

HCS SS SCS SB 239, 24 & 445 -- TRANSPORTATION

SPONSOR: Stouffer (Stevenson)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Tax Reform by a vote of 7 to 1.

This substitute changes the laws regarding transportation.

STATE HIGHWAY PATROL

The substitute:

- (1) Updates the provisions of law that no longer apply to the operations of the State Highway Patrol;
- (2) Removes the requirement that the Superintendent of the State Highway Patrol reside in Jefferson City;
- (3) Removes the requirement that general headquarters be open at all times and that a telegraph be available;
- (4) Removes the requirement that the Highways and Transportation Commission approve all personnel expenses and changes where civil witness fees are deposited;
- (5) Specifies that the patrol be divided into troops rather than districts;
- (6) Removes the requirement that the patrol send an end of the year fiscal report to the Governor and the commission;
- (7) Removes the requirement that the superintendent, major, director of radio, and budget personnel be bonded;
- (8) Allows the patrol to deliver an arrested individual directly to the court or the court's or judge's designee;
- (9) Authorizes the superintendent to enter into an agreement with the Missouri Gaming Commission regarding enforcement of any law or regulation and conducting background investigations related to the laws of this state and the regulation of licensed gaming activities;
- (10) Authorizes the patrol, at the direction of the Governor, to conduct a name or fingerprint background investigation of gubernatorial appointees and conduct other investigations to determine if an applicant or appointee has paid his or her required taxes and establish the person's suitability for a position of public trust;

(11) Increases the amount an entity making a request for criminal history record information that is not based on a fingerprint search must pay from no more than \$5 per request to no more than \$9. Beginning January 1, 2010, the superintendent may increase the fee by no more than \$1 per year with a maximum fee of \$15 per request; and

(12) Allows any state agency, board, or commission to require an applicant for specified occupations or appointments to provide fingerprints for the purpose of positive identification and receiving criminal history record information when determining the applicant's ability to serve in a position. All records related to any criminal history information discovered will be accessible to the state agency making the request.

#### MOTOR FUEL TAX EXEMPTIONS

The substitute exempts fuel used in school buses from the motor fuel tax when the bus is driven to transport students for educational purposes.

An exemption from the motor fuel tax is also authorized for motor fuel sold for use by an interstate transportation authority, a city transit authority, or a city utilities board to operate a public mass transportation facility.

#### PUBLIC RECORDS

The substitute makes personal information that is collected by a county collector including an individual's name, address, real estate tax information, financial information or transactions, real estate parcel number, loan number for real estate parcels, or any other personal information not a public record unless authorized by the county collector.

#### SALES TAX EXEMPTION FOR COMMON CARRIERS

Currently, an exemption from the state sales tax is authorized for motor vehicles licensed for a gross weight of 24,000 pounds or more or trailers used by common carriers solely in the transportation of persons or property in interstate commerce. The substitute removes the requirement that the transportation must be in interstate commerce.

#### SALES TAX EXEMPTION FOR HIGHWAY CONSTRUCTION MATERIALS

Beginning July 1, 2008, a sales tax exemption is authorized for materials purchased by contractors for use in the construction of highways and other Department of Transportation projects.

## DISASTER DAMAGE EMERGENCY LOAN REVOLVING FUND PROGRAM

The Disaster Damage Emergency Loan Revolving Fund Program is established to provide no-interest loans to individuals who incur property damage as a result of natural or man-made disasters that are not covered by insurance. The Office of Administration and the State Emergency Management Agency in the Department of Public Safety will implement the program and develop a procedure for individuals. Loans will be issued, in order of preference, to pay for any deductibles for individuals who have insurance coverage for property loss, support individuals who do not receive any assistance from the Federal Emergency Management Agency (FEMA), and provide resources to individuals who have no insurance coverage for property damage losses. Any person receiving FEMA assistance will be ineligible for state emergency loans.

