

SS SCS SB 1233, 840 & 1043 -- MOTOR VEHICLES

SPONSOR: Dolan (Schlottach)

COMMITTEE ACTION: Voted "do pass" by the Committee on Transportation and Motor Vehicles by a vote of 20 to 0.

This substitute changes the laws regarding motor vehicles.

DRIVEAWAY OPERATIONS

The substitute modifies the definition of "driveaway operation" to include the transporting of vehicles from one place to another by driveaway or towaway methods or by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not their own or vehicles that are required to be registered by the driveaway or towaway methods from the point of manufacture, assembly, or distribution or from the owner of the vehicle to a dealer or sales agent of the manufacturer or to any consignee designated by the shipper or consignor.

Driveaway license plates may only be used for the purpose of transporting vehicles and may not be used by tow truck operators moving wrecked, disabled, abandoned, improperly parked, or burned vehicles.

The substitute also extends the area of operation for land improvement contractors' commercial motor vehicle from 25 miles to 50 miles when transporting its owner's machinery, equipment, or supplies to and from projects involving soil and water conservation or to and from the dealer for maintenance.

MOTOR VEHICLE REGISTRATIONS

Beginning July 1, 2005, the substitute allows the Director of the Department of Revenue to refuse to issue or renew a motor vehicle registration if the owner owes vehicle-related fees or fines to the cities of St. Louis or Kansas City.

The substitute specifies the notification and appeals process.

TRAFFIC FINES IN KANSAS CITY

The substitute allows the City of Kansas City to collect traffic fines, parking fines, towing and vehicle immobilization fees, and the associated penalties and court costs at the same time as a taxpayer's personal property taxes.

ANNUAL REGISTRATION FEES

The substitute changes the laws regarding annual registration fees on passenger motor vehicles by removing all references to horsepower ratings and charging a uniform fee of \$29.75. The substitute removes the references relating to commercial motor vehicles having a gross weight of 12,000 pounds or less and places these vehicles in the same category as those having the \$29.75 registration fee.

REISSUANCE OF LICENSE PLATES

The substitute requires the department, beginning January 1, 2007, to issue new license plates. The department may charge a fee, up to \$2.50 or \$1.25 for vehicles requiring a single plate, to cover the cost of reissuance. The substitute establishes an advisory committee within the department to design new plates. The advisory committee will consist of the Director of the Department of Revenue, the Superintendent of the State Highway Patrol, the Missouri Vocational Enterprises Administrator, and the chairpersons of the Senate and House of Representatives transportation committees. The committee must hold at least three public meetings around the state and must adopt the final design by April 1, 2006.

PERSONALIZED LICENSE PLATES

The substitute removes the restriction that personalized plates not exceed six characters in length and increases the personalization fee from \$15 to \$25. The substitute adds language regarding the type of vehicles that can display personalized license plates and changes the requirement that a temporary permit instead of a stock plate be issued for 30 - 60 days until the personalized license plate is available.

SPECIAL LICENSE PLATES

The substitute allows for the issuance of the following special license plates:

- (1) "TO PROTECT AND SERVE" for peace officers wounded in the line of duty, or surviving spouses, parents, brothers, sisters, or children of a peace officer killed in the line of duty;
- (2) "AG IN THE CLASSROOM" for supporters of the Missouri Farm Bureau's Missouri's Agriculture in the Classroom Project;
- (3) "FIREFIGHTERS MEMORIAL" for firefighters wounded in the line of duty, or surviving spouses, parents, brothers, sisters, or children of a firefighter killed in the line of duty;
- (4) "U.S. VET" for honorably discharged veterans to obtain motor

vehicle license plates. The substitute also removes the requirement from the U.S. VET motorcycle plate provision that the person must have served during a period of war;

(5) "FOXTROTTER - STATE HORSE" for members of the Missouri Foxtrotting Horse Breed Association;

(6) "MISSOURI STATE SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION" for members of the Missouri State Society Daughters of the American Revolution;

