

HCS SB 716 -- TRANSPORTATION

SPONSOR: Goodman (Dixon)

COMMITTEE ACTION: Voted "do pass" by the Committee on Transportation by a vote of 11 to 1.

This substitute establishes the Political Subdivision Construction Bidding Standards Act, the Missouri State Transit Assistance Program, and the Show-Me Harvest Initiative and changes the laws regarding billboards, county highway commissions, motor vehicles, transportation, and boater's safety training.

POLITICAL SUBDIVISION CONSTRUCTION BIDDING STANDARDS ACT (Section 67.314, RSMo)

The Political Subdivision Construction Bidding Standards Act is established which creates standards for advertising, soliciting, accepting, and rejecting competitive bids and awarding construction contracts of \$10,000 or more for political subdivisions that are not covered by a specific federal, state, or local law that is equivalent or stricter in its requirements.

Regardless of any state or local law or state or federal funding requirement to the contrary, no contract for construction will be awarded in violation of the following requirements:

- (1) No bid can be opened before the advertised deadline;
- (2) No bid can be accepted unless it is sealed and in writing;
- (3) No bid can be accepted after the advertised deadline; or
- (4) All bids must be held securely and confidentially until the bids are opened in a public meeting on the date and at the time and place advertised.

A political subdivision will not be prohibited from awarding a contract without competitive bidding when deemed necessary to remove an immediate danger to public health or safety, to prevent the loss of property, or to prevent an interruption of or to restore an essential public service.

MISSOURI STATE TRANSIT ASSISTANCE PROGRAM (Section 226.195)

The Missouri State Transit Assistance Program is established to be administered by the Department of Transportation to provide financial assistance to defray the operating and capital costs incurred by public mass transportation providers. The

distribution of any appropriated funds must be determined by evaluating certain factors of each service provider including population, ridership, cost and efficiency of the program, availability of alternative transportation in the area, and local efforts and tax support.

#### BILLBOARDS (Sections 226.540 and 226.541)

The substitute:

(1) Allows local authorities to adopt regulations regarding billboard size, lighting, and spacing provisions that are more restrictive than state law if they are reasonable, allow for customary industry usage, and comply with the intent of the provisions of the substitute. Local regulations cannot have the intent or effect of prohibiting billboards on commercial or industrial property within 660 feet of certain highways. If a court rules that a local regulation is prohibitive, unreasonable, or fails to allow for customary industry usage, the statutory state requirements will apply until a valid ordinance is adopted by the local zoning authority;

(2) Prohibits the Highways and Transportation Commission within the Department of Transportation from issuing new state sign permits after the date the commission approves funding for any phase or portion of construction or reconstruction of a street or highway until the completion of the project and requires all existing signs to conform to the requirements for outdoor advertising in effect on August 27, 1999;

(3) Allows an owner of an existing sign who meets all state requirements for outdoor advertising in effect on August 27, 1999, and the federal/state agreement and who voluntarily executes a partial waiver and reset agreement with the commission to reset a sign on the same or adjoining property as long as the owner obtains the necessary local approval. An owner entering into a reset agreement with the commission will receive compensation for the actual cost of resetting the sign. A sign must be reconstructed with the same type of materials and cannot exceed the square footage of the original sign;

(4) Allows a sign owner 120 days from receiving a written notice that a sign will be displaced by construction to execute a reset agreement. If an owner fails to execute an agreement, the commission has the right to initiate normal condemnation procedures for the compensated removal of the sign;

(5) Allows a local zoning authority to prohibit an owner from resetting a qualifying sign that does not comply with local regulations but requires the local authority to reimburse the

commission for the cost to condemn the sign less the cost to reset the sign; and

(6) Requires all signs to be subject to the biennial inspection fees under Section 226.550.

#### SHOW-ME HARVEST INITIATIVE (Section 226.1120)

The Show-Me Harvest Initiative is established which allows persons or entities to submit bids to the Highways and Transportation Commission to mow grass or vegetation along state roadways using the person's or entity's own equipment. In addition to receiving monetary compensation for the work, the person or entity will receive hay rights for the portion of the roadway in the contract.

The commission may enter into contracts with persons or entities to plant and harvest switchgrass or other grasses or produce approved by the commission on the right-of-way of any state roadway. These contracts will be for a period of at least five years.

