided in Rule 59, the filing of a motion does not toll any time limits imposed by these Rules.

2009 Revised Notes

This rule provides the procedure for filing motions. However, pursuant to Rule 65, motions for reconsideration or rehearing are not permitted and will not be considered by the administrative law judge.

Note to 2015 Amendments

The rule has been amended to conform to the amendments to Rule 59.

64. Oral Argument. In the discretion of the Administrative Law Judge, oral argument may not be required. Oral argument will ordinarily not be ordered by the Administrative Law Judge unless the proceeding involves a novel issue or a question of exceptional importance. If so ordered, at least twenty (20) days notice of oral argument shall be provided. The oral argument shall follow the procedure in Rule 218, SCACR.

65. Opinion. The Administrative Law Judge shall render a decision in a written order which shall be served on all parties and filed with the clerk of the Court. The Administrative Law Judge may affirm any ruling, order or judgment upon any ground(s) appearing in the Record and need not address a point which is manifestly without merit. The decision of the Administrative Law Judge is a final decision and motions for reconsideration will not be considered. Judicial review of any decision of the Court shall be as provided in S.C. Code Ann. § 1-23-610 (2005) (as amended).

2009 Revised Notes

Rule 65 incorporates the portion of Rule 220, SCACR, which allows the judge to affirm upon any ground appearing in the Record and to decline to address points which are without merit. Motions for reconsideration are not allowed.

66. Appeal of Final Order. The appellant shall file a copy of the notice of appeal from the decision of the Administrative Law Judge with the clerk of the Court.

2009 Revised Notes

Pursuant to Act 387 of 2006, the South Carolina Appellate Court Rules govern the procedure for appealing a final order of an administrative law judge.

VI. MISCELLANEOUS PROVISIONS

67. Clerical Mistakes. Clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the administrative law judge at any time of his own initiative or on the motion of any party and after such notice, if any, as the administrative law judge orders. During the pendency of an appeal from the decision of an administrative law judge, leave to correct the mistake must be obtained from the appellate court.

68. Applicability of South Carolina Rules of Civil Procedure and South Carolina Appellate Court Rules. The South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules, in contested cases and appeals respectively, may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these rules.

2015 Revised Notes

In contested cases only, the South Carolina Rules of Civil Procedure may, in the discretion of the presiding administrative law judge, be applied to resolve questions not addressed by these Rules. Furthermore, the South Carolina Appellate Court Rules may be applied in like manner in appellate proceedings only. The South Carolina Rules of Civil Procedure and the South Carolina Appellate Court Rules do not automatically apply when invoked by a party. Rather, the presiding judge must determine whether to apply the rules.

69. Applicability of Rules of the Court. Once the Court acquires jurisdiction of a matter from an agency, the ALC Rules shall govern all procedural aspects of the matter, notwithstanding any other procedural statute, agency regulation or rule.

2014 Revised Notes

Rule 69 provides for situations in which the procedural statutes, regulations, or rules of the agency where the case arose differ from the ALC Rules. As provided in S.C. Code Ann. § 1-23-650(C), the Rule makes clear that the ALC Rules, rather than the rules of the agency, govern the proceedings once the Court acquires jurisdiction, and that any agency-specific procedural statutes, regulations or rules are inapplicable. Thus, questions of preliminary relief, content and form of prehearing statements, discovery and other procedural matters are resolved exclusively by the ALC Rules.

70. Judges Sitting En Banc.

A. Grounds for Consideration En Banc. A majority of the administrative law judges may order that a matter of law be considered by all the judges sitting en banc where (1) consideration by all the judges is necessary to serve or maintain uniformity of its decisions, or (2) when the proceeding involves a question of exceptional importance and public concern.

B. Quorum and Presiding Judge. When the administrative law judges sit en banc, a majority of the judges constitutes a quorum. A concurrence of a majority of the judges sitting is necessary for a decision. The Chief Administrative Law Judge shall preside at all en banc proceedings and in his absence, the administrative law judge next senior in service and who is present shall preside.

C. Petition for Consideration En Banc. No later than forty-five (45) days after the assignment of a case by the Chief Administrative Law Judge to an administrative law judge, a party may suggest the appropriateness of consideration of a matter en banc by filing a petition with the clerk of the Court. No response to the petition shall be required unless ordered by the assigned judge or by a majority of the judges. The presiding administrative law judge in a case may also request en banc consideration at any time during the proceedings. After receipt of the petition or request, the clerk will immediately circulate to the administrative law judges a vote sheet with the petition seeking an en banc hearing attached. No vote of the judges need be taken to determine whether the cause should be heard en banc unless a judge, within ten (10) days of receipt of the vote sheet, notifies the clerk in writing of his request for a vote of the judges on the suggestion. If no poll is requested, the Chief Administrative Law Judge will issue an order which bears the notation that no judge requested a poll. If a poll is requested and the hearing en banc is granted or denied, the Chief Administrative Law Judge will issue an order reflecting the decision.

D. Procedure. En banc consideration in an individual case is limited to only the particular issue(s) of law which meet the criteria set forth in paragraph A of this Rule 70. Upon a majority of the administrative law judges ordering a matter to be considered by the judges sitting en banc, notice will be given to the parties of the issue(s) under consideration. The parties may be required to file briefs and may be allowed to present oral argument on the issue(s). After the hearing, the Chief Administrative Law Judge will assign the authorship responsibility for the opinion.

E. En Banc Consideration Interlocutory. En banc consideration of a matter of law in a contested case or appellate case is an interlocutory measure. It is dispositive of the limited issue(s) addressed, but the decision is not final and conclusive until all factual issues and remaining legal issues in the contested case, or all issues in the appellate case, are resolved by the final order of the administrative law judge assigned to preside over the hearing in the case. Parties have no direct right of appeal from an en banc decision. Any appeal must follow the issuance of the final order on the merits of the case.

F. Effect of an En Banc Order. The issue(s) addressed in en banc decisions by the administrative law judges are binding upon all individual administrative law judges in all subsequent cases, unless a majority of the judges determine otherwise.

2009 Revised Notes

Rule 70 provides a procedure for en banc consideration of a matter of law in specified circumstances. If an issue in a case before the Court is considered en banc, that consideration must occur prior to the contested case or appeal hearing on the merits by the assigned administrative law judge. En banc consideration does not replace the contested case or appeals hearing before the administrative law judge. An en banc proceeding is not an evidentiary hearing and the administrative

law judges sitting en banc cannot make findings of fact. After the judges sitting en banc render their decision, the assigned administrative law judge assigned to the case must conduct all further proceedings and render all further orders necessary in the matter.

71. Filing Fee.

A. Cases for which Fee Required. Each request for a contested case hearing, notice of appeal, or request for injunctive relief before the Court must be accompanied by a non-refundable filing fee in the amount set forth in Rule 71(C). A case will not be assigned to an administrative law judge and will not be processed until the filing fee has been paid or a waiver has been granted pursuant to Rule 71(B). This fee is not required for contested cases, appeals, or requests for injunctive relief brought by the State of South Carolina or its departments or agencies. For appeals brought pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), the fee will be assessed only for the fourth and subsequent appeals filed by an inmate during a given calendar year.

B. Request for Waiver. A party who is unable to pay the filing fee may request a waiver of the fee by filing a completed Request for Waiver and Affidavit and a Financial Statement form with the Clerk of the Court at the same time the request for a contested case, notice of appeal, or request for injunctive relief is filed with the Court. These forms shall be issued by the Clerk of the Court. If the filing fee is not waived, the party must pay the filing fee within ten days of the date of receipt of the order denying waiver of the filing fee. If the filing fee for a case is waived on behalf of a party, any motions filed by that party in that case are exempt from the motion fee as provided in Rule 71(D).

C. Schedule of Filing Fees. The filing fee will be assessed according to the following schedule:

Case Type	Fee
Dept. of Corrections (4th and subsequent filing per calendar year)	$25
DHEC–Health Licensing	$200
DHEC--Individual Septic Tanks	$100
DHEC–(All other, including OCRM, CON and NAD)	$500
Dept. of Health and Human Services (Provider Appeals)	$150
Dept. of Health and Human Services (All Other Cases)	$25
Dept. of Insurance–Rate Cases	$350
Dept. of Insurance–Agent Application	$200
Dept. of Insurance–Agent Disciplinary	$200
Dept. of Insurance–All Other	$200
LLR– Wage Disputes (Department of Labor)	$50
LLR– Appeals (Professional and Occupational Licensing Boards)	$200
Dept. of Natural Resources	$50
DOR–Alcoholic Beverage License Applications	$150
DOR–Alcoholic Beverage License Violations	$150
DOR–Bingo Violations	$200
DOR–State Tax Cases (<$100,000 in controversy)	$150
DOR–State Tax Cases (>$100,000 in controversy)	$500
County Tax Cases (Residential & Personal Property)	$75
County Tax Cases (Commercial)	$350
Dept. of Social Services (Day Care Appeals)	$100
Dept. of Social Services (All Other)	$25
Dept. of Transportation	$200

PEBA (Retirement, EIP)	$50
SLED	$100
Setoff Debt Collection Act	$50
Requests for Injunctive Relief	$200
Other Contested Cases and Appeals (including cases from agencies not listed herein)	$150

D. Motion Fees. A fee of $50 will be imposed for the following motions filed with the Court:

(1) Motion for Summary Judgment
(2) Motion to Intervene
(3) Motion to Dismiss
(4) Motion for Injunctive Relief (in a pending case)
(5) Motion to Compel
(6) Motion for Reconsideration
(7) Second and subsequent Motions for Continuance

A fee of $25 will be imposed for all other motions filed with the Court. The fee must be submitted to the Clerk of the Court at the same time the motion is filed, unless a waiver of the filing fee in the case was previously granted to the party filing the motion. A motion will not be deemed filed until the fee is paid. The motion fee is not required for motions filed by the State of South Carolina or its departments or agencies.

2017 Revised Notes

Rule 71 provides for a schedule of filing fees as authorized by law. The filing fee varies according to the type and complexity of the case and is non-refundable. The fee is required for all requests for a contested case hearing, notices of appeal, or requests for injunctive relief except for those brought by the State of South Carolina or its departments or agencies. For those appeals brought pursuant to Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000), the fee applies only to the fourth and subsequent filings by an inmate during a given calendar year, and no waiver of this fee may be requested. In cases other than those involving the Department of Corrections, if a party is unable to pay the filing fee, he may request a waiver of the fee by filing the prescribed form with the Clerk of the Court. Applications for waivers must include a completed Request for Waiver and Affidavit form and a Financial Statement form. A case will not be assigned to an administrative law judge until the filing fee has been received or a waiver has been granted. Subsection (D) provides for a fifty dollar motion fee for certain substantive motions filed with the Court, and for second and subsequent motions for continuance filed in a given case. For motions not listed specifically, a twenty-five dollar motion fee is imposed. A motion will not be deemed filed with the Court until the fee has been paid. However, the motion fee is not required for motions filed by the State of South Carolina or its departments or agencies. In addition, if a party is granted a waiver of the filing fee, any fees for motions filed by that party are likewise waived.

72. Sanctions for Frivolous Cases. If the presiding administrative law judge determines that a contested case, appeal, motion, or defense is frivolous or taken solely for purposes of delay, the judge may impose such sanctions as the circumstances of the case and discouragement of like conduct in the future may require.

2014 Revised Notes

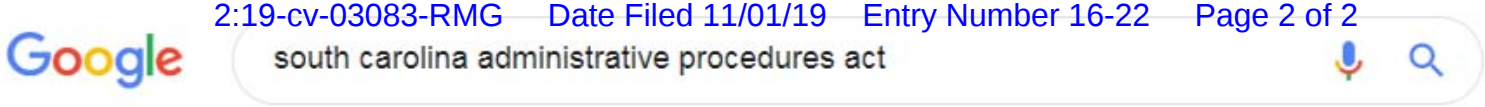
Rule 72 provides that an administrative law judge may impose sanctions for contested cases, appeals, motions or defenses which are determined to be frivolous or taken for purposes of delay. In determining whether a case or defense is frivolous, the administrative law judge may refer to S.C. Code Ann. § 15-36-10, the Frivolous Civil Proceedings Sanctions Act. The amount and type of sanction to be imposed is within the discretion of the presiding administrative law judge.

73. Admission *Pro Hac Vice*. An attorney desiring to appear *pro hac vice* in a proceeding before the Court must file an Application for Admission *Pro Hac Vice* as provided in Rule 404, SCACR.

2009 Revised Notes

In accordance with the amendments to Rule 404, SCACR, effective March 1, 2005, Rule 73 provides that an attorney wishing to appear *pro hac vice* in a proceeding before the Court must file an application as provided in Rule 404.

EXHIBIT V



About 7,050,000 results (0.71 seconds)

South Carolina Legislature Mobile - South Carolina Legislature Onl...

https://www.scstatehouse.gov › code

Procedures for publication of notice of proposed promulgation of regulations; public .... The **administrative law** judge or chairman, as the presiding official, shall ...

