

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4277-03
Bill No.: SCS for SB 443
Subject: Motor Vehicles; Revenue Department; Licenses motor Vehicles; Drunk Driving/
Boating; Licenses - Driver's
Type: Original
Date: January 13, 2012

Bill Summary: This proposal modifies the law with respect to the regulation of motor vehicles.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	Up to (\$17,040)	\$0	\$0
Total Estimated Net Effect on General Revenue Fund	Up to (\$17,040)	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Road Fund	\$0 or \$19,600,000	\$0 or \$19,600,000	\$0 or \$19,600,000
Highway Safety Fund	\$0 or (19,600,000)	\$0 or (19,600,000)	\$0 or (19,600,000)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 11 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator, Department of Public Safety - Missouri Highway Patrol and Joint Committee on Administrative Rules** each assume the proposal will have no fiscal impact on their respective organizations.

In response to a previous version of this proposal, officials from the **Department of Public Safety - Directors Office**, assumed any cost associated with this proposal could be absorbed with existing resources.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Section 302.309 & 577.023

Officials from the **Department of Transportation (DHT)** state Title 23 United States Code (USC) Section 164 outlines provisions that must be included in a state's repeat intoxicated driver law and requires a transfer of 3% of the state's federal-aid highway funds if the state has not enacted or is not enforcing a repeat intoxicate driver law that meets Section 164's requirements. A statute change from the 2010 legislative session (SS SCS HCS HB 1695, 1742, & 1674) put the state out of compliance with 23 USC 164 (mandatory jail time/community service and limited driving privileges for repeat offenders).

ASSUMPTION (continued)

DHT requested a legal review by the National Highway Traffic Safety Administration to ensure SB 443 puts state statute back into compliance with 23 USC 164. Officials from the National Highway Traffic Safety Administration have reviewed this version of the bill and have notified DHT that passage of SB 443 would fulfill federal requirements. Therefore, passage of SB 443 would reverse the penalty transfer of approximately \$19.6 million. This would give DHT more flexibility in expending these funds.

Oversight will range the fiscal impact of the proposal from \$0 (legislation would not impact Missouri's compliance with federal code) to the \$19.6 million penalty avoidance stated by DHT.

Officials from the **Department of Revenue (DOR)** state this proposal would require the Department and Courts to eliminate the available "medical treatment" purpose for a limited driving privilege (LPD) and would also remove the "undue hardship" provisions for granting limited driving privileges that would currently allow an applicant to drive a vehicle to additional locations or for additional purposes. This additional scope of driving on a limited privilege, upon application and a specific showing of "undue hardship," is currently at the discretion of the Department or the Court. This exceeds what the federal requirements would permit for compliance. It would also require the Department to enforce a 45-day "hard walk" period for Section 302.304 point revocations for drivers triggered by second or subsequent Driving While Intoxicated (DWI), Blood Alcohol Content (BAC) or Driving Under Influence of Drugs (DUID) convictions. This will require programming and testing of the Missouri Driver License system as well as updates to procedures and training of staff.

DOR states the administrative impact for Section 302.309 include, system modifications regarding the changes to Limited Driving Privileges, draft updates to web site information on Limited Driving Privileges, updating office procedures and additional training of personnel.

DOR's Drivers License Bureau (DLB) estimates 160 hours of system testing for one Management Analysis Specialist II (at \$23 per hour or \$3,680) and the same for one Administrative Analyst I (at \$16 per hour or \$2,560). DOR also assumes the need for 160 hours of work for a Revenue Band Manager (\$30 per hour or \$4,800), 40 hours of work for two Management Analysis Specialist I for forms and Internal Procedure development (each at \$20 per hour or \$1,600) and 10 hours for an Administrative Analyst III for web page updates (at \$22 per hour or \$220).

The Information Technology Services Division (OA-ITSD DOR) state there will be IT programming (DL) cost for 40 hours of work at \$26.50 per hour equaling \$1,060.

ASSUMPTION (continued)

In summary, DOR assumes a cost of \$13,920 in FY 2013 to provide for the implementation of the changes in this part of the proposal.

Section 302.341

Officials from the **Department of Revenue** assume this section proposes changes to meet federal commercial driver license requirements relating to failure to appear in court actions. The proposed change indicates these actions cannot be removed from the record upon reinstatement if the applicant was operating a commercial motor vehicle at the time of the offense or is a commercial driver license holder.

Officials from DOR assume applications will need to be modified by a Management Analyst Specialist II requiring 80 hours of overtime (at \$23 per hour or \$1,840) and the same for an Administrative Analyst (at \$16 per hour or \$1,280).

DOR states the administrative impact for Section 302.341 will require the Department to modify the Missouri Driver License system and supporting applications related to failure to appear actions and complete end user testing of all changes.

In summary, DOR assumes a cost of \$3,120 (\$1,840 + \$1,280) in FY 2013 to provide for the implementation of the changes in this proposal.