#### COUNTY HIGHWAY COMMISSIONS (Section 230.220)

The substitute changes the compensation for a member of the county highway commission who is not also a member of the county's governing body from \$15 per day for the first meeting of each month and \$5 for each additional meeting during the month to an amount per meeting as established by the county's governing body. The mileage allowance for these members is also changed from eight cents per mile actually and necessarily traveled in the performance of their duties to the same amount per mile received by the members of the county's governing body. Members of the commission who are also members of the county's governing body will not receive any compensation or mileage allowance for their service to the commission.

#### TRANSPORTATION DEVELOPMENT DISTRICTS (Sections 238.202, 238.208, 238.220, 238.225, 238.232, and 238.236)

The substitute specifically includes public mass transportation systems as transportation development district projects to the provisions of the Missouri Transportation Development District Act. Special requirements are established for the formation of a transportation development district (TDD) to operate a public mass transportation system. Currently, owners of property adjacent to a TDD may petition the court by the unanimous approval of the owners to add their property to the district and the property must be added to the district. The substitute specifies that the unanimous approval requirement will not apply

to any TDD formed by a local transportation authority to operate a public transportation system, and the court must add the adjacent property in the petition upon the approval and consent of the TDD's board of directors.

The board of directors for a district formed by local transportation authorities to operate a public mass transportation system must consist of between three and five members appointed by the chief executive officer of each local transportation authority. Any director appointed by a chief executive officer may be removed by the officer at any time with or without cause. The Highways and Transportation Commission is prohibited from appointing advisers to these boards, and these districts are not required to submit their proposed project plans to the commission for its approval.

Real property taxes for TDDs will not be considered payment in lieu of taxes as it relates to the Real Property Tax Increment Allocation Redevelopment Act, and tax revenues derived from the property taxes will not be subject to allocation under the provisions of the act. The sales tax for these districts must not be considered economic activity taxes as it applies to the statutes regarding tax increment financing and are not subject to allocation by those statutes. The Transportation Development District Sales Tax Trust Fund is created to deposit the sales tax revenues generated by these TDDs.

#### SAFELY PASSING BICYCLE RIDERS (Sections 300.411 and 304.678)

Currently, a motor vehicle driver who is overtaking a bicycle is required to leave a safe distance when passing the bicycle. The substitute requires a driver to pass safely at a distance of not less than three feet. Any driver violating this provision will be guilty of an infraction unless he or she intentionally violates the provision or causes an accident, in which case, he or she will be guilty of a class C misdemeanor.

#### SCRAP PROCESSORS (Sections 301.010 and 301.218)

The substitute makes technical changes to the terms "scrap processor" and "vanpool" as used in Chapter 301, and the definition of "mobile scrap processor" is changed to reflect that these processor are not mobile.

#### FLEET VEHICLE REGISTRATION (Section 301.032)

Currently, a fleet vehicle must be registered with the Department of Revenue during April of each year. The substitute requires the vehicle to be registered during April of the corresponding year of the vehicle's model year. Currently, a fleet owner may

apply for fleet license plates bearing a company name or logo. The substitute allows a fleet owner of at least 50 fleet vehicles to apply for fleet license plates bearing a company name or logo. The size and design of the plate is subject to the approval of the Director of the Department of Revenue.

#### DRIVEAWAY LICENSE PLATES (Section 301.069)

The substitute specifies that a driveaway license plate can only be used by an owner, corporate officer, or employee of a business to which the plate was issued. An applicant for a driveaway license plate must provide the business name, address, telephone number, business owner's full name, birth date, driver's or nondriver's license number, home address, home telephone number, signature, printed name of the business owner or person making the application, and a statement explaining the usage of the driveaway plate. The applicant must also provide proof of financial responsibility sufficient to cover each motor vehicle the applicant will operate during the registration period. If any of the information provided in the application changes, the applicant must report the change to the Department of Revenue within 10 days of the change. Any violation will result in the revocation of the applicant's driveaway license, and anyone knowingly using a revoked license plate will be guilty of a misdemeanor.