Administrative Procedure Act – South Carolina – Administrative L...

https://administrativelaw.uslegal.com › administrative-procedure-acts › sou...

The **South Carolina Administrative Procedure Act** ("Act") is found in Title 1, Chapter 23 of the South Carolina Code of Laws Annotated. The Act provides that all(.

SECTION 1-23-600. Hearings and proceedings. :: 2013 South ...

https://law.justia.com › codes › south-carolina › title-1 › chapter-23 › secti...

(A) An administrative law judge shall preside over all hearings of contested ... decisions of contested cases pursuant to the **Administrative Procedures Act**, Article I, Section 22, Constitution of the State of **South Carolina**, 1895, or another law, ...

South Carolina Code > Title 1 > Chapter 23 > Article 3 – Administr...

https://www.lawserver.com › law › state › south-carolina › sc-code › south...

South Carolina Code > Title 1 > Chapter 23 > Article 3 – **Administrative Procedures** ... 1-23-340 · **Procedure** in contested cases where majority of those who are to ... approval, registration, charter, or similar form of permission required by **law**, ...

Rules of procedure for the Administrative Law Court - South Caroli...

https://dc.statelibrary.sc.gov › handle

Apr 27, 2014 - This guide provides rules to be followed by the **Administrative Law** Court. These rules are applicable to all matters within the jurisdiction of the ...

Title: Rules of procedure for the Administrative ...

Rights: Copyright status undetermined. For mo...

EXHIBIT W

South Carolina Legislature

South Carolina Law > **Code of Laws** > **Title 1**

South Carolina Code of Laws
Unannotated

Title 1 - Administration of the Government

CHAPTER 23

State Agency Rule Making and Adjudication of Contested Cases

ARTICLE 1

State Register and Code of Regulations

SECTION 1-23-10. Definitions.

As used in this article:

(1) "Agency" or "State agency" means each state board, commission, department, executive department or officer, other than the legislature, the courts, the South Carolina Tobacco Community Development Board, or the Tobacco Settlement Revenue Management Authority, authorized by law to make regulations or to determine contested cases;

(2) "Document" means a regulation, notice or similar instrument issued or promulgated pursuant to law by a state agency;

(3) "Person" means any individual, partnership, corporation, association, governmental subdivision or public or private organization of any character other than an agency;

(4) "Regulation" means each agency statement of general public applicability that implements or prescribes law or policy or practice requirements of any agency. Policy or guidance issued by an agency other than in a regulation does not have the force or effect of law. The term "regulation" includes general licensing criteria and conditions and the amendment or repeal of a prior regulation, but does not include descriptions of agency procedures applicable only to agency personnel; opinions of the Attorney General; decisions or orders in rate making, price fixing, or licensing matters; awards of money to individuals; policy statements or rules of local school boards; regulations of the National Guard; decisions, orders, or rules of the Board of Probation, Parole, and Pardon Services; orders of the supervisory or administrative agency of a penal, mental, or medical institution, in respect to the institutional supervision, custody, control, care, or treatment of inmates, prisoners, or patients; decisions of the governing board of a university, college, technical college, school, or other educational institution with regard to curriculum, qualifications for admission, dismissal and readmission, fees and charges for students, conferring degrees and diplomas, employment tenure and promotion of faculty and disciplinary proceedings; decisions of the Human Affairs Commission relating to firms or individuals; advisory opinions of agencies; and other agency actions relating only to specified individuals.

(5) "Promulgation" means final agency action to enact a regulation after compliance with procedures prescribed in this article.

(6) "Office" means the Revenue and Fiscal Affairs Office.

(7) "Substantial economic impact" means a financial impact upon:

(a) commercial enterprises;

(b) retail businesses;

(c) service businesses;

(d) industry;

(e) consumers of a product or service;

(f) taxpayers; or

(g) small businesses as defined in Section 1-23-270.

HISTORY: 1977 Act No. 176, Art. I, Section 1; 1992 Act No. 507, Section 2; 1996 Act No. 411, Section 1; 1999 Act No. 77, Section 2; 2000 Act No. 387, Part II, Section 69A.3; 2004 Act No. 231, Section 3, eff January 1, 2005.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Pursuant to the directive to the Code Commissioner in 2018 Act No. 246, Section 10, "Revenue and Fiscal Affairs Office" was substituted for all references to "Office of Research and Statistics of the Revenue and Fiscal Affairs Office".

Effect of Amendment

The 2004 amendment added subparagraph (7)(g).

SECTION 1-23-20. Custody, printing and distribution of documents charged to Legislative Council; establishment of State Register.

The Legislative Council is charged with the custody, printing and distribution of the documents required or authorized to be published in this article and with the responsibility for incorporating them into a State Register. Such Register shall include proposed as well as finally adopted documents required to be filed with the Council; provided, however, that publication of a synopsis of the contents of proposed regulations meets the requirements of this section. Additions to the State Register shall be published by the Legislative Council at least once every thirty days.

HISTORY: 1977 Act No. 176, Art. I, Section 2.

SECTION 1-23-30. Filing of documents with Legislative Council; public inspection; distribution.

The original and either two additional originals or two certified copies of each document authorized or required to be published in the State Register by this article shall be filed with the Legislative Council by the agency by which it is promulgated. Filing may be accomplished at all times when the Council office is open for official business.

The Council shall note upon each document filed the date and hour of filing and shall as soon as practicable publish such document in the State Register. Copies of all documents filed shall be available at the Council office for public inspection during office hours.

The Council shall transmit to the Clerk of Court of each county a copy of the State Register and all additions thereto when published. Clerks of Court shall maintain their copies of the Register in current form and provide for public inspection thereof. The Council shall transmit one original or certified copy of each document filed with the Council to the Department of Archives and History which shall be made available for public inspection in the office of the department.

HISTORY: 1977 Act No. 176, Art. I, Section 3.

SECTION 1-23-40. Documents required to be filed and published in State Register.

There shall be filed with the Legislative Council and published in the State Register:

(1) All regulations promulgated or proposed to be promulgated by state agencies which have general public applicability and legal effect, including all of those which include penalty provisions. Provided, however, that the text of regulations as finally promulgated by an agency shall not be published in the State Register until such regulations have been approved by the General Assembly in accordance with Section 1-23-120.

(2) Any other documents, upon agency request in writing. Comments and news items of any nature shall not be published in the Register.

HISTORY: 1977 Act No. 176, Art. I, Section 4.

SECTION 1-23-50. Legislative Council to establish procedures.

The Legislative Council shall establish procedures for carrying out the provisions of this article relating to the State Register and the form and filing of regulations. These procedures may provide among other things:

(1) The manner of certification of copies required to be filed under Section 1-23-40;

(2) The manner and form in which the documents or regulations shall be printed, reprinted, compiled, indexed, bound and distributed, including the compilation of the State Register ;

(3) The number of copies of the documents, regulations or compilations thereof, which shall be printed and compiled, the number which shall be distributed without charge to members of the General Assembly, officers and employees of the State or state agencies for official use and the number which shall be available for distribution to the public;

(4) The prices to be charged for individual copies of documents or regulations and subscriptions to the compilations and reprints and bound volumes of them.

HISTORY: 1977 Act No. 176, Art. I, Section 5; 1979 Act No. 188, Section 2.

SECTION 1-23-60. Effect of filing and of publication of documents and regulations; rebuttable presumption of compliance; judicial notice of contents.

A document or regulation required by this article to be filed with the Legislative Council shall not be valid against a person who has not had actual knowledge of it until the document or regulation has been filed with the office of the Legislative Council, printed in the State Register and made available for public inspection as provided by this article. Unless otherwise specifically provided by statute, filing and publication of a document or regulation in the State Register as required or authorized by this article is sufficient to give notice of the contents of the document or regulation to a person subject to or affected by it. The publication of a document filed in the office of the Legislative Council creates a rebuttable presumption:

(1) That it was duly issued, prescribed or promulgated subject to further action required under this article;

(2) That it was filed and made available for public inspection at the day and hour stated in the printed notation thereon required under Section 1-23-30;

(3) That the copy on file in the Legislative Council is a true copy of the original;

The contents of filed documents shall be judicially noticed and, without prejudice to any other mode of citation, may be cited by volume and page number or the numerical designation assigned to it by the Legislative Council.

HISTORY: 1977 Act No. 176, Art. I, Section 6.

SECTION 1-23-70. Duty of Attorney General.

The Attorney General shall be responsible for the interpretation of this article and for the compliance by agencies required to file documents with the Legislative Council under the provisions of this article and shall upon request advise such agencies of necessary procedures to insure compliance therewith.

HISTORY: 1977 Act No. 176, Art. I, Section 7.

SECTION 1-23-80. Costs incurred and revenues collected by Legislative Council.

The cost of printing, reprinting, wrapping, binding and distributing the documents, regulations or compilations thereof, including the State Register, and other expenses incurred by the Legislative Council in carrying out the duties placed upon it by this article shall be funded by the appropriations to the council in the annual state general appropriations act. All revenue derived from the sale of the documents and regulations shall be deposited in the general fund of the State.

HISTORY: 1977 Act No. 176, Art. I, Section 8.

SECTION 1-23-90. Complete codifications of documents; Code of State Regulations designated.

(a) The Legislative Council may provide for, from time to time as it considers necessary, the preparation and publication of complete codifications of the documents of each agency having general applicability and legal effect, issued or promulgated by the agency which are relied upon by the agency as authority for, or are invoked or used by it in the discharge of, its activities or functions.

(b) A codification published under item (a) of this section shall be designated as the "Code of State Regulations". The Legislative Council may regulate the binding of the printed codifications into separate books with a view to practical usefulness and economical manufacture. Each book shall contain an explanation of its coverage and other aids to users that the Legislative Council may require. A general index to the entire Code of State Regulations may be separately printed and bound.

(c) The Legislative Council shall regulate the supplementation and republication of the printed codifications with a view to keeping the Code of State Regulations as current as practicable.

(d) The authority granted in this section is supplemental to and not in conflict with the establishment of the State Register as provided for in other provisions of this article.

HISTORY: 1977 Act No. 176, Art. I, Section 9.

SECTION 1-23-100. Exemptions for Executive Orders, proclamations or documents issued by Governor's Office; treatment of some Executive Orders for information purposes.

This article shall not apply to Executive Orders, proclamations or documents issued by the Governor's Office. However, Governor's Executive Orders, having general applicability and legal effect shall be transmitted by the Secretary of State to the Legislative Council to be published in a separate section of the State Register for information purposes only. Such orders shall not be subject to General Assembly approval.

HISTORY: 1977 Act No. 176, Art. I, Section 10.

SECTION 1-23-110. Procedures for publication of notice of proposed promulgation of regulations; public participation; contest of regulation for procedural defects.

(A) Before the promulgation, amendment, or repeal of a regulation, an agency shall:

(1) give notice of a drafting period by publication of a notice in the State Register. The notice must include:

(a) the address to which interested persons may submit written comments during the initial drafting period before the regulations are submitted as proposed;

(b) a synopsis of what the agency plans to draft;

(c) the agency's statutory authority for promulgating the regulation;

(2) submit to the office, no later than the date the notice required in item (3) is published in the State Register, a preliminary assessment report prepared in accordance with Section 1-23-115 on regulations having a substantial economic impact;

(3) give notice of a public hearing at which the agency will receive data, views, or arguments, orally and in writing, from interested persons on proposed regulations by publication of a notice in the State Register if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The notice must include:

(a) the address to which written comments must be sent and the time period of not less than thirty days for submitting these comments;

(b) the date, time, and place of the public hearing which must not be held sooner than thirty days from the date the notice is published in the State Register;

(c) a narrative preamble and the text of the proposed regulation. The preamble shall include a section-by-section discussion of the proposed regulation and a justification for any provision not required to maintain compliance with federal law including, but not limited to, grant programs;

(d) the statutory authority for its promulgation;

(e) a preliminary fiscal impact statement prepared by the agency reflecting estimates of costs to be incurred by the State and its political subdivisions in complying with the proposed regulation. A preliminary fiscal impact statement is not required for those regulations which are not subject to General Assembly review under Section 1-23-120;

(f) a summary of the preliminary assessment report submitted by the agency to the office and notice that copies of the preliminary report are available from the agency. The agency may charge a reasonable fee to cover the costs associated with this distribution requirement. A regulation that does not require an assessment report because it does not have a substantial economic impact, must include a statement to that effect. A regulation exempt from filing an assessment report pursuant to Section 1-23-115(E) must include an explanation of the exemption;

(g) statement of the need and reasonableness of the regulation as determined by the agency based on an analysis of the factors listed in Section 1-23-115(C)(1) through (11). At no time is an agency required to include items (4) through (8) in the reasonableness and need determination. However, comments related to items (4) through (8) received by the agency during the public comment periods must be made part of the official record of the proposed regulations.

(h) the location where a person may obtain from the agency a copy of the detailed statement of rationale as required by this item. For new regulations and significant amendments to existing regulations, an agency shall prepare and make available to the public upon request a detailed statement of rationale which shall state the basis for the regulation, including the scientific or technical basis, if any, and shall identify any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation. This subitem does not apply to regulations which are not subject to General Assembly review under Section 1-23-120.