## DRUNK DRIVING MEMORIAL SIGN PROGRAM

The substitute establishes the Drunk Driving Memorial Sign Program in the Department of Transportation. The department must adopt, by rules and regulations, program guidelines for the application and placement of signs, a procedure for the dedication of signs, and a procedure for the replacement or restoration of any signs that are damaged or stolen.

## LOCAL LOG TRUCKS

The area in which local log trucks and tractors can operate is expanded from 50 to 100 miles from a forested site.

## SELF-PROPELLED SPRAYERS

Self-propelled sprayers, floaters, or other forms of farm implements used for spraying chemicals or spreading fertilizer for agricultural purposes are exempt from the motor vehicle titling, registration, and licensing requirements.

## COMMERCIAL MOTOR VEHICLE ROADSIDE INSPECTIONS

The State Highway Patrol is required to establish a program to certify local law enforcement officers to enforce commercial motor vehicle laws. The certification procedures will include training, testing, on-the-job experience, data collection, and other specified components established by the Commercial Vehicle Safety Alliance (CVSA). Reasonable fees can be charged to cover the costs of training and certification.

Beginning January 1, 2008, no law enforcement officer may make an arrest, issue a citation, or conduct a commercial motor vehicle

roadside inspection to determine compliance with the applicable commercial motor vehicle laws unless the law enforcement officer has satisfactorily completed a basic training course developed by CVSA and has been certified by the patrol.

If a vehicle passes a roadside commercial vehicle inspection, the authorized enforcement official can issue the operator, driver, owner, lessee, or bailee an inspection decal which is to be affixed to the vehicle and exempts the vehicle from further inspection for three months unless the vehicle has a visible external safety defect or there is probable cause that the size or weight of the vehicle is in excess of that permitted by law.

#### LICENSE PLATES AND TABS

The substitute changes the requirements for the replacement of stolen license plate tabs. Until January 1, 2009, an individual can receive up to two sets of two license plate tabs per year by submitting a notarized affidavit that the license plate tab or tabs were stolen. After January 1, 2009, an individual must submit a copy of the police report to receive the replacement tabs.

License plates are allowed to be encased in a transparent cover if the plate is plainly visible and its reflective qualities are not impaired.

The substitute exempts any permanently disabled person 65 years of age or older from the physician's statement requirement when renewing a disabled license plate or windshield placard.

The additional fee charged for the "PURPLE HEART" special motor vehicle license plate is repealed.

#### EMERGENCY VEHICLE DEALERS

The substitute defines "emergency vehicles" and exempts dealers who sell only emergency vehicles from maintaining a bona fide place of business, including the related law enforcement certification requirements, and from meeting the minimum yearly sales.

#### LIMITATION ON ISSUANCE OF DEALER PLATES

The Department of Revenue is required to issue one distinctive dealer plate and two additional number plates to new motor vehicle manufacturers and other dealers. The fee for the two additional number plates is \$21. New motor vehicle manufacturers cannot be issued or possess more than 347 additional number plates or certificates of number annually. New and used motor

vehicle dealers, powersport dealers, wholesale motor vehicle dealers, boat dealers, and trailer dealers are limited to one additional plate or certificate of number per 10-unit qualified transactions annually. New and used recreational motor vehicle dealers are limited to two additional plates or certificate of number per 10-unit qualified transactions annually for their first 50 transactions and one additional plate or certificate of number per 10-unit qualified transactions thereafter. An applicant seeking the issuance of an initial license must indicate on his or her initial application, the applicant's proposed annual number of sales in order for the department director to issue the appropriate number of additional plates or certificates of number. Wholesale and public auctions will be issued a certificate of dealer registration in lieu of a dealer number plate.

#### USED MOTOR VEHICLE DEALER EDUCATIONAL SEMINAR

Public auto auctions and applicants currently holding a new or used dealer's license for a separate dealership will not be required to show proof of completing an educational seminar when applying for a used motor vehicle dealer's license. Also, current new motor vehicle franchise dealers and motor vehicle leasing agencies are not subject to the educational seminar requirements.

