

## HCS SCS SB 626 -- ACCOUNTABILITY

SPONSOR: Kehoe (Riddle)

COMMITTEE ACTION: Voted "do pass" by the Committee on General Laws by a vote of 10 to 3.

This substitute changes the laws regarding interest rates and product liability.

### INTEREST RATES

The substitute changes the laws regarding the application of a specific interest rate. The interest rate will be the adjusted prime rate charged by banks as determined by the Department of Revenue or the adjusted prime rate plus 1% for certain interest rates used by the Director of the Department of Revenue, late payments by the state for supplies and services, late payments by public entities to contractors, repayment of teaching degree scholarships, workers' compensation benefit payments, delinquent workers' compensation taxes, nursing student loans, creditor claims on written contracts that did not specify the rate of interest, judgments in tort cases, securities litigation, loans to political subdivisions for alternative fuel vehicles, failure to pay the odorized propane assessment, certain payments by and to the Land Reclamation Commission within the Department of Natural Resources, unclaimed property that the holder fails to pay the State Treasurer, overpayments by the Department of Mental Health to vendors, and judgments against air contaminant sources that have not paid fees.

### PRODUCT LIABILITY

The substitute specifies that a manufacturer or seller of a product cannot be held liable in any product liability action where a proximate cause of the personal injury, death, or damage to property was the material alteration of the product by a person not in the business of selling the product or using it as a component. This includes any alteration which changes the product from the original designed state from the manufacturer or a substitution of parts that do not conform to the manufacturer's specifications. These provisions do not apply to any action arising out of a defective or unsafe condition of any improvement to real property.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Unknown in FY 2013, FY 2014, and FY 2015. Estimated Net Cost on Other State Funds of \$353,789 in FY 2013, FY 2014, and FY 2015.

PROPONENTS: Supporters say that the bill is good for the state's

manufacturers, because it protects them from liability when consumers materially alter their product in a manner which makes them unsafe.

Testifying for the bill were Senator Kehoe; Farm Equipment Manufacturers Association; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; Missouri Grocers' Association; and Missouri Retailers Association.

OPPONENTS: Those who oppose the bill say that the bill is harmful to consumers and not needed because the issue of liability in this context is provided for already. Courts should be deciding cases involving this issue. Jury instructions in a strict liability case require proof that the product was in the same condition as when it was manufactured. Modifications that are foreseeable are often litigated, and engineers are taught to make a product safe for foreseeable use and misuse.

Testifying against the bill was Steve Garner, Missouri Association of Trial Attorneys.