(B) Notices required by this section must be mailed by the promulgating agency to all persons who have made timely requests of the agency for advance notice of proposed promulgation of regulations.

(C)(1) The agency shall consider fully all written and oral submissions respecting the proposed regulation.

(2) Following the public hearing and consideration of all submissions, an agency must not submit a regulation to the General Assembly for review if the regulation contains a substantive change in the content of regulation as proposed pursuant to subsection (A)(3) and the substantive change was not raised, considered, or discussed by public comment received pursuant to this section. The agency shall refile such a regulation for publication in the State Register as a proposed regulation pursuant to subsection (A)(3).

(D) A proceeding to contest a regulation on the ground of noncompliance with the procedural requirements of this section must be commenced within one year from the effective date of the regulation.

HISTORY: 1977 Act No. 176, Art. I, Section 11; 1980 Act No. 442, Section 1; 1985 Act No. 190, Section 2; 1988 Act No. 605, Section 1; 1989 Act No. 91, Section 1; 1992 Act No. 507, Section 3; 1993 Act No. 181, Section 11; 1996 Act No. 411, Sections 2, 3; 2002 Act No. 231, Section 1; 2007 Act. No. 104, Section 1, eff July 1, 2008.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Editor's Note

2007 Act No. 104, Section 5, provides as follows:

"This act takes effect July 1, 2008, and applies to regulations for which a notice of a public hearing has been published in the State Register, in accordance with Section 1-23-110(A)(3) of the 1976 Code, after June 30, 2008; all other regulations under General Assembly review on this act's effective date must be processed and reviewed in accordance with the law in effect on June 30, 2008."

Effect of Amendment

The 2007 amendment designated paragraph (C)(1) and added paragraph (C)(2) relating to regulations containing substantive changes.

SECTION 1-23-111. Regulation process; public hearings; report of presiding official; options upon unfavorable determination.

(A) When a public hearing is held pursuant to this article involving the promulgation of regulations by a department for which the governing authority is a single director, it

must be conducted by an administrative law judge assigned by the chief judge. When a public hearing is held pursuant to this article involving the promulgation of regulations by a department for which the governing authority is a board or commission, it must be conducted by the board or commission, with the chairman presiding. The administrative law judge or chairman, as the presiding official, shall ensure that all persons involved in the public hearing on the regulation are treated fairly and impartially. The agency shall submit into the record the jurisdictional documents, including the statement of need and reasonableness as determined by the agency based on an analysis of the factors listed in Section 1-23-115(C)(1) through (11), except items (4) through (8), and any written exhibits in support of the proposed regulation. The agency may also submit oral evidences. Interested persons may present written or oral evidence. The presiding official shall allow questioning of agency representatives or witnesses, or of interested persons making oral statements, in order to explain the purpose or intended operation of the proposed regulation, or a suggested modification, or for other purposes if material to the evaluation or formulation of the proposed regulation. The presiding official may limit repetitive or immaterial statements or questions. At the request of the presiding official or the agency, a transcript of the hearing must be prepared.

(B) After allowing all written material to be submitted and recorded in the record of the public hearing no later than five working days after the hearing ends, unless the presiding official orders an extension for not more than twenty days, the presiding official shall issue a written report which shall include findings as to the need and reasonableness of the proposed regulation based on an analysis of the factors listed in Section 1-23-115(C)(1) through (11), except items (4) through (8), and other factors as the presiding official identifies and may include suggested modifications to the proposed regulations in the case of a finding of lack of need or reasonableness.

(C) If the presiding official determines that the need for or reasonableness of the proposed regulation has not been established, the agency shall elect to:

(a) modify the proposed regulation by including the suggested modifications of the presiding official;

(b) not modify the proposed regulation in accordance with the presiding official's suggested modifications in which case the agency shall submit to the General Assembly, along with the promulgated regulation submitted for legislative review, a copy of the presiding official's written report; or

(c) terminate the promulgation process for the proposed regulation by publication of a notice in the State Register and the termination is effective upon publication of the notice.

HISTORY: 1993 Act No. 181, Section 11A; 1996 Act No. 411, Section 4.

SECTION 1-23-115. Regulations requiring assessment reports; report contents; exceptions; preliminary assessment reports.

(A) Upon written request by two members of the General Assembly, made before submission of a promulgated regulation to the General Assembly for legislative review, a regulation that has a substantial economic impact must have an assessment report prepared pursuant to this section and in accordance with the procedures contained in this article. In addition to any other method as may be provided by the General Assembly, the legislative committee to which the promulgated regulation has been referred, by majority vote, may send a written notification to the promulgating agency informing the agency that the committee cannot approve the promulgated regulation unless an assessment report is prepared and provided to the committee. The written notification tolls the running of the one hundred-twenty-day legislative review period, and the period does not begin to run again until an assessment report prepared in accordance with this article is submitted to the committee. Upon receipt of the assessment report, additional days must be added to the days remaining in the one hundred-twenty-day review period, if less than twenty days, to equal twenty days. A copy of the assessment report must be provided to each member of the committee.

(B) A state agency must submit to the Office of Research and Statistics of Revenue and Fiscal Affairs Office, a preliminary assessment report on regulations which have a substantial economic impact. Upon receiving this report the office may require additional information from the promulgating agency, other state agencies, or other sources. A state agency shall cooperate and provide information to the office on requests made pursuant to this section. The office shall prepare and publish a final assessment report within sixty days after the public hearing held pursuant to Section 1-23-110. The office shall forward the final assessment report and a summary of the final report to the promulgating agency.

(C) The preliminary and final assessment reports required by this section must disclose the effects of the proposed regulation on the public health and environmental welfare of the community and State and the effects of the economic activities arising out of the proposed regulation. Both the preliminary and final reports required by this section may include:

(1) a description of the regulation, the purpose of the regulation, the legal authority for the regulation, and the plan for implementing the regulation;

(2) a determination of the need for and reasonableness of the regulation as determined by the agency based on an analysis of the factors listed in this subsection and the expected benefit of the regulation;

(3) a determination of the costs and benefits associated with the regulation and an explanation of why the regulation is considered to be the most cost-effective, efficient, and feasible means for allocating public and private resources and for achieving the stated purpose;

(4) the effect of the regulation on competition;

(5) the effect of the regulation on the cost of living and doing business in the geographical area in which the regulation would be implemented;

(6) the effect of the regulation on employment in the geographical area in which the regulation would be implemented;

(7) the source of revenue to be used for implementing and enforcing the regulation;

(8) a conclusion on the short-term and long-term economic impact upon all persons substantially affected by the regulation, including an analysis containing a description of which persons will bear the costs of the regulation and which persons will benefit directly and indirectly from the regulation;

(9) the uncertainties associated with the estimation of particular benefits and burdens and the difficulties involved in the comparison of qualitatively and quantitatively dissimilar benefits and burdens. A determination of the need for the regulation shall consider qualitative and quantitative benefits and burdens;

(10) the effect of the regulation on the environment and public health;

(11) the detrimental effect on the environment and public health if the regulation is not implemented. An assessment report must not consider benefits or burdens on out-of-state political bodies or businesses. The assessment of benefits and burdens which cannot be precisely quantified may be expressed in qualitative terms. This subsection must not be interpreted to require numerically precise cost-benefit analysis. At no time is an agency required to include items (4) through (8) in a preliminary assessment report or statement of the need and reasonableness; however, these items may be included in the final assessment report prepared by the office.

(D) If information required to be included in the assessment report materially changes at any time before the regulation is approved or disapproved by the General Assembly, the agency must submit the corrected information to the office which must forward a revised assessment report to the Legislative Council for submission to the committees to which the regulation was referred during General Assembly review.

(E) An assessment report is not required on:

(1) regulations specifically exempt from General Assembly review by Section 1-23-120; however, if any portion of a regulation promulgated to maintain compliance with federal law is more stringent than federal law, then that portion is not exempt from this section;

(2) emergency regulations filed in accordance with Section 1-23-130; however, before an emergency regulation may be refiled pursuant to Section 1-23-130, an assessment report must be prepared in accordance with this section;

(3) regulations which control the hunting or taking of wildlife including fish or setting times, methods, or conditions under which wildlife may be taken, hunted, or caught by the public, or opening public lands for hunting and fishing.

HISTORY: 1992 Act No. 507, Section 1; 1993 Act No. 181, Section 12; 1996 Act No. 411, Sections 5, 6.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

SECTION 1-23-120. Approval of regulations; submission to Legislative Council for submission to General Assembly; contents, requirements and procedures; compliance with federal law.

(A) All regulations except those specifically exempted pursuant to subsection (H) must be filed with Legislative Council for submission to the General Assembly for review in accordance with this article; however, a regulation must not be filed with Legislative Council for submission to the General Assembly more than one year after publication of the drafting notice initiating the regulation pursuant to Section 1-23-110, except those regulations requiring a final assessment report as provided in Sections 1-23-270 and 1-23-280.

(B) To initiate the process of review, the agency shall file with the Legislative Council for submission to the President of the Senate and the Speaker of the House of Representatives a document containing:

(1) a copy of the regulations promulgated;

(2) in the case of regulations proposing to amend an existing regulation or any clearly identifiable subdivision or portion of a regulation, the full text of the existing regulation or the text of the identifiable portion of the regulation; text that is proposed to be deleted must be stricken through, and text that is proposed to be added must be underlined;

(3) a request for review;

(4) a brief synopsis of the regulations submitted which explains the content and any changes in existing regulations resulting from the submitted regulations;

(5) a copy of the final assessment report and the summary of the final report prepared by the office pursuant to Section 1-23-115. A regulation that does not require an assessment report because the regulation does not have a substantial economic impact must include a statement to that effect. A regulation exempt from filing an assessment report pursuant to Section 1-23-115(E) must include an explanation of the exemption;

(6) a copy of the fiscal impact statement prepared by the agency as required by Section 1-23-110;

(7) a detailed statement of rationale which states the basis for the regulation, including the scientific or technical basis, if any, and identifies any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation;

(8) a copy of the economic impact statement, as provided in Section 1-23-270(C)(1)(a); and

(9) a copy of the regulatory flexibility analysis, as provided in Section 1-23-270(C)(1)(b).

(C) Upon receipt of the regulation, the President and Speaker shall refer the regulation for review to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency. A copy of the regulation or a synopsis of the regulation must be given to each member of the committee, and Legislative Council shall notify all members of the General Assembly when regulations are submitted for review either through electronic means or by addition of this information to the website maintained by the Legislative Services Agency, or both. The committees to which regulations are referred have one hundred twenty days from the date regulations are submitted to the General Assembly to consider and take action on these regulations. However, if a regulation is referred to a committee and no action occurs in that committee on the regulation within sixty calendar days of receipt of the regulation, the regulation must be placed on the agenda of the full committee beginning with the next scheduled full committee meeting.

(D) If a joint resolution to approve a regulation is not enacted within one hundred twenty days after the regulation is submitted to the General Assembly or if a joint resolution to disapprove a regulation has not been introduced by a standing committee to which the regulation was referred for review, the regulation is effective upon publication in the State Register. Upon introduction of the first joint resolution disapproving a regulation by a standing committee to which the regulation was referred for review, the one-hundred-twenty-day period for automatic approval is tolled. A regulation may not be filed under the emergency provisions of Section 1-23-130 if a joint resolution to disapprove the regulation has been introduced by a standing committee to which the regulation was referred. Upon a negative vote by either the Senate or House of Representatives on the resolution disapproving the regulation and the notification in writing of the negative vote to the Speaker of the House of Representatives and the President of the Senate by the Clerk of the House in which the negative vote occurred, the remainder of the period begins to run. If the remainder of the period is less than ninety days, additional days must be added to the remainder to equal ninety days. The introduction of a joint resolution by the committee of either house does not prevent the introduction of a joint resolution by the committee of the other house to either approve or disapprove the regulations concerned. A joint resolution approving or disapproving a regulation must include:

(1) the synopsis of the regulation as required by subsection (B)(4);

(2) the summary of the final assessment report prepared by the office pursuant to Section 1-23-115 or, as required by subsection (B)(5), the statement or explanation that an assessment report is not required or is exempt.

(E) The one-hundred-twenty-day period of review begins on the date the regulation is filed with the President and Speaker. Sine die adjournment of the General Assembly tolls the running of the period of review, and the remainder of the period begins to run upon the next convening of the General Assembly excluding special sessions called by the Governor.

(F) Any member of the General Assembly may introduce a joint resolution approving or disapproving a regulation thirty days following the date the regulations concerned are referred to a standing committee for review and no committee joint resolution approving or disapproving the regulations has been introduced and the regulations concerned have not been withdrawn by the promulgating agency pursuant to Section 1-23-125, but the introduction does not toll the one-hundred-twenty-day period of automatic approval.