#### SATISFACTION OF A LIEN

The substitute reduces the number of days a lienholder has to release a lien from within 10 to within five business days after its satisfaction. Lienholders will be required to notify the Department of Revenue within five business days if the certificate of ownership is in its possession. Any lienholder who fails to timely comply must pay the person or persons satisfying the lien damages from \$500 to \$2,500.

#### RESIDENCE ADDRESS

The substitute defines "residence address" for purposes of driver's licenses as the location or residence within this state in which the applicant physically currently resides. Proof of address may be required in the form of voter registration or other forms established by the Director of the Department of Revenue by administrative rule.

#### SCHOOL BUS DRIVERS

The Director of the Department of Revenue must not issue or renew a school endorsement to any applicant whose driving record shows that he or she has been convicted of an intoxication-related

traffic offense while operating a school bus. A person convicted of this offense will have his or her school bus endorsement permanently denied by the court, beginning on the date of the court's order. School bus drivers will be required to notify the superintendent of the school district or the employing contractor whenever the driver receives a citation for an intoxicated-related traffic offense. Notice of the citation must be given prior to the driver resuming the operation of a school bus. Failure to notify the school district or the employing contractor of the citation will constitute a valid reason for discharging the school bus driver. The fine for driving with a revoked license while operating a school bus will be \$1,000.

#### RESTRICTED LICENSE PLATES

The substitute requires a motorist who has had his or her driver's license suspended, revoked, or disqualified for a period of more than 60 days or has been denied a license for an alcohol-related or manslaughter violation to surrender his or her license plates to the Department of Revenue. The department will then issue restricted license plates to be displayed on his or her vehicle.

Law enforcement officers will have probable cause to stop any vehicle displaying restricted plates to determine whether the driver has a valid driver's license or limited driving privileges. The registered owner of a motor vehicle who has been issued restricted plates will be prohibited from selling his or her vehicle without the permission of the department. Any vehicle acquired by the individual during the period of restriction must display the restricted plates.

#### TRAFFIC VIOLATION REVENUES

Currently, if a city, town, or village receives more than 45% of its total annual revenue from fines for traffic violations, all revenue from these violations in excess of 45% must be sent to the Department of Revenue. The substitute reduces the amount to 35% of the annual general operating revenue, but includes court costs for traffic violations in the amount. Failure to send the excess revenue to the department in a timely manner as determined by the department results in the city, town, or village being subject to an annual audit by the State Auditor.

#### COMMERCIAL DRIVERS

Applicants for a commercial driver's license (CDL) will be prohibited from using an interpreter or translator while taking the test.

A military member is not required to possess a CDL while driving a vehicle for military purposes. Currently, a military member must be driving a military vehicle to qualify for the exemption.

Any person convicted of driving while out of service will be disqualified from operating a commercial motor vehicle as specified by federal regulations.

The expungement of a minor in possession violation for a holder of a commercial driver's license or a person operating a commercial motor vehicle at the time of the offense is prohibited. No records can be expunged for a commercial driver's license holder until three years after the date of the suspension or revocation if the person was holding a commercial driver's license at the time of the offense or who has been convicted of or pled guilty to an offense where the person's blood-alcohol content is .04 or above.

Failure to appear in court or pay fines by a commercial license holder or operator of a commercial motor vehicle is included as a commercial driver's license offense requiring indefinite suspension until he or she is in compliance.

#### EMERGENCY VEHICLES

Vehicles driven by law enforcement agents of the Department of Conservation are added to the list of vehicles considered as "emergency vehicles."

#### UTILITY VEHICLES

"Utility vehicle" is defined as any motorized vehicle manufactured and used exclusively for off-highway purposes which is 63 inches or less in width, has an unladen dry weight of 1,900 pounds or less, travels on four or six wheels, and is used primarily for agricultural, landscaping, lawn care, or maintenance purposes.