Section 302.700 & 302.768

Officials from the **Department of Transportation** state the enactment of these changes to Missouri's CDL statutes will be necessary to bring this State into compliance with the Federal mandate prescribed by 49 USC Section 31311 (a) (1) and (21), section 31309 (e) (4) and Section 31305 (a) (7); and 49 CFR 383.73 and Section 384.301.

If not enacted, Missouri's federal-aid highway funds are subject to withholding in the amounts of \$30 million the first fiscal year and \$60 million the second year and thereafter.

Oversight assumes Missouri will be in compliance with the mandated provisions and will assign no cost for sanctions.

ASSUMPTION (continued)

Officials from the **Department of Revenue** state this section proposes new definitions and modifications to current definitions related to commercial driver license requirements to comply with Federal Motor Carrier Safety regulations and support the implementation of the federal rule labeled “Medical Certification Requirements as part of the Commercial Driver License (CDL)”.

DOR states cost associated with development and implementation of the proposed medical certification program (Section 302.700) will be absorbed as part of a system upgrade project and through federal funds.

Section 302.768

Officials from the **Department of Revenue** state this proposes a new section to support the implementation of Federal Motor Carrier Safety Regulation changes defined in a finalized federal rule affecting 49 CFR Parts 383, 384, 390 and 391 labeled “Medical Certification Requirements as part of the CDL”. This section requires commercial driver license applications to complete certain self certifications and submit required medical certification documents when applicable. The state must capture and store data related to drivers who are required to submit proof of medical certification. These certifications must be updated at least every two years based on federal requirements. The state must store and pass this data to law enforcement, commercial motor vehicle enforcement and other states.

DOR assumes the cost associated with development and implementation of the proposed medical certification program will be absorbed as part of a pending system upgrade project. The Department will continue to seek federal funds to notify Commercial Drivers of the new requirements, however if federal funding is not provided, DOR will require the following state funds in order to notify the 300,000 drivers:

FY 14

Printing Cost (per 1,000)	300 @ .076 =	\$22.80
Letters	300,000 @ .025 =	\$7,500.00
Envelopes	300,000 @ .04 =	\$12,000.00
Postage	300,000 @ .45 =	<u>\$135,000.00</u>
	Total =	\$154,522.80

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ASSUMPTION (continued)

DOR stated they have been approved for a federal grant to implement the new federal requirements; however, DOR stated they cannot use the grant monies for notification. Therefore, **Oversight** assumes that DOR is not required by this proposal to notify a licensee of this new federal licensing requirement. The notification upon license renewal could be an option.

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb some of the personal service cost related to this proposal. Oversight assumes some of DOR's anticipated work hours could be performed during the normal work day and not create an additional expense to their budget; therefore, Oversight will range the cost to DOR as 'up to \$17,040'.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
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GENERAL REVENUE

Costs - Department of Revenue

Administrative changes to prepare for updates in the proposal	<u>Up to (\$17,040)</u>	<u>\$0</u>	<u>\$0</u>
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**ESTIMATED NET EFFECT TO THE
GENERAL REVENUE FUND**

<u>Up to (\$17,040)</u>	<u>\$0</u>	<u>\$0</u>
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ROAD FUND

<u>Savings</u> - more Federal funding could be utilized by this fund if Missouri becomes compliant	\$0 or <u>\$19,600,000</u>	\$0 or <u>\$19,600,000)</u>	\$0 or <u>\$19,600,000</u>
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**ESTIMATED NET EFFECT TO THE
ROAD FUND**

<u>\$0 or \$19,600,000</u>	<u>\$0 or \$19,600,000</u>	<u>\$0 or \$19,600,000</u>
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<u>FISCAL IMPACT - State Government</u> (continued)	FY 2013 (10 Mo.)	FY 2014	FY 2015
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HIGHWAY SAFETY FUND

<u>Loss - more Federal funding could be utilized by the Road Fund if Missouri becomes compliant</u>	\$0 or <u>(\$19,600,000)</u>	\$0 or <u>(\$19,600,000)</u>	\$0 or <u>(\$19,600,000)</u>
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ESTIMATED NET EFFECT TO THE HIGHWAY SAFETY FUND	\$0 or <u>(\$19,600,000)</u>	\$0 or <u>(\$19,600,000)</u>	\$0 or <u>(\$19,600,000)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Commercial drivers could be impacted by this proposed legislation.

FISCAL DESCRIPTION

This act modifies various provisions relating to the regulation of motor vehicles.

INTOXICATION-RELATED TRAFFIC OFFENSES - Current state law (Section 302.309.3(2)) allows courts and the Department of Revenue to issue limited driving privileges to allow repeat offenders to drive a motor vehicle to: (1) a business, occupation or employment; (2) medical treatment; (3) school; (4) alcohol or drug treatment programs; (5) an ignition interlock provider for required service; and (6) other circumstances the court or the department finds would create an undue hardship. However, for purposes of federal transportation funding, federal law (23 USC §164) only allows the issuance of a limited driving privilege in connection with: (1) work; (2) attending school; (3) attending alcohol treatment programs; and (4) seeking the required services of an ignition interlock provider. In order to comply with federal law, Section 302.309.3(2) must be amended so that a repeat offender limited driving privilege may only be granted for the four purposes authorized by Section 164. Under the terms of this act, the courts and the department will only be able to issue limited driving privileges to repeat offenders for the purpose of driving to or from the operator's place of employment, attending school, attending alcohol or drug

FISCAL DESCRIPTION (continued)

treatment programs, and seeking the services of a certified ignition interlock device provider. Limited driving privileges may not be granted for seeking medical treatment or other circumstances that create undue hardships for the driver.