(G) A regulation is deemed withdrawn if it has not become effective, as provided in this article, by the date of publication of the next State Register published after the end of the two-year session in which the regulation was submitted to the President and Speaker for review. Other provisions of this article notwithstanding, a regulation deemed withdrawn pursuant to this subsection may be resubmitted by the agency for legislative review during the next legislative session without repeating the requirements of Section 1-23-110, 1-23-111, or 1-23-115 if the resubmitted regulation contains no substantive changes for the previously submitted version.

(H) General Assembly review is not required for regulations promulgated:

(1) to maintain compliance with federal law including, but not limited to, grant programs; however, the synopsis of the regulation required to be submitted by subsection (B)(4) must include citations to federal law, if any, mandating the promulgation of or changes in the regulation justifying this exemption. If the underlying federal law which constituted the basis for the exemption of a regulation from General Assembly review pursuant to this item is vacated, repealed, or otherwise does not have the force and effect of law, the state regulation is deemed repealed and without legal force and effect as of the date the promulgating state agency publishes notice in the State Register that the regulation is deemed repealed. The agency must publish the notice in the State Register no later than sixty days from the effective date the underlying federal law was rendered without legal force and effect. Upon publication of the notice, the prior version of the state regulation, if any, is reinstated and effective as a matter of law. The notice published in the State Register shall identify the specific provisions of the state regulation that are repealed as a result of the invalidity of the underlying federal law and shall provide the text of the prior regulation, if any, which is reinstated. The agency may promulgate additional amendments to the regulation by complying with the applicable requirements of this chapter;

(2) by the state Board of Financial Institutions in order to authorize state-chartered banks, state-chartered savings and loan associations, and state-chartered credit unions to engage in activities that are authorized pursuant to Section 34-1-110;

(3) by the South Carolina Department of Revenue to adopt regulations, revenue rulings, revenue procedures, and technical advice memoranda of the Internal Revenue Service so as to maintain conformity with the Internal Revenue Code as defined in Section 12-6-40;

(4) as emergency regulations under Section 1-23-130.

(I) For purposes of this section, only those calendar days occurring during a session of the General Assembly, excluding special sessions, are included in computing the days elapsed.

(J) Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in subsection (H) are not subject to this review. Upon completion of the review, the agency shall submit to the Code Commissioner a report which identifies those regulations:

(1) for which the agency intends to begin the process of repeal in accordance with this article;

(2) for which the agency intends to begin the process of amendment in accordance with this article; and

(3) which do not require repeal or amendment.

Nothing in this subsection may be construed to prevent an agency from repealing or amending a regulation in accordance with this article before or after it is identified in the report to the Code Commissioner.

HISTORY: 1977 Act No. 176, Art. I, Section 12; 1979 Act No. 188, Section 3; 1980 Act No. 442, Section 2; 1981 Act No. 21, Section 1; 1982 Act No. 414, Section 1; 1986 Act No. 414, Section 14; 1988 Act No. 605, Section 2; 1989 Act No. 91, Section 2; 1992 Act No. 507, Section 4; 1993 Act No. 181, Section 13; 1996 Act No. 411, Section 7; 1996 Act No. 411, Section 8; 1997 Act No. 114, Section 1; 2002 Act No. 231, Section 2; 2004 Act No. 231, Sections 4, 5, eff January 1, 2005; 2007 Act No. 104, Section 2, eff July 1, 2008; 2011 Act No. 33, Section 1, eff June 7, 2011; 2013 Act No. 31, Section 3, eff May 21, 2013.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Editor's Note

2007 Act No. 104, Section 5, provides as follows:

"This act takes effect July 1, 2008, and applies to regulations for which a notice of a public hearing has been published in the State Register, in accordance with Section 1-23-110(A)(3) of the 1976 Code, after June 30, 2008; all other regulations under General Assembly review on this act's effective date must be processed and reviewed in accordance with the law in effect on June 30, 2008."

Effect of Amendment

The 2004 amendment, in subsection (A), added the exception at the end of the first sentence relating to Sections 1-23-270 and 1-23-280 and, in subsection (B), added paragraphs (B)(7) and (B)(8).

The 2007 amendment rewrote this section to provide for submission of regulations to the Legislative Council for submission to the General Assembly; added paragraph (B)(2) requiring amendments to be clearly indicated; and added subsection (G) relating to when regulations are deemed withdrawn.

The 2011 amendment, in subsection (H)(1), added the last five sentences.

The 2013 amendment, in subsection (C), substituted "the Legislative Services Agency" for "Legislative Printing Information and Technology Services".

SECTION 1-23-125. Approval, disapproval and modification of regulations.

(A) The legislative committee to which a regulation is submitted is not authorized to amend a particular regulation and then introduce a joint resolution approving the regulation as amended; however, this provision does not prevent the introduction of a resolution disapproving one or more of a group of regulations submitted to the committee and approving others submitted at the same time or deleting a clearly separable portion of a single regulation and approving the balance of the regulation in the committee resolution.

(B) If a majority of a committee determines that it cannot approve a regulation in the form submitted, it shall notify the promulgating agency in writing along with its recommendations as to changes that would be necessary to obtain committee approval. The agency may:

(1) withdraw the regulation from the General Assembly and resubmit it with the recommended changes to the Speaker and the President of the Senate, but any regulation not resubmitted within thirty days is considered permanently withdrawn;

(2) withdraw the regulation permanently; or

(3) take no action and abide by whatever action is taken or not taken by the General Assembly on the regulation concerned.

(C) The notification tolls the one-hundred-twenty-day period for automatic approval, and when an agency withdraws regulations from the General Assembly prior to the time a committee resolution to approve or disapprove the regulation has been introduced, the remainder of the period begins to run only on the date the regulations are resubmitted to the General Assembly. Upon resubmission of the regulations, additional days must be added to the days remaining in the review period for automatic approval, if less than twenty days, to equal twenty days, and a copy of the amended regulation must be given to each member of the committee. If an agency decides to take no action pursuant to subsection (B)(3), it shall notify the committee in writing and the remainder of the period begins to run only upon this notification.

(D) This section, as it applies to approval, disapproval, or modification of regulations, only applies to joint resolutions introduced by the committees to which regulations are submitted.

(E) A regulation submitted to the General Assembly for review may be withdrawn by the agency for any reason. The regulation may be resubmitted by the agency for legislative review during the legislative session without repeating the requirements of Section 1-23-110, 1-23-111, or 1-23-115 if the resubmitted regulation contains no substantive changes from the previously submitted version.

HISTORY: 1979 Act No. 188, Section 1; 1980 Act No. 442, Section 3; 1982 Act No. 414, Section 1; 1979 Act No. 188, Section 1; 1980 Act No. 442, Section 3; 1982 Act No. 414, Section 1; 1988 Act No. 605, Section 3; 1996 Act No. 411, Section 9; 2007 Act No. 104, Section 3, eff July 1, 2008; 2019 Act No. 1 (S.2), Sections 82, 83, eff January 31, 2019.

Editor's Note

2007 Act No. 104, Section 5, provides as follows:

"This act takes effect July 1, 2008, and applies to regulations for which a notice of a public hearing has been published in the State Register, in accordance with Section 1-23-110(A)(3) of the 1976 Code, after June 30, 2008; all other regulations under General Assembly review on this act's effective date must be processed and reviewed in accordance with the law in effect on June 30, 2008."

Effect of Amendment

The 2007 amendment, in subsection (A), deleted the last sentence relating to withdrawal or modification of a regulation under legislative review and rewrote subsection (E) which required public comment on regulations containing a substantive change.

2019 Act No. 1, Section 82, in (B)(1), substituted "President of the Senate" for "Lieutenant Governor", and made a nonsubstantive change.

2019 Act No. 1, Section 83, in (D), substituted "only applies to joint resolutions introduced by the committees to which regulations are submitted" for "does not apply to joint resolutions introduced by other than the committees to which regulations are initially referred by the Lieutenant Governor or the Speaker of the House of Representatives".

SECTION 1-23-126. Petition requesting promulgation, amendment or repeal of regulation.

An interested person may petition an agency in writing requesting the promulgation, amendment or repeal of a regulation. Within thirty days after submission of such petition, the agency shall either deny the petition in writing (stating its reasons for the denial) or shall initiate the action in such petition.

HISTORY: 1980 Act No. 442, Section 6.

SECTION 1-23-130. Emergency regulations.

(A) If an agency finds that an imminent peril to public health, safety, or welfare requires immediate promulgation of an emergency regulation before compliance with the procedures prescribed in this article or if a natural resources related agency finds that abnormal or unusual conditions, immediate need, or the state's best interest requires immediate promulgation of emergency regulations to protect or manage natural resources, the agency may file the regulation with the Legislative Council and a statement of the situation requiring immediate promulgation. The regulation becomes effective as of the time of filing.

(B) An emergency regulation filed under this section which has a substantial economic impact may not be refiled unless accompanied by the summary of the final assessment report prepared by the office pursuant to Section 1-23-115 and a statement of need and reasonableness is prepared by the agency pursuant to Section 1-23-111.

(C) If emergency regulations are either filed or expire while the General Assembly is in session, the emergency regulations remain in effect for ninety days only and may not be refiled; but if emergency regulations are both filed and expire during a time when the General Assembly is not in session they may be refiled for an additional ninety days.

(D) Emergency regulations and the agency statement as to the need for and reasonableness of immediate promulgation must be published in the next issue of the State Register following the date of filing. The summary of the final assessment report required for refiling emergency regulations pursuant to subsection (B) must also be published in the next issue of the State Register.

(E) An emergency regulation promulgated pursuant to this section may be permanently promulgated by complying with the requirements of this article.

HISTORY: 1977 Act No. 176, Art. I, Section 13; 1980 Act No. 442, Section 4; 1986 Act No. 478, Section 1; 1992 Act No. 507, Section 5; 1993 Act No. 181, Section 14.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

SECTION 1-23-140. Duties of state agencies; necessity for public inspection.

(a) In addition to other requirements imposed by law, each agency shall:

(1) Adopt and make available for public inspection a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests;

(2) Adopt and make available for public inspection a written policy statement setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency;

(3) Make available for public inspection all final orders, decisions and opinions except as otherwise provided by law.

(b) No agency rule, order or decision is valid or effective against any person or party, nor may it be invoked by the agency for any purpose until it has been made available for public inspection as required by this article and Article 2. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

HISTORY: 1977 Act No. 176, Art. I, Section 14.

SECTION 1-23-150. Appeals contesting authority of agency to promulgate regulation.

(a) Any person may petition an agency in writing for a declaratory ruling as to the applicability of any regulation of the agency or the authority of the agency to promulgate a particular regulation. The agency shall, within thirty days after receipt of such petition, issue a declaratory ruling thereon.

(b) After compliance with the provisions of paragraph (a) of this section, any person affected by the provisions of any regulation of an agency may petition the Circuit Court for a declaratory judgment and/or injunctive relief if it is alleged that the regulation or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the plaintiff or that the regulation exceeds the regulatory authority of the agency. The agency shall be made a party to the action.

HISTORY: 1977 Act No. 176, Art. I, Section 15; 1980 Act No. 442, Section 5.

SECTION 1-23-160. Prior filed regulations unaffected.

All regulations of state agencies promulgated according to law and filed with the Secretary of State as of January 1, 1977, shall have the full force and effect of law. All regulations of state agencies promulgated under this article and effective as of June 30, 1994 shall have the full force and effect of law.

HISTORY: 1977 Act No. 176, Art. I, Section 16; 1993 Act No. 181, Section 15.

ARTICLE 2

Small Business Regulatory Flexibility

SECTION 1-23-270. Small business defined; economic impact statements; impact reduction options; judicial review of agency compliance; periodic review of regulations.

(A) This article may be cited as the "South Carolina Small Business Regulatory Flexibility Act of 2004".

(B) As used in this article "small business" means a commercial retail service, industry entity, or nonprofit corporation, including its affiliates, that:

(1) is, if a commercial retail service or industry service, independently owned and operated; and

(2) employs fewer than one hundred full-time employees or has gross annual sales or program service revenues of less than five million dollars.

(C) Before an agency submits to the General Assembly for review a regulation that may have a significant adverse impact on small businesses, the agency, if directed by the Small Business Regulatory Review Committee, shall prepare:

(1) an economic impact statement that includes the following:

(a) an identification and estimate of the number of small businesses subject to the proposed regulation;

(b) the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record;

(c) a statement of the economic impact on small businesses; and

(d) a description of less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation;

(2) a regulatory flexibility analysis in which the agency, where consistent with health, safety, and environmental and economic welfare, shall consider utilizing regulatory methods that accomplish the objectives of applicable statutes while minimizing a significant adverse impact on small businesses.

(D) The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses:

(1) establishment of less stringent compliance or reporting requirements for small businesses;

(2) establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(3) consolidation or simplification of compliance or reporting requirements for small businesses;

(4) establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and

(5) exemption of small businesses from all or a part of the requirements contained in the proposed regulation.

(E) A small business that is adversely impacted or aggrieved in connection with the promulgation of a regulation is entitled to judicial review of agency compliance with the requirements of this article. A small business may seek that review during the period beginning on the date of final agency action.