No person can operate a utility vehicle upon the highways of this state except:

- (1) Governmental owned and operated vehicles for official use;
- (2) Vehicles operated for agricultural purposes or industrial on-premise purposes between the official sunrise and sunset;
- (3) Vehicles operated occasionally by handicapped persons for short distances only on the state secondary roads between the hours of sunrise and sunset;

(4) Vehicles which have been issued special permits by a city to be used on highways within the city limits by licensed drivers. The city may charge a \$15 fee for the permit; and

(5) Vehicles which have been issued special permits by a county to be used on highways within the county limits by licensed drivers. The county may charge a \$15 fee for the permit.

Individuals will be prohibited from operating a utility vehicle:

(1) In a careless way so as to endanger the person or property of another;

(2) While under the influence of alcohol or a controlled substance;

(3) Without a valid operator's or chauffeur's license;

(4) Within any stream or river except by an operator who owns the property or has permission to be on the property on which the waterway flows through or when fording a low-water crossing;

(5) At a speed of more than 30 miles per hour on a highway when permitted; or

(6) Carrying a passenger except for agricultural purposes or if the vehicle is designed with seating to carry more than one passenger.

Utility vehicles will be exempt from the titling and registration provisions.

#### FAILURE TO STOP FOR A SCHOOL BUS

The substitute increases the length of a driver's license suspension for failing to stop for a school bus from 90 to 120 days for the first offense and from 120 to 180 days for a second or subsequent offense.

#### DRIVEAWAY SADDLEMOUNT COMBINATIONS

The maximum length for a driveaway saddlemount combination is increased from 75 feet to 97 feet when operated on an interstate highway.

#### COMMERCIAL ZONES

The substitute:

(1) Establishes a commercial zone east of the city limits of



Kansas City along State Route 210 and northwest from the intersection of State Route 210 and State Route 10 to include the boundaries of the City of Excelsior Springs;

(2) Extends the commercial zone surrounding the City of St. Louis from 18 to 25 miles beyond its corporate city limits and throughout St. Louis and St. Charles counties;

(3) Extends the commercial zone of the City of Festus in Jefferson County south from the city limits along U. S. Highway 61 to the intersection of State Route 00 in St. Genevieve County; and

(4) Prohibits any motor vehicle from operating in the commercial zone of the City of St. Joseph with a weight greater than 22,400 pounds on one axle or a height over 15 feet.

#### PROCEEDING THROUGH A RED LIGHT WITH A MOTORCYCLE

The substitute creates an affirmative defense for a motorcycle rider who enters or crosses an intersection controlled by a traffic signal against a red light if the motorcycle has been brought to a complete stop, the traffic signal shows a red light for an unreasonable time, the traffic signal is apparently malfunctioning, and no motor vehicle or person is approaching or is so far away that it does not constitute an immediate hazard.

#### DELINQUENT PENALTY FEES

The delinquent penalty fee for titling a vessel, outboard motor, or documented vessel is increased from \$10 to \$25 for each 30 days of delinquency, not to exceed a total of \$250.

#### MOTORCYCLE HEADLAMP MODULATORS

The substitute allows a motorcycle headlamp to be wired or equipped to allow either its upper beam or lower beam, but not both, to modulate from a higher intensity to a lower intensity at a rate of 200 to 280 cycles per minute. A headlamp modulator installed on a motorcycle with two headlamps must be wired in a manner to prevent the headlamps from modulating at a different rate or not in synchronization with each other. A headlamp modulator installed on a motorcycle must meet the standards specified by federal law.

#### SCHOOL BUS EXEMPTION FROM CHILD PASSENGER RESTRAINT LAW

The child passenger restraint law will not apply to school buses transporting children four years of age or older regardless of whether the buses are being used for educational, religious, or

other purposes. Currently, only school buses used for educational purposes are exempt.

#### MOTOR VEHICLE SERVICE CONTRACTS

The substitute:

- (1) Defines "fronting company" as a dealer that authorizes a third-party administrator or provider to use its name or business to evade or circumvent a sale, an offer for sale, or a solicitation of the sale of a service contract to a consumer;
- (2) Allows only motor vehicle dealers and manufacturers, boat dealers, federally insured depository institutions, and licensed lenders to market or sell motor vehicle extended service contracts;
- (3) Prohibits a dealer from acting as a fronting company; and
- (4) Creates penalties for a violation of these provisions.