(7) "FRIENDS OF KIDS WITH CANCER" for supporters of the Friends of Kids with Cancer organization;

(8) "SPECIAL OLYMPICS MISSOURI" for supporters of Special Olympics Missouri;

(9) "MISSOURI SOCIETY OF PROFESSIONAL ENGINEERS" for members of the Missouri Society of Professional Engineers;

(10) "BE AN ORGAN DONOR" for supporters of the Organ Donor Program Fund;

(11) "ALPHA PHI OMEGA" for members or alumni of Alpha Phi Omega;

(12) "SEARCH AND RESCUE" for members of the Search and Rescue Council of Missouri;

(13) "FORMER MISSOURI LEGISLATOR" for former members of the Missouri legislature;

(14) "STREET ROD, STATE OF MISSOURI" and "REPLICA" for owners of street rods and custom vehicles;

(15) "BOY SCOUTS OF AMERICA," "GIRL SCOUTS OF AMERICA," and "GOLD AWARD" for supporters of these scouting programs;

(16) "CAMP QUALITY - FUN FOR KIDS WITH CANCER" for supporters of Camp Quality of Missouri;

(17) "The MASTERS" for members of the Missouri Association of State Troopers Emergency Relief Society; and

(18) "NAACP" for members of the National Association for the Advancement of Colored People.

The substitute also allows for a Lewis and Clark license plate for supporters of the Missouri Travel Council and makes changes to the "AMATEUR RADIO," "KINGDOM OF CALONTIR," and "CHILDREN'S TRUST FUND" license plates.

SALVAGE MOTOR VEHICLES

The substitute revises the definition of "salvage vehicle" to include any motor vehicle, semitrailer, or house trailer which has been damaged to the extent that the total cost of repairs to rebuild the vehicle to its condition immediately before it was damaged exceeds 75% of the fair market value of the vehicle prior to the damage.

The total cost of repairs to rebuild or reconstruct a vehicle will not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or any sales tax on parts or material to rebuild or reconstruct a vehicle. The substitute also defines "fair market value."

Salvage titles may be negotiable with one reassignment on the back of the title by registered dealers or insurance companies.

Certification by a member of the State Highway Patrol is required to license a salvage motor vehicle. In first classification counties, however, the certification may be performed by a metropolitan police officer.

The substitute allows insurance companies to obtain a clear title without a salvage designation on a stolen vehicle which has not sustained damage to the extent that the vehicle would have been declared a salvage vehicle (75% threshold). After the stolen vehicle has been inspected by the State Highway Patrol and the insurance company returns any previously issued salvage certificate, the department will issue a title without the salvage designation.

The substitute allows insurance companies who purchase a vehicle through the claims adjustment process for which they are unable to obtain a negotiable title to apply for a salvage certificate of title.

If a salvage certificate of title has been issued for the same vehicle but no prior inspection and verification has been made in this state, an inspection and a verification of the vehicle identification numbers will be conducted by the highway patrol before an original Missouri certificate of ownership is issued.

The substitute requires salvage motor vehicle dealer licenses to be renewed biennially instead of annually and increases the \$65 annual fee to \$130 for a biennial license.

TRANSFER NOTICES

The substitute establishes a transfer notice procedure when a

person sells or transfers an interest in a motor vehicle or trailer to another person. Transferors must notify the department within 10 days of the transfer on a form developed by the department. Transfers to and from motor vehicle dealers will be exempt from the provisions. The notice does not constitute an assignment or release of any interest in the vehicle or trailer. Retail sales including sales of new vehicles made by licensed dealers will be reported pursuant to the monthly sales report law. Upon receipt of the notice, the department will change their records to reflect the transfer. Until a new title is issued for the transferred motor vehicle or trailer, the department must provide the owner's name on the title and indicate that the records show a notification of transfer but do not show a title transfer. The department must also provide the name of the transferee if it is available. If the department does not receive a title application from the named transferee within 60 days of receiving the transfer notice, the department will notify the transferee to apply for title. A person will be guilty of a class C misdemeanor if he knowingly submits false information on the transfer notice. The substitute provides that sellers of motor vehicles or trailers who fail to provide a transfer notice will be guilty of an infraction. These provisions become effective January 1, 2006.