(F)(1) Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in Section 1-23-120(H) are not subject to this review. Upon completion of the review, the agency shall submit to the Code Commissioner a report which identifies those regulations:

(a) for which the agency intends to begin the process of repeal in accordance with this article;

(b) for which the agency intends to begin the process of amendment in accordance with this article; and

(c) which do not require repeal or amendment.

Nothing in this subsection may be construed to prevent an agency from repealing or amending a regulation in accordance with Article 1 before or after it is identified in the report to the Code Commissioner.

(2) Regulations that take effect on or after the effective date of this article must be reviewed within five years of the publication of the final regulation in the State Register and every five years after that to ensure that they minimize economic impact on small businesses in a manner consistent with the stated objectives of applicable statutes.

(3) In reviewing regulations to minimize their economic impact on small businesses, the agency shall consider the:

(a) continued need for the regulation;

(b) nature of complaints or comments received concerning the regulation from the public;

(c) complexity of the regulation;

(d) extent to which the regulation overlaps, duplicates, or conflicts with other federal, state, and local governmental regulations; and

(e) length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

HISTORY: 2004 Act No. 231, Section 2, eff January 1, 2005; 2007 Act No. 104, Section 4, eff July 1, 2008.

Code Commissioner's Note

Paragraphs (D)(a) to (D)(e) were redesignated as paragraphs (D)(1) to (D)(5) at the direction of the Code Commissioner.

Editor's Note

2007 Act No. 104, Section 5, provides as follows:

"This act takes effect July 1, 2008, and applies to regulations for which a notice of a public hearing has been published in the State Register, in accordance with Section 1-23-110(A)(3) of the 1976 Code, after June 30, 2008; all other regulations under General Assembly review on this act's effective date must be processed and reviewed in accordance with the law in effect on June 30, 2008."

Effect of Amendment

The 2007 amendment rewrote paragraph (F)(1).

SECTION 1-23-280. Small Business Regulatory Review Committee; membership; terms.

(A)(1) There is established a Small Business Regulatory Review Committee within the South Carolina Department of Commerce. For purposes of this article, "committee"

is the Small Business Regulatory Review Committee and "department" is the South Carolina Department of Commerce.

(2) The duties of the committee, in determining if a proposed permanent regulation has a significant adverse impact on small businesses, are to:

(a) direct the promulgating agency to prepare the regulatory flexibility analysis described in Section 1-23-270(C)(2) no later than the end of the public comment period that follows the notice of proposed regulation, as provided in Section 1-23-110(A)(3); and

(b) request, at the committee's discretion, the Revenue and Fiscal Affairs Office to prepare a final assessment report, as provided in Section 1-23-115(B), of the proposed permanent regulation no later than the end of the public comment period that follows the notice of proposed regulation, as provided in Section 1-23-110(A)(3). The committee may request a final assessment report from the Revenue and Fiscal Affairs Office only in cases where the committee determines that information in addition to the agency's economic impact as provided in Section 1-23-270(C)(1) is critical in the committee's determination that a proposed permanent regulation has a significant adverse impact on small business. The Revenue and Fiscal Affairs Office:

(i) within the review and comment period, shall perform a final assessment report of the regulation on small businesses within sixty days of a request for assessment by the committee, and the promulgating agency has sixty days to complete a regulatory flexibility analysis; and

(ii) may request additional information from the agency. The sixty-day final assessment report deadline must be tolled until the time that the Office of Research and Statistics receives the requested additional information. The one-year deadline for submission of regulations to the General Assembly as provided in Section 1-23-120(A) also must be tolled until the time that both analyses are prepared and presented to the committee; and

(c) submit to the promulgating agency, no later than thirty days after receipt of the regulatory flexibility analysis prepared by the promulgating agency and, if requested by the committee, after receipt of the final assessment report prepared by the Office of Research and Statistics, a written statement advising the agency that a proposed permanent regulation has a significant adverse impact on small business.

(3) This subsection does not limit the committee's ability to petition a state agency to amend, revise, or revoke an existing regulation.

(4) Staff support for the committee must be provided by the department. The department shall act only as a coordinator for the committee, and may not provide legal counsel for the committee.

(B) The committee shall consist of eleven members, appointed as follows:

(1) five members to be appointed by the Governor;

(2) three members to be appointed by the President of the Senate; and

(3) three members to be appointed by the Speaker of the House of Representatives.

(C) In addition, the Chairman of the Labor, Commerce and Industry Committee of the South Carolina Senate and the Chairman of the Labor, Commerce and Industry Committee of the South Carolina House of Representatives, or their designees, shall serve as nonvoting, ex officio members of the committee. During the committee review process, the director or his designee, of the promulgating agency shall be available at the request of the committee for comment on the proposed regulation.

(D) Appointments to the committee must be representative of a variety of small businesses in this State. All appointed members shall be either current or former owners or officers of a small business.

(E) The initial appointments to the committee must be made within sixty days from the effective date of this act. The department shall provide the name and address of each appointee to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chairmen of the House and Senate Labor, Commerce and Industry Committees.

(F)(1) Members initially appointed to the committee shall serve for terms ending December 31, 2005. Thereafter, appointed members shall serve two-year terms that expire on December thirty-first of the second year.

(2) The Governor shall appoint the initial chairman of the committee from the appointed members for a term ending December 31, 2006, and shall appoint subsequent chairs of the committee from the appointed members for two-year terms that expire on December thirty-first of the second year.

(3) The committee shall meet as determined by its chairman.

(4) A majority of the voting members of the committee constitutes a quorum to do business. The concurrence of a majority of the members of the committee present and voting is necessary for an action of the committee to be valid.

(5) An appointed committee member may not serve more than three consecutive terms.

HISTORY: 2004 Act No. 231, Section 2, eff January 1, 2005; 2019 Act No. 1 (S.2), Sections 7, 8, eff January 31, 2019.

Code Commissioner's Note

At the direction of the Code Commissioner, the reference in subparagraph (A)(2)(a) was changed from "1-23-270(C)(1)" to "1-23-270(C)(2)".

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Effect of Amendment

2019 Act No. 1, Section 7, in (B)(2), substituted "President of the Senate" for "President Pro Tempore of the Senate".

2019 Act No. 1, Section 8, in (E), in the second sentence, substituted "President of the Senate" for "President Pro Tempore of the Senate".

SECTION 1-23-290. Petition opposing regulation having significant adverse impact; determination of whether impact statement or public hearing addressed economic impact; waiver or reduction of administrative penalties.

(A) For promulgated regulations, the committee may file a written petition with the agency that has promulgated the regulations opposing all or part of a regulation that has a significant adverse impact on small business.

(B) Within sixty days after the receipt of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business or if conditions justifying the regulation have changed. The agency shall submit a written response of its determination to the committee within sixty days after receipt of the petition. If the agency determines that the petition merits the amendment, revision, or revocation of a regulation, the agency may initiate proceedings in accordance with the applicable requirements of the Administrative Procedures Act.

(C) If the agency determines that the petition does not merit the amendment or repeal of a regulation, the committee promptly shall convene a meeting for the purpose of determining whether to recommend that the agency initiate proceedings to amend or repeal the regulation in accordance with the Administrative Procedures Act. The review must be based upon the actual record presented to the agency. The committee shall base its recommendation on any of the following reasons:

(1) the actual impact on small business was not reflected in, or significantly exceeded, the economic impact statement formulated by the Revenue and Fiscal Affairs Office, pursuant to Section 1-23-280(A)(2);

(2) the actual impact was not previously considered by the agency in its economic impact statement formulated pursuant to Section 1-23-270(C) or its regulatory flexibility analysis formulated pursuant to Section 1-23-280(A)(2); or

(3) the technology, economic conditions, or other relevant factors justifying the purpose for the regulations have changed or no longer exist.

(D) If the committee recommends that an agency initiate regulation proceedings for a reason provided in subsection (C), then the committee shall submit to the Speaker of the House of Representatives and the President of the Senate an evaluation report and the agency's response as provided in Section 1-23-290(B). The General Assembly may take later action in response to the evaluation report and the agency's response as the General Assembly finds appropriate.

(E)(1) Notwithstanding another provision of law, an agency authorized to assess administrative penalties or administrative fines upon a business may waive or reduce an administrative penalty or administrative fine for a violation of a regulation by a small business if the:

(a) small business corrects the violation within thirty days or less after receipt of a notice of violation or citation; or

(b) violation was the result of an excusable misunderstanding of the agency's interpretation of a regulation.

(2) Item (1) does not apply if:

(a) a small business has been notified previously of the violation of a regulation by the agency pursuant to Section 1-23-290(E)(1) and has been given an opportunity to correct the violation on a previous occasion;

(b) a small business fails to exercise good faith in complying with the regulation;

(c) a violation involves wilful or criminal conduct;

(d) a violation results in imminent or adverse health, safety, or environmental impact; or

(e) the penalty or fine is assessed pursuant to a federal law or regulation, for which a waiver or reduction is not authorized by the federal law or regulation.

HISTORY: 2004 Act No. 231, Section 2, eff January 1, 2005; 2019 Act No. 1 (S.2), Section 9, eff January 31, 2019.

Code Commissioner's Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Effect of Amendment

2019 Act No. 1, Section 9, in (D), in the first sentence, substituted "President of the Senate" for "President Pro Tempore of the Senate", and made a nonsubstantive change.

SECTION 1-23-300. Applicability.

This article does not apply to emergency regulations promulgated pursuant to Section 1-23-130 or regulations promulgated pursuant to Chapter 9 of Title 46 or Chapter 4 of Title 47 or to proposed regulations by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as state legislative or federally mandated provisions that do not allow discretion to consider less restrictive alternatives or to a federal regulation that has gone through the federal regulatory flexibility act, if the federal review process is the same as or is stricter than the requirements of these sections.

HISTORY: 2004 Act No. 231, Section 2, eff January 1, 2005.

ARTICLE 3

Administrative Procedures

SECTION 1-23-310. Definitions.

As used in this article:

(1) "Administrative law judge" means a judge of the South Carolina Administrative Law Court created pursuant to Section 1-23-500;

(2) "Agency" means each state board, commission, department, or officer, other than the legislature, the courts, or the Administrative Law Court, authorized by law to determine contested cases;

(3) "Contested case" means a proceeding including, but not restricted to, ratemaking, price fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing;

(4) "License" includes the whole or part of any agency permit, franchise, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes;

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party;

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

HISTORY: 1977 Act No. 176, Art. II, Section 1; 1980 Act No. 442, Section 7; 1993 Act No. 181, Section 16; 1998 Act No. 359, Section 1; 2008 Act No. 334, Section 3, eff June 16, 2008.

Effect of Amendment

The 2008 amendment, in item (1), substituted "Administrative Law Court" for "administrative law judge division"; and, in item (2), substituted ", the courts, or the Administrative Law Court," for "or the courts, but to include the administrative law judge division".

SECTION 1-23-320. Notice and hearing in contested case; depositions; subpoenas; informal disposition; content of record.

(A) In a contested case, all parties must be afforded an opportunity for hearing after notice of not less than thirty days, except in proceedings before the Department of Employment and Workforce, which are governed by the provisions of Section 41-35-680.

(B) The notice must include a:

(1) statement of the time, place, and nature of the hearing;

(2) statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) reference to the particular sections of the statutes and rules involved;

(4) short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.

(C) A party to these proceedings may cause to be taken the depositions of witnesses within or without the State and either by commission or de bene esse. Depositions must be taken in accordance with and subject to the same provisions, conditions, and restrictions as apply to the taking of like depositions in civil actions at law in the court of common pleas; and the same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification of it, and matters of practice relating to it apply.

(D) The agency hearing a contested case may issue subpoenas in the name of the agency for the attendance and testimony of witnesses and the production and examination of books, papers, and records on its own behalf or, upon request, on behalf of another party to the case.

A party to the proceeding may seek enforcement of or relief from an agency subpoena before the Administrative Law Court pursuant to Section 1-23-600(F).

(E) Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved.

(F) Unless precluded by law, informal disposition may be made of a contested case by stipulation, agreed settlement, consent order, or default.

(G) The record in a contested case must include:

(1) all pleadings, motions, intermediate rulings, and depositions;

(2) evidence received or considered;

(3) a statement of matters officially noticed;

(4) questions and offers of proof, objections, and rulings on the contested case;

(5) proposed findings and exceptions;

(6) any decision, opinion, or report by the officer presiding at the hearing.

(H) Oral proceedings or any part of the oral proceedings must be transcribed on request of a party.

(I) Findings of fact must be based exclusively on the evidence and on matters officially noticed.

HISTORY: 1977 Act No. 176, Art. II, Section 2; 1983 Act No. 56, Section 1; 1993 Act No. 181, Section 17; 1998 Act No. 359, Section 2; 2008 Act No. 334, Section 4, eff June 16, 2008.