#### PRODUCT SERVICE CONTRACTS

The substitute:

- (1) Prohibits any person from issuing or selling a product service contract without registering and paying a fee with the Director of the Department of Insurance, Financial Institutions, and Professional Registration;
- (2) Requires providers of service contracts to maintain at least one of the following:
  - (a) A funded reserve account of at least 40% of the gross consideration received less claims paid;
  - (b) A financial security deposit with the department director of at least 5% of the gross consideration received less claims paid;
  - (c) A net worth of \$100 million; or
  - (d) A reimbursement insurance policy covering 100% of the service contract obligations;
- (3) Prohibits the collected provider fees from being subject to premium taxes and exempts the person selling the contract from other state licensing laws if all requirements are met;
- (4) Requires providers of service contracts to furnish a written statement to the consumer specifying their obligations and

conveying the terms and any restrictions. Misleading advertising is prohibited;

(5) Requires providers of service contracts to maintain accurate records of every transaction for a period of at least three years after the specified period of coverage has expired. Records must be made available to the department upon request;

(6) Prohibits insurers who issue reimbursement insurance policies from terminating a policy without notifying the department director. Insurers have the right to seek indemnification against a provider if the insurer pays amounts under the service contract that the provider was obligated to pay; and

(7) Creates penalties for a violation of the provisions of the substitute.

#### MISSOURI VEHICLE PROTECTION PRODUCT ACT

The Missouri Vehicle Protection Product Act is established relating to vehicle protection devices installed on or applied to vehicles to prevent loss or damage from a specific cause, including a warranty for the product. The substitute:

(1) Requires vehicle protection product warrantors to be registered with the Department of Insurance, Financial Institutions, and Professional Registration and to keep accurate accounts, books, and records concerning transactions regulated by the act;

(2) Prohibits a vehicle protection product warrantor from using in its name, contracts, or literature the words "insurance," "casualty," "surety," or "mutual" unless it is licensed as an insurance company;

(3) Prohibits a person from offering or selling a vehicle protection product warranty unless it clearly specifies the terms and conditions governing the cancellation of the sale and warranty; and

(4) Prohibits any person from offering or selling any vehicle protection product unless the warrantor acquires insurance under a warranty reimbursement insurance policy or maintains a net worth or stockholder's equity of \$50 million.

#### HOUSEHOLD GOODS COMMON CARRIERS

The substitute allows household goods common carriers to file applications with the Highways and Transportation Commission for

the approval of rates to reflect increases and decreases in the carrier's costs. The filing of the application will be governed by similar rules for rate adjustments requested by electrical, gas, or water companies. The substitute also repeals the exemption that currently allows intrastate household goods movers to operate wholly in municipalities, between contiguous municipalities, or commercial zones without having to obtain Department of Transportation operating authority. Currently, household movers are exempt from the rules and regulation of Chapter 390, RSMo, if their operations are restricted to those specified areas.

#### UNIFIED CARRIER REGISTRATION

The substitute authorizes the Highways and Transportation Commission to take the necessary steps to implement and administer a state plan to conform with the federal Unified Carrier Registration (UCR) Act of 2005. The UCR Act eliminates the state's registration system and replaces it with the federal UCR Agreement.

The commission may submit to the proper federal authorities, amend, and carry out a state plan to qualify as a base-state and to participate in the UCR Plan and administer the UCR Agreement. The commission is authorized to administer the registration of Missouri domiciled motor carriers, motor private carriers, brokers, freight forwarders and leasing companies, and persons domiciled in nonparticipating states who have designated Missouri as their base-state under the UCR Act; to receive, collect, process, deposit, transfer, distribute, and refund registration fees; and to enter into an agreement with any United States agency.

