

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3995-04  
Bill No.: SCS for HCS for HB 1286 & 1175  
Subject: Contracts and Contractors: Licenses - Motor Vehicle; Motor Vehicles  
Type: Original  
Date: May 7, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on Other State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

#### FISCAL ANALYSIS

##### ASSUMPTION

Officials from the **Department of Transportation** and the **Department of Economic Development** stated this proposal would have no fiscal impact on their agencies.

Officials from the **Office of State Courts Administrator** stated this proposal would have no fiscal impact on the Courts.

In response to similar proposals, officials from the **Office of Attorney General (AGO)** stated those proposals either imposed no new duties on the AGO or any potential costs could be absorbed with existing resources.

##### SECTION 310.566

In response to a similar proposal from this session (SCS/HCS/HB 1288, FN 4237-06), officials from the **Department of Revenue - Division of Motor Vehicle and Drivers Licensing (DOR)** stated their division would incur costs for revising dealer procedures, development letters and dealer notifications and postage for those letters in the amount of \$2,996 (\$406 for procedures and letters and \$2,950 for postage). **Oversight** assumes these costs could be absorbed with existing resources. For fiscal note purposes only, **Oversight** is not showing an expense to DOR or income to local governments from potential fines.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Marine dealers may see a fiscal impact as a result of this proposal allowing recovery of certain costs when a manufacturer cancels an agreement.

DESCRIPTION

This proposal pertains to contractual agreements between manufacturers and other merchants:

SECTION 301.566 - Out-of-State Recreational Vehicle Dealers

This section requires recreational vehicle dealers licensed in another state who wish to participate in a vehicle show or exhibition to notify the motor vehicle commission (commission) at least thirty days prior to the event. The commission must then make a determination regarding the dealer's compliance with Missouri's law. If such dealer does not comply, the commission must notify the dealer at least fifteen days prior to the event of the inability to participate. A violation of this section will result in a \$1,000 fine to be assessed by the commission.

SECTION 407.1047 - Motorcycles and All-terrain Vehicles

This section establishes regulations for compensation agreements between franchisors and franchisees engaged in the sale of motorcycles and all-terrain vehicles.

The proposal requires franchisors to specify in writing the franchisee's obligation for preparation, delivery, and warranty service on its products and provide the franchisee with a schedule of compensation to be paid for parts, work, service, and time allowance for the performance of work and services.

A franchisor will be prohibited from:

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DESCRIPTION (continued)

- (1) Failing to perform any warranty obligation;
- (2) Failing to include in writing notice of franchisor recalls to the owner of new motorcycles and all-terrain vehicles; and
- (3) Failing to compensate franchisees for repairs effected by recalls.

Claims made by a franchisee for labor and parts must be paid within 30 days after approval.

Franchisors shall compensate franchisees for franchisor-sponsored sales or service promotion events, programs, or activities. This proposal changes the time frame that claims may be made by a franchisee for promoting events or activities from ten days to twenty-five days after their approval, or program close, whichever is later. All claims must be approved or disapproved by the franchisor within 30 days after their receipt of an approved form containing the required information.

Certain claims are exempt from the provisions in the act, those being claims related to holdbacks and those related to a franchisor's use of a "balance forward account".

SECTION 407.1360 through 407.1370 - Contractual Agreements for Marine Dealers.

This proposal prohibits marine manufacturers from terminating or renewing a dealership agreement or substantially changing the competitive circumstances of a dealership without good cause. The proposal spells out circumstances that are considered good cause.

Manufacturers will be required to provide a notice at least 90 days prior to any termination, cancellation, or nonrenewal of a dealership agreement. A dealer will have 90 days to cure any claimed deficiency. A dealer must provide notice of intent to cure deficiencies within the 90-day period. Termination will take effect 60 days after the dealer's receipt of the manufacturer's notice, unless the dealer has new inventory on hand. In that case, upon dealer request, it will take effect upon the sale of the remaining inventory but no later than 90 days from the manufacturer's notice of termination.

Dealers may terminate a dealer agreement at any time by giving written notice to the manufacturer at least 90 days prior to the effective date of the termination.

On change of ownership, dealers must give a 90-day written notice to the manufacturer. Manufacturers cannot refuse a proposed change or sale and may not disapprove or withhold

DESCRIPTION (continued)

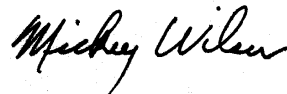
approval unless the manufacturer can show its decision is based on a reasonable criterion such as business experience, moral character, financial qualifications, or criminal record. Manufacturers have 60 days to provide written notice of rejection of a proposed change or sale. The transfer provisions do not apply to the transfer to a successor in the event of a dealer's death.

The proposal provides for the repurchase of certain vessels when the dealer agreement is terminated by the manufacturer. It also provides for legal action upon unlawful termination or failure of renewal of a dealership.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Revenue  
Division of Motor Vehicles  
Department of Transportation  
Department of Economic Development  
Office of Attorney General



Mickey Wilson, CPA  
Director  
May 7, 2004