Code Commissioner's Note

Pursuant to the directive to the Code Commissioner in 2010 Act No. 146, Section 122, "Department of Employment and Workforce" was substituted for all references to "Employment Security Commission", and "Executive Director of the Department of Employment and Workforce" or "executive director" was substituted for all references to the "Chairman of the Employment Security Commission" or "chairman" that refer to the Chairman of the Employment Security Commission, as appropriate.

Effect of Amendment

The 2008 amendment substituted (A) to (I) for (a) to (i) as the subsection designations; in subsection (D), rewrote the second undesignated paragraph relating to enforcement of or relief from an agency subpoena; and made nonsubstantive language changes throughout.

SECTION 1-23-330. Evidentiary matters in contested cases.

In contested cases:

(1) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. Except in proceedings before the Industrial Commission the rules of evidence as applied in civil cases in the court of common pleas shall be followed. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;

(3) Any party may conduct cross-examination;

(4) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material noticed including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence and specialized knowledge may be utilized in the evaluation of the evidence.

HISTORY: 1977 Act No. 176, Art. II, Section 3; 1979 Act No. 188, Section 6.

SECTION 1-23-340. Procedure in contested cases where majority of those who are to render final decision are unfamiliar with case.

When in a contested case a majority of the officials of the agency who are to render the final decision have not heard the case or reviewed the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this section.

HISTORY: 1977 Act No. 176, Art. II, Section 4.

SECTION 1-23-350. Final decision or order in contested case.

A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his

attorney of record.

HISTORY: 1977 Act No. 176, Art. II, Section 5.

SECTION 1-23-360. Communication by members or employees of agency assigned to decide contested case.

Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. An agency member:

(1) May communicate with other members of the agency; and

(2) May have the aid and advice of one or more personal assistants.

Any person who violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than two hundred fifty dollars or imprisoned for not more than six months.

HISTORY: 1977 Act No. 176, Art. II, Section 6.

SECTION 1-23-370. Procedures regarding issuance, denial or renewal of licenses.

(a) When the grant, denial or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this article and Article 1 concerning contested cases apply.

(b) When a licensee has made timely and sufficient application for the renewal of a license or a new license with reference to any activity of a continuing nature, the existing license does not expire until the application has been finally determined by the agency, and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

(c) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

HISTORY: 1977 Act No. 176, Art. II, Section 7.

SECTION 1-23-380. Judicial review upon exhaustion of administrative remedies.

A party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to this article and Article 1. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final agency decision would not provide an adequate remedy. Except as otherwise provided by law, an appeal is to the court of appeals.

(1) Proceedings for review are instituted by serving and filing notice of appeal as provided in the South Carolina Appellate Court Rules within thirty days after the final decision of the agency or, if a rehearing is requested, within thirty days after the decision is rendered. Copies of the notice of appeal must be served upon the agency and all parties of record.

(2) Except as otherwise provided in this chapter, the serving and filing of the notice of appeal does not itself stay enforcement of the agency decision. The serving and filing of a notice of appeal by a licensee for review of a fine or penalty or of its license stays only those provisions for which review is sought and matters not affected by the notice of appeal are not stayed. The serving or filing of a notice of appeal does not automatically stay the suspension or revocation of a permit or license authorizing the sale of beer, wine, or alcoholic liquor. The agency may grant, or the reviewing court may order, a stay upon appropriate terms, upon the filing of a petition under Rule 65 of the South Carolina Rules of Civil Procedure.

(3) If a timely application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file the evidence and modifications, new findings, or decisions with the reviewing court.

(4) The review must be conducted by the court and must be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, and established by proof satisfactory to the court, the case may be remanded to the agency for action as the court considers appropriate.

(5) The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

HISTORY: 1977 Act No. 176, Art. II, Section 8; 1993 Act No. 181, Section 18; 2006 Act No. 387, Section 2, eff July 1, 2006; 2008 Act No. 334, Section 5, eff June 16, 2008.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as

provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

Effect of Amendment

The 2006 amendment rewrote this section to provide for review by an administrative law judge and appeal to the South Carolina Court of Appeals.

The 2008 amendment deleted subsection (B) relating to review by an administrative law judge of a final decision in a contested case; deleted the designation of the first paragraph as subsection (A) and at the end of the first sentence substituted "pursuant to this article and Article 1" for "under this article, Article 1, and Article 5"; in paragraph (1) deleted ", the Administrative Law Court," following "agency"; in the fourth sentence of paragraph (2) deleted "or administrative law judge" following "agency"; and in the second sentence of paragraph (4) deleted "or the Administrative Law Court" following "agency" in two places.

SECTION 1-23-390. Supreme Court review.

An aggrieved party may obtain a review of a final judgment of the circuit court or the court of appeals pursuant to this article by taking an appeal in the manner provided by the South Carolina Appellate Court Rules as in other civil cases.

HISTORY: 1977 Act No. 176, Art. II, Section 9; 1999 Act No. 55, Section 4; 2006 Act No. 387, Section 3, eff July 1, 2006.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

Effect of Amendment

The 2006 amendment added "or the court of appeals" and made nonsubstantive changes.

SECTION 1-23-400. Application of article.

The provisions of this article shall not apply to any matters pending on June 13, 1977. The provisions of Sections 1-23-360 and 1-23-370 shall not apply to any agency which under existing statutes have established and follow notice and hearing procedures which are in compliance with such sections.

HISTORY: 1977 Act No. 176, Art. II, Section 10.

ARTICLE 5

South Carolina Administrative Law Court

Editor's Note

2004 Act No. 202, Section 3, provides as follows:

"Wherever the term 'Administrative Law Judge Division' appears in any provision of law, regulation, or other document, it must be construed to mean the Administrative Law Court established by this act."

SECTION 1-23-500. South Carolina Administrative Law Court created; number of judges.

There is created the South Carolina Administrative Law Court, which is an agency and a court of record within the executive branch of the government of this State. The court shall consist of a total of six administrative law judges. The administrative law judges shall be part of the state employees retirement system.

HISTORY: 1993 Act No. 181, Section 19; 1994 Act No. 452, Section 9; 2004 Act No. 202, Section 1, eff April 26, 2004.

Effect of Amendment

The 2004 amendment deleted the designation preceding former subsection (A) and rewrote the paragraph, substituting "Administrative Law Court" for "Administrative Law Judge Division", and deleted subsection (B) relating to a feasibility study by the Judicial Council.

SECTION 1-23-505. Definitions.

As used in this article:

(1) "Administrative law judge" means a judge of the South Carolina Administrative Law Court created pursuant to Section 1-23-500.

(2) "Agency" means a state agency, department, board, or commission whose action is the subject of a contested case hearing or an appellate proceeding heard by an administrative law judge, or a public hearing on a proposed regulation presided over by an administrative law judge.

(3) "Contested case" means a proceeding including, but not restricted to, ratemaking, price fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law or by Article I, Section 22, Constitution of the State of South Carolina, 1895, to be determined by an agency or the Administrative Law Court after an opportunity for hearing.

(4) "License" includes the whole or part of any agency permit, franchise, certificate, approval, registration, charter, or similar form of permission required by law, but does not include a license required solely for revenue purposes.

(5) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party.

(6) "Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency.

HISTORY: 2008 Act No. 334, Section 1, eff June 16, 2008.

SECTION 1-23-510. Election of judges; terms.

(A) The judges of the division must be elected by the General Assembly in joint session, for a term of five years and until their successors are elected and qualify; provided, that of those judges initially elected, the chief judge, elected to Seat 1 must be elected for a term of five years, the judge elected to Seat 2 must be elected for a term of three years, the judge elected to Seat 3 must be elected for a term of one year. The remaining judges of the division must be elected for terms of office to begin February 1, 1995, for terms of five years and until their successors are elected and qualify; provided, that those judges elected to seats whose terms of office are to begin on February 1, 1995, to Seat 4 must be initially elected for a term of five years, the judge elected to Seat 5 must be initially elected for a term of three years, and the judge elected to Seat 6 must be initially elected for a term of one year. The terms of office of the judges of the division for Seats 1, 2, and 3 shall begin on March 1, 1994. The terms of office of the judges of the division for Seats 4, 5, and 6 shall begin on February 1, 1995. The terms of office of each of the seats shall terminate on the thirtieth day of June in the final year of the term for the respective seats.

(B) In electing administrative law judges, race, gender, and other demographic factors including age, residence, type of practice, and law firm size should be considered to assure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of this State.

(C) Before election as an administrative law judge, a candidate must undergo screening pursuant to the provisions of Section 2-19-10, et seq.

(D) Each seat on the division must be numbered. Elections are required to be for a specific seat. The office of chief administrative law judge is a separate and distinct office for the purpose of an election.

(E) In the event that there is a vacancy in the position of the chief administrative law judge or for any reason the chief administrative law judge is unable to act, his powers and functions must be exercised by the most senior administrative law judge as determined by the date of their election to the division.

HISTORY: 1993 Act No. 181, Section 19; 1999 Act No. 39, Section 1.

SECTION 1-23-520. Eligibility for office.

No person is eligible for the office of law judge of the division who does not at the time of his election meet the qualification for justices and judges as set forth in Article V of the Constitution of this State.

HISTORY: 1993 Act No. 181, Section 19.

SECTION 1-23-525. Members of General Assembly disqualified for office of law judge.

No member of any General Assembly who is not otherwise prohibited from being elected to an administrative law judge position may be elected to such position while he is a member of the General Assembly and for a period of four years after he ceases to be a member of the General Assembly.

HISTORY: 1993 Act No. 181, Section 19.

SECTION 1-23-530. Oath of office.

The judges of the division shall qualify after the date of their election by taking the constitutional oath of office.

HISTORY: 1993 Act No. 181, Section 19.

SECTION 1-23-535. Official seal.

The Administrative Law Court shall have a seal with a suitable inscription, an impression of which must be filed with the Secretary of State.

HISTORY: 2008 Act No. 334, Section 2, eff June 16, 2008.

SECTION 1-23-540. Compensation; full-time position.

The chief judge (Seat 1) shall receive as annual salary equal to ninety percent of that paid to the circuit court judges of this State. The remaining judges shall receive as annual salary equal to eighty percent of that paid to the circuit court judges of this State. They are not allowed any fees or perquisites of office, nor may they hold any other office of honor, trust, or profit. Administrative law judges in the performance of their duties are also entitled to that per diem, mileage, expenses, and subsistence as is authorized by law for circuit court judges.

Each administrative law judge shall devote full time to his duties as an administrative law judge, and may not practice law during his term of office, nor may he during this term be a partner or associate with anyone engaged in the practice of law in this State.

HISTORY: 1993 Act No. 181, Section 19.

SECTION 1-23-550. Vacancies.

All vacancies in the office of administrative law judge must be filled in the manner of original appointment. When a vacancy is filled, the judge elected shall hold office only for the unexpired term of his predecessor.

HISTORY: 1993 Act No. 181, Section 19.

SECTION 1-23-560. Application of Code of Judicial Conduct; complaints against administrative law judges; attending judicial-related functions.

Administrative law judges are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. The sole grounds for discipline and sanctions for administrative law judges are those contained in the Code of Judicial Conduct in Rule 502, Rule 7 of the South Carolina Appellate Court Rules. The Commission on Judicial Conduct, under the authority of the Supreme Court, shall handle complaints against administrative law judges for possible violations of the Code of Judicial Conduct in the same manner as complaints against other judges. Notwithstanding another provision of law, an administrative law judge and the judge's spouse or guest may accept an invitation to attend a judicial-related or bar-related function, or an activity devoted to the improvement of the law, legal system, or the administration of justice.

HISTORY: 1993 Act No. 181, Section 19; 2008 Act No. 334, Section 6, eff June 16, 2008; 2014 Act No. 146 (S.405), Section 1, eff April 7, 2014.

Effect of Amendment

The 2008 amendment added the second sentence referring to Code of Judicial Conduct, Rule 502, Rule 7, and the fourth sentence relating to invitations to judicial-related functions; and, in the third sentence, added ", which" following "Commission" and substituted "shall use the procedure contained in" for "pursuant to".

2014 Act No. 146, Section 1, rewrote the third sentence, removing reference to the State Ethics Commission.

SECTION 1-23-570. Chief Judge responsible for administration of division.

The Chief Judge of the Administrative Law Judge Division is responsible for the administration of the division, including budgetary matters, assignment of cases, and the administrative duties and responsibilities of the support staff. The chief judge shall assign judges of the division to hear all cases of the various state departments and commissions for which it is responsible on a general rotation and interchange basis by scheduling and assigning administrative law judges based upon subject matter no less frequently than every six months.

HISTORY: 1993 Act No. 181, Section 19; 1998 Act No. 359, Section 3.

SECTION 1-23-580. Clerk of division; assistants to administrative law judges; other staff.

(A) A clerk of the division, to be appointed by the chief judge, must be appointed and is responsible for the custody and keeping of the records of the division. The clerk of the division shall perform those other duties as the chief judge may prescribe.

(B) Each administrative law judge may appoint, hire, contract, and supervise an administrative assistant as individually allotted and authorized in the annual general appropriations act.