MONTHLY SALES REPORTS

The substitute allows the department to levy penalties against dealers who fail to file monthly sales reports or file them untimely. Delinquent filers will be subject to the disciplinary provisions or a penalty up to \$300 per violation. The substitute allows the reports to be filed electronically after January 1, 2006. Dealers selling 20 or more motor vehicles per month will be required to file the reports beginning January 1, 2007. Dealers electronically filing their monthly sales report are exempt from filing the notice of transfer and those who do not will submit the notice with their monthly sales report.

TOWING COMPANIES

The substitute provides that towing companies performing law enforcement requested tows and nonconsensual private property tows must meet the following requirements:

- (1) Maintain a verifiable business address or storefront;
- (2) Maintain a fenced, secure, and lighted storage lot or an enclosed, secure building;
- (3) Be available 24 hours a day and seven days a week;

- (4) Maintain an insurance policy or other form of security in the amount of \$500,000 per incident;
- (5) Provide workers' compensation for all employees, if required to do so by law; and
- (6) Maintain current motor vehicle registrations on all of the towing fleet.

Second, third, and fourth classification counties are exempt from the towing standards.

The substitute allows towers to access department records when attempting to determine the owner of abandoned property.

ABANDONED PROPERTY

The substitute also modifies the current criminal statute on abandoning a motor vehicle. The last owner of record of a motor vehicle will be deemed prima facie to have been the owner of the motor vehicle at the time of abandonment. The last owner of record will not be deemed to have been the owner of the motor vehicle or to have been the person who abandoned the vehicle if the person has filed notice with the department that the person's interest in the motor vehicle has been transferred. The registered owner will not be subject to penalties if the motor vehicle was in the care, custody, or control of another person at the time of the violation. The owner can submit an affidavit naming the person who was in control of the car. The affidavit will raise a rebuttable presumption that the named person was in control of the vehicle, and the court can then terminate the prosecution. If the vehicle is alleged to have been stolen, the owner must submit a police report. Any person convicted of abandoning a motor vehicle will be liable for all towing and storage charges, and the liability will remain even if the motor vehicle is sold pursuant to a towing lien.

The substitute allows the City of Kansas City to adopt by ordinance regulations for the removal and sale of abandoned property by requiring: (1) the department to search the records to determine ownership of the abandoned property; (2) notification to the owner by mail advising of the towing and impoundment; (3) vehicles older than six years and more than 50% damaged by collision, fire, or decay that are valued at less than \$200, be held at least 10 days before being sold to a licensed salvage or scrap business; and (4) all other vehicles be held at least 30 days before being sold.

The substitute authorizes a law enforcement officer to remove property abandoned on the right-of-way of an interstate highway

which is left unattended for two hours, instead of 10 hours, if the abandoned property is a serious hazard to other motorists. Property abandoned on the right-of-way of an interstate highway outside of an urbanized area which is left unattended for two hours, instead of 48 hours, if it is a serious hazard to other motorists may also be removed.

RAILROAD CROSSINGS

The substitute requires operators of commercial motor vehicles to reduce their speed and be sure that a railroad track is clear.

SCHOOL BUS ENDORSEMENTS

Any individual who operates a school bus must have a school bus endorsement on their driver's license. In order to obtain a school bus endorsement, an applicant must submit two sets of fingerprints. One set of prints will be used by the State Highway Patrol to search the criminal history repository, and the second set will be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files. The applicant will pay the fees for the state criminal history information and the federal criminal history record. Any person who possesses a valid driver's license from another state with a valid school bus endorsement and who is otherwise qualified to receive a school bus endorsement in this state will be issued the permit.

This provision becomes effective September 30, 2005.