This act also modifies the "hard walk" provision contained in Section 302.309.3(6)(a) from 30 days to 45 days in cases of a revocation so that certain repeat offenders will not be eligible for a limited driving privilege until such person has completed the first 45 days of the revocation.

Current Missouri law (Section 577.023) allows prior and persistent offenders to participate in and successfully complete a DWI court in lieu of jail time or community service. A prior or persistent offender may escape the statutory minimum days of imprisonment by performing community service or successfully completing a DWI court program. Federal law, however, does not authorize DWI courts as an alternative to mandatory jail or community service. Under the terms of this act, prior and persistent offenders may avoid the minimum days of imprisonment by performing community service and completing a DWI court program, if such program is available. The DWI court program or other treatment program must include the minimal periods of community service.

Currently, as an alternative to imprisonment, a prior offender of an intoxication-related traffic offense can perform at least 30 days of community service as one condition of being eligible for parole or probation and a persistent offender can perform at least 60 days of community service. This act specifies that a prior offender must perform at least 30 days involving at least 240 hours of community service and a persistent offender must perform at least 60 days involving at least 480 hours of community service. These provisions are also contained in HB 199 (2011).

The intoxication-related offenses provisions are also contained in the truly agreed to version of HB 430 (2011) and SS/SCS/SB 254 (2011).

FAILURE TO APPEAR IN COURT- Under current law, if a person fails to timely dispose of a traffic ticket, the court will notify the director of revenue of such fact and the director will suspend the offender's driver's license until such time the person settles the matter by paying the fines and applicable court costs. Upon proof of disposition of the charges, and payment of a reinstatement fee, the director will return the license and remove the suspension from the person's driver's record. This act modifies this provision so that a commercial motor vehicle operator or a holder of a commercial driver's license will not be eligible to have such a suspension removed from his or her driving record (Section 302.341). This provision is also contained in the truly agreed to version of HB 430 (2011) and HCS/HB 818 (2011).

FISCAL DESCRIPTION (continued)

UNIFORM COMMERCIAL DRIVER'S LICENSE ACT - This act adds new definitions to Uniform Commercial Driver's License Act (Sections 302.700 to 302.780) and makes modifications to current definitions relating to commercial driver license requirements to comply with Federal Motor Carrier Safety regulations and support the implementation of the federal rule labeled "Medical Certification Requirements as part of the CDL". The act revises the definition section by adding the following terms:

- 1) CDLIS driver record;
- 2) CDLIS motor vehicle record;
- 3) Commercial driver's license downgrade;
- 4) Driver applicant;
- 5) Employee;
- 6) Endorsement;
- 7) Foreign;
- 8) Medical examiner;
- 9) Medical variance (Section 302.700). This provision is also contained in the truly agreed to version of HB 430 (2011) and in HCS/HB 818 (2011).

CDL MEDICAL CERTIFICATION COMPLIANCE - This act implements a Federal Motor Carrier Safety Regulation known as "Medical Certification Requirements as part of the CDL". This act requires commercial driver license applicants to complete certain self certifications and submit required medical examiner certification documents when applicable. The act specifies the certification process. Applicants certifying to the operation in nonexcepted interstate or nonexcepted intrastate commerce must provide the state with an original or copy of a current medical examiners certificate. The state is required to maintained such documents for a period of 3 years beyond the date the certificate was issued. The act requires applicants to provide updated medical certificates or variance documents in order to maintain commercial motor vehicle driving privileges. The director must post the medical examiners certificate information to the driver record within 10 calendar days of receipt and the information will become part of the CDLIS driver record. Under the act, any person who falsifies any information in an application for or an

FISCAL DESCRIPTION (continued)

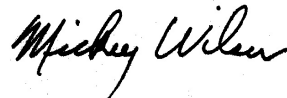
update of medical certification status information shall not be licensed to operate a commercial vehicle or the person's commercial driver's license must be canceled for a period of one year after the director discovers the falsification. This provision is also contained in the truly agreed to version of HB 430 (2011), HCS/HB 818 (2011) and HB 820 (2011) (Section 302.768).

The CDL medical certification compliance sections (Section 302.200 and 302.768) shall become effective on the date the director begins accepting commercial driver license medical certifications or on May 1, 2013, whichever occurs first.

This legislation is federally mandated, would no duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Revenue
Office of the State Courts Administrator
Department of Public Safety
Department of Transportation
Office of the Secretary of State



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Director
January 13, 2012