(C) The other support staff of the division is as authorized by the General Assembly in the annual general appropriations act and shall be hired, contracted, and supervised by the chief judge. The division may engage stenographers for the transcribing of the proceedings in which an administrative law judge presides. It may contract for these stenographic functions, or it may use stenographers provided by the agency or commission.

HISTORY: 1993 Act No. 181, Section 19; 1998 Act No. 359, Section 4.

SECTION 1-23-590. Appropriation of funds.

The General Assembly in the annual general appropriations act shall appropriate those funds necessary for the operation of the Administrative Law Judge Division.

HISTORY: 1993 Act No. 181, Section 19.

SECTION 1-23-600. Hearings and proceedings.

(A) An administrative law judge shall preside over all hearings of contested cases as defined in Section 1-23-505 or Article I, Section 22, Constitution of the State of South Carolina, 1895, involving the departments of the executive branch of government as defined in Section 1-30-10 in which a single hearing officer, or an administrative law judge, is authorized or permitted by law or regulation to hear and decide these cases, except those arising under the:

(1) Consolidated Procurement Code;

(2) Public Service Commission;

(3) Department of Employment and Workforce;

(4) Workers' Compensation Commission, except as provided in Section 42-15-90; or

(5) other cases or hearings which are prescribed for or mandated by federal law or regulation, unless otherwise by statute or regulation specifically assigned to the jurisdiction of the Administrative Law Court. Unless otherwise provided by statute, the standard of proof in a contested case is by a preponderance of the evidence. The South Carolina Rules of Evidence apply in all contested case proceedings before the Administrative Law Court.

(B) All requests for a hearing before the Administrative Law Court must be filed in accordance with the court's rules of procedure. A party that files a request for a hearing with the Administrative Law Court must simultaneously serve a copy of the request on the affected agency. Upon the filing of the request, the chief judge shall assign an administrative law judge to the case. Notice of the contested case hearing must be issued in accordance with the rules of procedure of the Administrative Law Court.

(C) A full and complete record must be kept of all contested cases and regulation hearings before an administrative law judge. All testimony must be reported, but need not be transcribed unless a transcript is requested by a party. The party requesting a transcript is responsible for the costs involved. Proceedings before administrative law judges are open to the public unless confidentiality is allowed or required by law. The presiding administrative law judge shall render the decision in a written order. The decisions or orders of administrative law judges are not required to be published but are available for public inspection unless confidentiality is allowed or required by law.

(D) An administrative law judge also shall preside over all appeals from final decisions of contested cases pursuant to the Administrative Procedures Act, Article I, Section 22, Constitution of South Carolina, 1895, or another law, except that an appeal from a final order of the Public Service Commission and the State Ethics Commission is to the Supreme Court or the court of appeals as provided in the South Carolina Appellate Court Rules, an appeal from the Procurement Review Panel is to the court of appeals as provided in Section 11-35-4410, and an appeal from the Workers' Compensation Commission is to the court of appeals as provided in Section 42-17-60. An administrative law judge shall not hear an appeal from an inmate in the custody of the Department of Corrections involving the loss of the opportunity to earn sentence-related credits pursuant to Section 24-13-210(A) or Section 24-13-230(A) or an appeal involving the denial of parole to a potentially eligible inmate by the Department of Probation, Parole and Pardon Services.

(E) Review by an administrative law judge of a final decision in a contested case, heard in the appellate jurisdiction of the Administrative Law Court, must be in the same manner as prescribed in Section 1-23-380 for judicial review of final agency decisions with the presiding administrative law judge exercising the same authority as the court of appeals, provided that a party aggrieved by a final decision of an administrative law judge is entitled to judicial review of the decision by the court of appeals pursuant to the provisions of Section 1-23-610.

(F) Notwithstanding another provision of law, a state agency authorized by law to seek injunctive relief may apply to the Administrative Law Court for injunctive or equitable relief pursuant to Section 1-23-630. The provisions of this section do not affect the authority of an agency to apply for injunctive relief as part of a civil action filed in the court of common pleas.

(G) Notwithstanding another provision of law, the Administrative Law Court has jurisdiction to review and enforce an administrative process issued by an agency or by a department of the executive branch of government, as defined in Section 1-30-10, such as a subpoena, administrative search warrant, cease and desist order, or other similar administrative order or process. A department or agency of the executive branch of government authorized by law to seek an administrative process may apply to the Administrative Law Court to issue or enforce an administrative process. A party aggrieved by an administrative process issued by a department or agency of the executive branch of government may apply to the Administrative Law Court for relief from the process as provided in the Rules of the Administrative Law Court.

(H)(1) This subsection applies to timely requests for a contested case hearing pursuant to this section of decisions by departments governed by a board or commission authorized to exercise the sovereignty of the State.

(2) A request for a contested case hearing for an agency order stays the order. A request for a contested case hearing for an order to revoke or suspend a license stays the revocation or suspension. A request for a contested case hearing for a decision to renew a license for an ongoing activity stays the renewed license, the previous license remaining in effect pending completion of administrative review. A request for a contested case hearing for a decision to issue a new license stays all actions for which the license is a prerequisite; however, matters not affected by the request may not be stayed by the filing of the request. If the request is filed for a subsequent license related to issues substantially similar to those considered in a previously licensed matter, the license may not be automatically stayed by the filing of the request. If the requesting party asserts in the request that the issues are not substantially similar to those considered in a previously licensed matter, then the license must be stayed until further order of the Administrative Law Court. Requests for contested case hearings challenging only the amount of fines or penalties must be considered not to affect those portions of such orders imposing substantive requirements.

(3) The general rule of item (2) does not stay emergency actions taken by an agency pursuant to an applicable statute or regulation.

(4)(a) Ninety days after a contested case is initiated before the Administrative Law Court, a party may move before the presiding administrative law judge to lift the stay imposed pursuant to this subsection or for a determination of the applicability of the automatic stay. A hearing must be held within thirty days after any party files a motion with the court and serves the motion upon the parties. The court shall lift the stay unless the party that requested a contested case hearing proves: (i) the likelihood of irreparable harm if the stay is lifted, (ii) the substantial likelihood that the party requesting the contested case and stay will succeed on the merits of the case, (iii) the balance of equities weigh in favor of continuing the stay, and (iv) continuing the stay serves the public interest. The judge must issue an order no later than fifteen business days after the hearing is concluded. If the stay is lifted, action undertaken by the permittee or licensee does not moot and is not otherwise considered an adjudication of the

issues raised by the request for a contested case hearing. Notwithstanding the provisions of this item, the process to lift a stay as provided in this item does not apply to a contested case concerning a permit or license involving hazardous waste as defined in Section 44-56-20(6), and a stay in such a contested case must not be lifted until the contested case is concluded and the Administrative Law Court has filed its final order in the matter.

(b) Notwithstanding any other provision of law, in a contested case arising under this subsection, the Administrative Law Court shall file a final decision on the merits of the case no later than twelve months after the contested case is filed with the Clerk of the Administrative Law Court, unless all parties to the contested case consent to an extension or the court finds substantial cause otherwise.

(5) A final decision issued by the Administrative Law Court in a contested case may not be stayed except by order of the Administrative Law Court or the Court of Appeals.

(6) Nothing contained in this subsection constitutes a limitation on the authority of the Administrative Law Court to impose a stay as otherwise provided by statute or by rule of court.

(I) If a final order of the Administrative Law Court is not appealed in accordance with the provisions of Section 1-23-610, upon request of a party to the proceedings, the clerk of the Administrative Law Court shall file a certified copy of the final order with a clerk of the circuit court, as requested, or court of competent jurisdiction, as requested. After filing, the certified order has the same effect as a judgment of the court where filed and may be recorded, enforced, or satisfied in the same manner as a judgment of that court.

(J) If an attorney of record is called to appear in actions pending in other tribunals in this State, the action in the Administrative Law Court has priority as is appropriate. Courts and counsel have the obligation to adjust schedules to accord with the spirit of comity between the Administrative Law Court and other state courts.

HISTORY: 1993 Act No. 181, Section 19; 1994 Act No. 452, Sections 1, 5; 1995 Act No. 92, Section 1; 2004 Act No. 202, Section 2, eff April 26, 2004; 2006 Act No. 381, Section 1, eff June 13, 2006; 2006 Act No. 387, Section 4, eff July 1, 2006; 2007 Act No. 111, Pt I, Section 1, eff July 1, 2007, applicable to injuries that occur on or after that date; 2008 Act No. 188, Section 1, eff January 1, 2009; 2008 Act No. 201, Section 13, eff February 10, 2009; 2008 Act No. 334, Section 7, eff June 16, 2008; 2010 Act No. 278, Section 23, eff July 1, 2010; 2012 Act No. 183, Section 2, eff June 7, 2012; 2012 Act No. 212, Section 1, eff June 7, 2012; 2018 Act No. 134 (S.105), Section 1, eff March 12, 2018; 2019 Act No. 41 (S.530), Section 73, eff May 13, 2019.

Code Commissioner's Note

At the direction of the Code Commissioner, the 2006 amendments were read together. The text of the section as amended by Act 387 is set forth above, except that in subsection (B), "those matters which are otherwise provided for in title 56" was deleted following "Occupational Health and Safety Act", in subparagraph (G)(3), "(G)" was substituted for "(F)", and subsection (E) from Act 381 was added as subsection (H).

At the direction of the Code Commissioner, the amendment of this section by 2008 Act No. 334, Section 1, effective June 16, 2008, was deemed to prevail over the amendment by 2008 Act No. 201, Section 13, effective February 10, 2009, because it was enacted later. The section was also amended by 2008 Act No. 188, Section 1, effective January 1, 2009, to delete the reference to cases arising under the Occupational Safety and Health Act in subsection (B). Among other changes, the amendment by Act 334 redesignated subsection (B) as subsection (A) and included cases arising under the Occupational Safety and Health Act as item (1). At the direction of the Code Commissioner, the deletion of the reference to the Occupational Safety and Health Act by Act 188 effective January 1, 2009 was applied to subsection (A) as amended by Act 334 on the basis that the reference to OSHA was inadvertently included in the later act and its inclusion was not consistent with the intent of the General Assembly in passing Act 188. Accordingly, in subsection (A) as amended by Act 334, item (1) was deleted effective January 1, 2009, and items (2) to (6) redesignated as items (1) to (5).

At the direction of the Code Commissioner, the reference in subsection (E) to Section 1-23-380(A) was changed to Section 1-23-380 to conform to the amendment of that section by 2008 Act No. 334, Section 5.

Pursuant to the directive to the Code Commissioner in 2010 Act No. 146, Section 122, "Department of Employment and Workforce" was substituted for all references to "Employment Security Commission", and "Executive Director of the Department of Employment and Workforce" or "executive director" was substituted for all references to the "Chairman of the Employment Security Commission" or "chairman" that refer to the Chairman of the Employment Security Commission, as appropriate.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

2010 Act 278, Section 26, provides as follows:

"This act takes effect July 1, 2010; provided, the provisions of this act do not apply to any matter pending before a court of this State prior to June 1, 2010."

2019 Act No. 41, Section 80, provides as follows:

"SECTION 80. This act takes effect upon approval by the Governor and applies to solicitations issued after that date."

Effect of Amendment

The 2004 amendment in subsection (A) substituted "must" for "shall" and "is responsible" for "shall be responsible"; in subsections (B) and (D) deleted "of the division" following "administrative law judge"; in subsection (B) substituted "Court" for "Judge Division"; in subsection (D), inserted ", or as otherwise provided by law," following "Licensing and Regulation"; rewrote subsection (C); deleted subsection (E) relating to cases initiated before and after May 1, 1994; and made nonsubstantive changes.

The first 2006 amendment, in subsection (B), deleted "those matters which are otherwise provided for in Title 56," following "Occupational Health and Safety Act"; and added subsection (E) [redesignated as (H)] relating to the filing of final orders.

The second 2006 amendment rewrote subsections (B) and (D) and added subsection (E), (F) and (G) relating to appeal of orders of the State Human Affairs Commission to the Administrative Law Court.

The 2007 amendment, in subsection (D), substituted "Court of Appeals" for "circuit court" relating to appeals from the Workers' Compensation Commission.

The first 2008 amendment, in subsection (B), deleted "arising under the Occupational Safety and Health Act,".

The second 2008 amendment, in subsection (B), added the second sentence relating to the standard of proof in a contested case' and, in subsection (H), in the first sentence deleted "petition for judicial review of a" preceding "final order" and substituted "appealed" for "filed".