#### PROPERTY-CARRYING COMMERCIAL MOTOR VEHICLE LICENSE PLATES (Section 301.130)

Currently, property-carrying commercial motor vehicles are only issued one license plate. The substitute allows the owner of one of these vehicles to request and be issued two plates. The Director of the Department of Revenue may assess and collect an additional fee for the second plate that cannot exceed the fee for a personalized license plate.

#### DISABLED LICENSE PLATES OR PLACARDS (Section 301.142)

The substitute adds physician assistants to the list of authorized health care practitioners who are able to provide a physician's statement to obtain a disabled license plate or placard.

#### SALVAGE VEHICLES (Section 301.196)

The substitute removes the salvage title exemption from the requirement of a seller to notify the Department of Revenue within 30 days of a sale.

#### DEALER SALES REPORTS (Section 301.280)

The substitute requires certain records of a dealer or person operating a public garage to be kept for five years instead of the current three years and specifies that any dealer who knowingly makes a false statement or omits a material fact in a monthly sales report to the Department of Revenue will be guilty of a class A misdemeanor.

#### PRODUCTION OF TABS FOR DEPARTMENT OF REVENUE (Section 301.290)

Missouri Vocational Enterprises within the Department of Corrections is authorized to continue making registration tabs for the Department of Revenue. Currently, it will no longer make the tabs as of January 1, 2011.

#### SURRENDER OF FRAUDULENT DEPARTMENT OF REVENUE DOCUMENTS (Section 301.423)

If the Director of the Department of Revenue or his or her designated representative reasonably believes that a certificate of ownership, a license plate, or a license plate tab was obtained fraudulently, any person in possession of the item must surrender it to the department director, or his or her designated representative, upon request. Any person failing to do so will be guilty of a class A misdemeanor.

#### MOTOR VEHICLE FRANCHISE DEALERS (Section 301.560)

The substitute requires every application for a motor vehicle franchise dealer to include an annual certification that the applicant has an established place of business. Currently, dealers are only required to submit this certification for the first three years and every other year thereafter. The applicant must possess a working telephone or cellular phone. Currently, the place of business must have a working telephone.

The substitute also removes the requirement for a trailer dealer to include proof of a current dealer garage liability insurance policy with his or her application for a trailer dealer license.

#### ONLINE AUTOMOBILE AUCTIONS (Section 301.561)

The substitute allows a public motor vehicle auction to sell motor vehicles through an Internet auction without the services of a licensed auctioneer. The auction may sell vehicles through the Internet that are not located at its licensed place of business.

#### OPERATING AS A MOTOR VEHICLE DEALER WITHOUT A LICENSE (Section 301.570)

A person, partnership, corporation, company, or association that has a second or subsequent conviction of selling six or more vehicles in a calendar year without a vehicle dealers license with certain exceptions will be guilty of a class D felony. Currently, any violation is a class A misdemeanor.

#### REVOCATION OF A BUSINESS LICENSE (Section 301.572)

If the Director of the Department of Revenue or his or her designated representative determines that the place of business of a licensed motor vehicle dealer or manufacturer, boat dealer or manufacturer, public or wholesale motor vehicle auction, or wholesale motor vehicle dealer is uninhabited or abandoned, he or she must send a notice of the determination by certified mail stating that if the licensee fails to respond within 30 days, the license of the business will be revoked. Upon failure to respond, the license will be immediately revoked and all dealer plates and unused temporary permits will immediately revert back to the department.

#### SPECIAL EVENT MOTOR VEHICLE AUCTION LICENSES (Section 301.580)

The Department of Revenue is authorized to issue a special event motor vehicle auction license to an applicant for the purpose of auctioning motor vehicles if 90% or more of the vehicles are 10 years old or older and the duration of the event is no more than three consecutive days and is held no more than two times in a calendar year by the same licensee. A report must be sent to the department director within 10 days of the conclusion of the auction on a department-approved form specifying the make, model, year, and vehicle identification number of every vehicle included in the auction. Anyone violating this provision will be guilty of a class A misdemeanor and will be charged a \$500 administrative fee payable to the department for each vehicle auctioned in violation of this provision.

A special event motor vehicle auction will be considered a public auction for the purposes of licensing and inspection of certain documents and odometer readings; however, the licensee will not be required to have a bona fide established place of business. Applications to hold an auction must be received by the department at least 90 days prior to the beginning of the event.