Every motor carrier, motor private carrier, broker, and freight forwarder and leasing company that has its principal place of business in Missouri and every person who has designated this state as his or her base-state must timely complete and file with the commission all the forms and registration fees required by the UCR.

Implementing the UCR Act will not be construed as exempting any motor carrier or any person controlled by a motor carrier from any state regulation regarding motor carriers.

The substitute also repeals provisions regarding the issuance of interstate motor carrier permits.

#### MOTOR CARRIER TRANSPORTATION INDEMNITY AGREEMENTS

The substitute makes indemnity agreements in motor carrier

transportation contracts which exempts a party for any losses from negligence or intentional acts void and unenforceable. Motor transportation contracts must not include Uniform Intermodal Interchange and Facilities Assess Agreements.

#### RENTAL VEHICLES

Any additional charges must be clearly disclosed on a rental agreement. When a rental rate is advertised, the maximum daily amount of additional charges must also be quoted.

#### MOTOR VEHICLE FRANCHISE PRACTICES

The substitute revises the definition of "motor vehicle" as it relates to motor vehicle franchise practices to include any engine, transmission, or rear axle manufactured for installation in a commercial motor vehicle with a gross vehicle weight rating over 16,000 pounds.

#### LAW ENFORCEMENT OFFICER SIGNALS

A driver is required to stop on the signal of any law enforcement officer and to obey any reasonable signal of the officer. Any person who fails or refuses to do so or who resists an officer while enforcing any infraction will be guilty of a class A misdemeanor.

#### LEAVING A CHILD IN A MOTOR VEHICLE

The substitute creates the crime of leaving a child unattended in a motor vehicle in the third degree. The offense is committed when a child 10 years of age or younger is left unattended in a motor vehicle and the child's health or safety is at risk, the engine is running, or the keys are anywhere in the passenger area of the vehicle. The offense will be a class C misdemeanor.

#### CHEMICAL BLOOD-ALCOHOL TESTS

The substitute removes the requirement that a licensed physician, registered nurse, or trained medical technician must use a nonalcoholic antiseptic for cleansing the skin prior to drawing blood for the purpose of determining the alcohol content of the blood.

#### ARREST WITHOUT WARRANTS

Currently, a law enforcement officer may make an arrest without a warrant for a driving-while-intoxicated or blood-alcohol-content violation without the offense having occurred in the officer's presence if the officer has probable cause and the arrest is made

within 90 minutes after the violation occurred. The substitute removes the time limit.

The provisions of the substitute regarding school bus drivers driving with a revoked license, the Missouri Vehicle Protection Product Act, and service contracts become effective January 1, 2008.

The substitute contains an emergency clause for the provisions regarding child passenger restraints on buses and stolen license plate tabs.

FISCAL NOTE: Estimated Effect on General Revenue Fund of an income of \$503,441 to a cost of Unknown in FY 2008, a cost of \$12,051,061 to Unknown in FY 2009, and a cost of \$8,629,748 to Unknown in FY 2010. Estimated Effect on Other State Funds of a cost of \$3,710,270 to Unknown in FY 2008, an income of \$21,307,176 to a cost of Unknown in FY 2009, and an income of \$15,956,245 to a cost of Unknown in FY 2010.

PROPONENTS: Supporters say that the bill provides clean-up language for sections relating to the State Highway Patrol and provides for local law enforcement to be certified to perform commercial vehicle inspections. The provisions requiring all fine revenue from traffic signal violations detected by automated traffic enforcement cameras to be deposited in the school fund will effectively prohibit the use of cameras in Missouri. Intersection crashes account for 11% of fatalities and 21% of disabling injuries in this state.

Testifying for the bill were Senator Stouffer; Department of Revenue; State Highway Patrol; Missouri Motor Carriers Association; Department of Transportation; Associated Industries of Missouri; Taxpayers Research Institute of Missouri; Missouri Safety Council; Dale Findlay, Missouri Coalition for Roadway Safety; Missouri Municipal League; and Missouri Dump Truckers Association.

OPPONENTS: There was no opposition voiced to the committee.