The third 2008 amendment, deleted subsection (A) relating to the keeping and availability of records and reenacted it as subsection (C); redesignated subsections (B) and (C) as subsections (A) and (B); in subsection (A) substituted "1-23-505" for "1-23-310", designated paragraphs (1) to (6) [redesignated as (1) to (5) effective January 1, 2009 at the direction of the Code Commissioner] from existing text, and added the second and third sentences of (6) [redesignated as (5)] relating to standard of proof and applicability of the South Carolina Rules of Evidence; in subsection (B), added the fourth sentence relating to notice of the contested case hearing; in subsection (D), added the second sentence relating to certain appeals from inmates; added subsection (E); redesignated subsections (E) to (H) as (F) to (I); in subsection (G), substituted "Administrative Law Court" for "chief administrative law judge" and added references to agencies of the executive branch in two places; in paragraph (H)(2), in the fourth sentence added "however," and the fifth and sixth sentences; in paragraph (H)(3), substituted "(H)(2)" for "(G)(2)"; in paragraph (H)(4), added the second through fourth sentences; in paragraph (H)(5), deleted from the end ", or cases when Section 1-23-610(A) applies, the appropriate board or commission"; and, in subsection (I), in the first sentence deleted "petition for judicial review of a" preceding "final order" and substituted "filed" for "appealed", "1-23-610" for "1-23-600" and 'shall" for "must".

The 2010 amendment added subsection (J) relating to priority of actions in different courts.

The first 2012 amendment in subsection (A)(4), inserted ", except as provided in Section 42-15-90".

The second 2012 amendment in subsection (D), deleted ", and an appeal from the Department of Employment and Workforce is to the circuit court as provided in Section 41-35-750", and made other changes.

2018 Act No. 134, Section 1, rewrote (H), providing for the imposition and duration of stays involving contested cases before the Administrative Law Court, the manner in which and requirements under which these stays may be lifted, exceptions to the general provision regarding the lifting of stays, and when the court must render a final decision on the merits of the contested case.

2019 Act No. 41, Section 73, in (D), in the first sentence, substituted "Constitution of South Carolina" for "Constitution of the State of South Carolina", and "court of appeals" for "circuit court".

SECTION 1-23-610. Judicial review of final decision of administrative law judge; stay of enforcement of decision.

(A)(1) For judicial review of a final decision of an administrative law judge, a notice of appeal by an aggrieved party must be served and filed with the court of appeals as provided in the South Carolina Appellate Court Rules in civil cases and served on the opposing party and the Administrative Law Court not more than thirty days after the party receives the final decision and order of the administrative law judge. Appeal in these matters is by right.

(2) Except as otherwise provided in this chapter, the serving and filing of the notice of appeal does not itself stay enforcement of the administrative law judge's decision. The serving and filing of a notice of appeal by a licensee for review of a fine or penalty or of its license stays only those provisions for which review is sought and matters not affected by the notice of appeal are not stayed. The serving or filing of a notice of appeal does not automatically stay the suspension or revocation of a permit or license authorizing the sale of beer, wine, or alcoholic liquor. Upon motion, the administrative law judge may grant, or the court of appeals may order, a stay upon appropriate terms.

(B) The review of the administrative law judge's order must be confined to the record. The court may not substitute its judgment for the judgment of the administrative law judge as to the weight of the evidence on questions of fact. The court of appeals may affirm the decision or remand the case for further proceedings; or, it may reverse or modify the decision if the substantive rights of the petitioner have been prejudiced because the finding, conclusion, or decision is:

(a) in violation of constitutional or statutory provisions;

(b) in excess of the statutory authority of the agency;

(c) made upon unlawful procedure;

(d) affected by other error of law;

(e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

HISTORY: 1993 Act No. 181, Section 19; 2006 Act No. 387, Section 5, eff July 1, 2006; 2008 Act No. 334, Section 8, eff June 16, 2008.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

Effect of Amendment

The 2006 amendment rewrote this section.

The 2008 amendment rewrote this section.

SECTION 1-23-630. Powers of law judges.

(A) Each administrative law judge of the division has the same power at chambers or in open hearing as do circuit court judges and to issue those remedial writs as are necessary to give effect to its jurisdiction.

(B) An administrative law judge may authorize the use of mediation in a manner that does not conflict with other provisions of law and is consistent with the division's rules of procedure.

HISTORY: 1993 Act No. 181, Section 19; 2003 Act No. 39, Section 1.

SECTION 1-23-640. Principal offices of court; where cases heard.

The court shall maintain its principal offices in the City of Columbia. However, judges of the court shall hear contested cases at the court's offices or at a suitable location outside the City of Columbia when determined by the chief judge.

HISTORY: 1993 Act No. 181, Section 19; 1994 Act No. 452, Section 6; 2008 Act No. 334, Section 9, eff June 16, 2008.

Effect of Amendment

The 2008 amendment substituted "court" for "division" throughout and in the second sentence deleted "offices or location of the involved department or commission as prescribed by the agency or commission, at the division's" following "hear contested cases at the" and made minor language changes.

SECTION 1-23-650. Promulgation of rules.

(A) Rules governing the internal administration and operations of the Administrative Law Court must be:

(1) proposed by the chief judge of the court and adopted by a majority of the judges of the court; or

(2) proposed by any judge of the court and adopted by seventy-five percent of the judges of the court.

(B) Rules governing practice and procedure before the court which are:

(1) consistent with the rules of procedure governing civil actions in courts of common pleas; and

(2) not otherwise expressed in Chapter 23, Title 1; upon approval by a majority of the judges of the court must be promulgated by the court and are subject to review as are rules of procedure promulgated by the Supreme Court under Article V of the Constitution.

(C) All hearings before an administrative law judge must be conducted exclusively in accordance with the rules of procedure promulgated by the court pursuant to this section. All other rules of procedure for the hearing of contested cases or appeals by individual agencies, whether promulgated by statute or regulation, are of no force and effect in proceedings before an administrative law judge.

HISTORY: 1993 Act No. 181, Section 19; 1994 Act No. 452, Section 2; 1998 Act No. 359, Section 5; 2006 Act No. 387, Section 6, eff July 1, 2006.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

Effect of Amendment

The 2006 amendment designated subsections (A) and (B); in subsection (A), in the introductory statement substituted "Administrative Law Court must" for "administrative law judge division shall"; added subsection (C); and substituted "court" for "division" and made nonsubstantive changes throughout.

SECTION 1-23-660. Office of Motor Vehicle Hearings; conduct of hearings; applicability of Code of Judicial Conduct; appeals.

(A) There is created within the Administrative Law Court the Office of Motor Vehicle Hearings. The chief judge of the Administrative Law Court shall serve as the director of the Office of Motor Vehicle Hearings. The duties, functions, and responsibilities of all hearing officers and associated staff of the Department of Motor Vehicles are devolved upon the Administrative Law Court effective January 1, 2006. The hearing officers and staff positions, together with the appropriations relating to these positions, are transferred to the Office of Motor Vehicle Hearings of the Administrative Law Court on January 1, 2006. The hearing officers and staff shall be appointed, hired, contracted, and supervised by the chief judge of the court and shall continue to exercise their adjudicatory functions, duties, and responsibilities under the auspices of the Administrative Law Court as directed by the chief judge and shall perform such other functions and duties as the chief judge of the court prescribes. All employees of the office shall serve at the will of the chief judge. The chief judge is solely responsible for the administration of the office, the assignment of cases, and the administrative duties and responsibilities of the hearing officers and staff. Notwithstanding another provision of law, the chief judge also has the authority to promulgate rules governing practice and procedures before the Office of Motor Vehicle Hearings. These rules are subject to review as are the rules of procedure promulgated by the Supreme Court pursuant to Article V of the South Carolina Constitution.

(B) Notwithstanding another provision of law, the hearing officers shall conduct hearings in accordance with Chapter 23 of Title 1, the Administrative Procedures Act, and the rules of procedure for the Office of Motor Vehicle Hearings, at suitable locations as determined by the chief judge. For purposes of this section, any law enforcement agency that employs an officer who requested a breath test and any law enforcement agency that employs a person who acted as a breath test operator resulting in a suspension pursuant to Section 56-1-286 or 56-5-2951 is a party to the hearing and shall be served with appropriate notice, afforded the opportunity to request continuances and participate in the hearing, and provided a copy of all orders issued in the action. Representatives of the Department of Motor Vehicles are not required to appear at implied consent, habitual offender, financial responsibility, or point suspension hearings. However, if the Department of Motor Vehicles elects not to appear through a representative at any implied consent hearing, or through the submission of documentary evidence at any habitual offender, financial responsibility, or point suspension hearing, and it wishes to appeal the decision, it must first file a motion for reconsideration with the Office of Motor Vehicle Hearings within ten days after receipt of the hearing officer's decision. The hearing officer must issue a written order upon the motion for reconsideration within thirty days. The Department of Motor Vehicles may file a notice of appeal with the Administrative Law Court within thirty days after receipt of the hearing officer's order on the motion for reconsideration. The Administrative Law Court must dismiss any appeal which does not meet the requirements of this subsection.

(C) The hearing officers are bound by the Code of Judicial Conduct, as contained in Rule 501 of the South Carolina Appellate Court Rules. The State Ethics Commission is responsible for the enforcement and administration of those rules and for the issuance of advisory opinions on the requirements of those rules for administrative law judges and hearing officers pursuant to the procedures contained in Section 8-13-320. Notwithstanding another provision of law, an administrative law judge or hearing officer, and the judge's or hearing officer's spouse or guest, may accept an invitation to and attend a judicial-related or bar-related function, or an activity devoted to the improvement of the law, the legal system, or the administration of justice.

(D) Appeals from decisions of the hearing officers must be taken to the Administrative Law Court pursuant to the court's appellate rules of procedure. Recordings of all hearings will be made part of the record on appeal, along with all evidence introduced at hearings, and copies will be provided to parties to those appeals at no charge. The chief judge shall not hear any appeals from these decisions.

HISTORY: 1993 Act No. 181, Section 19; 2005 Act No. 128, Section 22, eff July 1, 2005; 2006 Act No. 381, Section 2, eff June 13, 2006; 2006 Act No. 387, Section 7, eff July 1, 2006; 2008 Act No. 201, Section 14, eff February 10, 2009; 2008 Act No. 279, Section 1, eff October 1, 2008.

Code Commissioner's Note

At the direction of the Code Commissioner, both 2006 amendments were read together. The text of the section from the second amendment by Act 387 is set forth above, except that the eighth and ninth sentences in the first undesignated paragraph and the second and sixth sentences of the third undesignated paragraph were added from first amendment by Act 381.

This section was amended by 2008 Act Nos. 201 and 279. At the direction of the Code Commissioner, the text of Act 279 appears above because it was enacted later.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

"This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling."

2006 Act No. 387, Section 57, provides as follows:

"This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review."

Effect of Amendment

The 2005 amendment rewrote this section.

The first 2006 amendment, in the first undesignated paragraph, added the eighth and ninth sentences relating to promulgation of rules; and in the third undesignated paragraph, added the second sentence relating to breath tests, the third sentence relating to appearance by representatives of the Department of Motor Vehicles, and the seventh sentence relating to tape recordings of hearings.

The second 2006 amendment rewrote this section.

The first 2008 amendment deleted the last four sentences of the first undesignated paragraph relating to hiring a law clerk to assist the judges who hear Department of Motor Vehicle Hearing appeals; deleted the second undesignated paragraph relating to the role of the Budget and Control Board in the transition; and rewrote the third undesignated paragraph.

The second 2008 amendment rewrote this section, designating the subsections and substituting "Office of Motor Vehicle Hearings" for "Division of Motor Vehicle Hearings" throughout.

SECTION 1-23-670. Filing fees.

Each request for a contested case hearing, notice of appeal, or request for injunctive relief before the Administrative Law Court must be accompanied by a filing fee equal to that charged in circuit court for filing a summons and complaint, unless another filing fee schedule is established by rules promulgated by the Administrative Law Court, subject to review as in the manner of rules of procedure promulgated by the Supreme Court pursuant to Article V of the Constitution of this State. This fee must be retained by the Administrative Law Court in order to help defray the costs of the proceedings. No filing fee is required in administrative appeals by inmates from final decisions of the Department of Corrections or the Department of Probation, Parole and Pardon Services. However, if an inmate files three administrative appeals during a calendar year, then each subsequent filing during that year must be accompanied by a twenty-five dollar filing fee. If the presiding administrative law judge determines at the conclusion of the proceeding that the case was frivolous or taken solely for the purpose of delay, the judge may impose such sanctions as the circumstances of the case and discouragement of like conduct in the future may require, including the sanctions authorized in the Frivolous Civil Proceedings Sanctions Act, Chapter 36, Title 15, and as otherwise provided by law.

HISTORY: 2008 Act No. 353, Section 2, Pt 18A, eff July 1, 2009; 2018 Act No. 134 (S.105), Section 2, eff March 12, 2018.

Effect of Amendment

2018 Act No. 134, Section 2, in the fifth sentence, added ", including the sanctions authorized in the Frivolous Civil Proceedings Sanctions Act, Chapter 36, Title 15, and as otherwise provided by law" at the end.

SECTION 1-23-680. Cost of South Carolina Code, supplements, and replacement volumes.

The South Carolina Administrative Law Court is not required to reimburse the South Carolina Legislative Council for the cost of the Code of Laws, code supplements, or code replacement volumes distributed to the court.

HISTORY: 2008 Act No. 353, Section 2, Pt 18B, eff July 1, 2009.