Applicants must be registered to conduct business in this state, pay a licensing fee of \$1,000, and be bonded or have an irrevocable letter of credit in the amount of \$100,000. Applicants will be responsible for ensuring that a sales tax license or special event sales tax license is obtained if required.

#### DRIVER'S LICENSE APPLICATION INFORMATION (Section 302.183)

Currently, the sale of driver's license application information to other organizations or states for commercial purposes is prohibited except for certain specified exceptions. The substitute specifies that "commercial purposes" will not include driver's license application information used, compiled, or obtained solely for purposes expressly allowed under the Missouri or federal Drivers Privacy Protection Act.

#### UNLAWFUL USE OF LICENSES (Sections 302.220 and 302.230)

A nondriver identification card is added to the provisions regarding the forms of identification that are unlawful to possess or display if it has been canceled, suspended, or revoked or if the Director of the Department of Revenue has reasonable suspicion to believe that it is fictitious. The department director is authorized to prosecute anyone who knowingly makes a false statement regarding a driver's license or commercial driver's license within one year, but no later than six years, after the department director first discovers the falsity.

#### FINES AND COURT COSTS FOR TRAFFIC VIOLATIONS (Section 302.341)

Currently, if any city receives more than 35% of its annual gross general operating revenue from fines and court costs for traffic violations occurring on state highways, all revenues in excess of the 35% threshold are distributed to the county schools. The substitute specifies that when determining a city's gross general operating revenue from fines and court costs, traffic violations will include moving and nonmoving violations and any moving violations that are pled or amended to nonmoving traffic violations.

#### NONRESIDENT MOTORIST FINANCIAL RESPONSIBILITY

The substitute requires a nonresident motorist operating a vehicle within the state to maintain financial responsibility that meets the requirements of his or her state. Anyone who violates this provision will be guilty of a class C misdemeanor.

#### STORAGE FEES FOR TOWED VEHICLES (Section 304.161)

The substitute limits the fees that may be charged for storing a towed vehicle, other than a commercial motor vehicle, to charges that are reasonable and not excessive. Complaints of excessive charges are to be reported to the Attorney General for investigation, review, and determination. If the Attorney General determines the charges are excessive, it will be considered an unlawful trade practice.



#### LEFT LANE VIOLATIONS (Section 304.705)

The substitute increases the penalty for left lane truck violations in St. Charles County from an infraction to a class C misdemeanor. If the left lane violation causes the immediate threat of an accident, the penalty is increased from a class C misdemeanor to a class B misdemeanor.

#### BOATERS SAFETY COURSE REQUIREMENTS (Sections 306.127)

The substitute allows a person born after January 1, 1984, or who has committed certain boating offenses to have a Missouri driver's license or nondriver's license with an endorsement from the State Water Patrol of successfully meeting the requirements of a boating safety course in lieu of the required boater safety identification card in order to operate a boat on a lake in Missouri. The substitute also allows a nonresident born after January 1, 1984, to continue to obtain a temporary boater education permit to operate a rental vessel on the lakes of the state by passing a written examination. Currently, after December 31, 2010, a nonresident will no longer be able to obtain a temporary boater education permit. The substitute also removes the provision which requires the water patrol to inform other states of these provisions.

#### REPEAL OF CURRENT PROVISIONS (Sections 226.095 and 301.129)

The substitute repeals the provisions which currently require the Department of Transportation to submit to binding arbitration in negligence cases and the provisions regarding an advisory committee which has been dissolved on the development of license plates.

The provisions regarding scrap processors, fleet vehicles, driveaway license plates, salvage vehicles, dealer sales reports, motor vehicle franchise dealers, and dealers operating without a license become effective January 1, 2011.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$3,259 in FY 2011, \$3,911 in FY 2012, and \$3,911 in FY 2013. Estimated Income on Other State Funds of Unknown greater than \$803,256 in FY 2011, Unknown greater than \$809,687 in FY 2012, and Unknown greater than \$809,687 in FY 2013.

PROPOSERS: Supporters say that the bill will allow for speciality automobile auctions to be licensed differently than other automobile auctions in Missouri. Currently, specialty auctions must be licensed for an entire year and maintain a physical office in the location of the auction.

Testifying for the bill were Senator Goodman; and Department of Revenue.

OPPONENTS: There was no opposition voiced to the committee.