COMMERCIAL MOTOR VEHICLE REGISTRATIONS

The substitute moves the statutory provisions regulating commercial motor vehicle registration from the Highway Reciprocity Commission to the Highways and Transportation Commission. The move was necessitated because of reorganization under the Governor's Executive Order 02-03 (February 7, 2002).

The substitute also allows the Highways and Transportation Commission to establish procedures for the quarterly staggering of annual commercial motor vehicle registrations.

COMMERCIAL DRIVER'S LICENSES

The substitute creates the following crimes:

- (1) Driving a commercial motor vehicle while revoked if a person operates a commercial motor vehicle and a prior violation has caused a license to be revoked, suspended, canceled, or the driver is disqualified from operating a commercial motor vehicle

is a class A misdemeanor;

(2) Driving a commercial motor vehicle on a fourth or subsequent offense with commercial driving privileges revoked or suspended, with no prior alcohol-related enforcement contacts, and the defendant waived the right to an attorney and the prior three offenses occurred within 10 years and the person served a 10-day sentence on the previous offenses is a class D felony;

(3) Driving a commercial motor vehicle while intoxicated with commercial driving privileges revoked on the third and subsequent offense and the defendant waived the right to an attorney and the two prior offenses occurred within 10 years and the person received a 10-day sentence or more is a class D felony;

(4) Driving a commercial motor vehicle while intoxicated with commercial driving privileges revoked on the second or subsequent conviction is a class D felony; and

(5) Driving a commercial motor vehicle while revoked on a fourth or subsequent conviction for other offenses is a class D felony.

The substitute allows holders of a commercial driver's license (CDL) to avoid the assessment of points upon the completion of a driver-improvement program. They will not be allowed limited driving privileges for a commercial vehicle if their driving privileges are suspended, revoked, canceled, denied, or disqualified. However, they will be allowed to obtain a limited driving privilege for a noncommercial motor vehicle.

The substitute adds the following requirements when processing a CDL license:

(1) Applicants for a CDL must disclose the names of all states which have issued them a CDL during the previous 10-year period;

(2) Before the initial issuance of a CDL and for the first renewal, the Director of the Department of Revenue is required to obtain driving record information from any state licensing system in which the person had been issued a license; and

(3) A CDL driving record must contain a complete history of the driver, including information and convictions from previous licensing states.

The substitute modifies the definition of "disqualification" to include suspension and revocation of commercial driver's licenses, withdrawal of driving privileges, or a determination by the Federal Motor Carrier Safety Administrator that the driver is not qualified to operate a commercial motor vehicle. The

substitute modifies the definition of "commercial motor vehicle" to include vehicles designed to transport 16 or more passengers instead of 15 as provided by the current law. The substitute modifies the definition of "driving under the influence of alcohol" to include offenses committed while driving a commercial or noncommercial motor vehicle and the definition of "serious traffic violation" to include driving a commercial motor vehicle without a CDL in the person's possession or driving a commercial motor vehicle without the proper endorsement for the type of vehicle being driven or cargo being transported. The director is required to disqualify any driver the United State Secretary of Transportation has determined to constitute an imminent hazard. A person who drives a commercial motor vehicle without having their CDL in their possession will be guilty of a class A misdemeanor although a person may later submit proof to the court of their proper license. Driving a commercial motor vehicle in a manner which causes a fatality due to their negligent operation will disqualify the driver.

Any driver who violates an out-of-service order is subject to a civil penalty not to exceed an amount determined by the United States Secretary of Transportation in addition to the disqualification.

Individuals who have been issued a CDL will not have the right to have an alcohol-related offense expunged from their records. Under the substitute, a federal, state, county, municipal, or local court cannot defer imposition of judgment, suspend imposition of sentence, or allow an individual who possesses or is required to possess a CDL to enter into a diversion program that will prevent a conviction for any violation of any traffic law from appearing on the driver's record maintained by the department to comply with federal law. Failure to do so could result in the withholding of federal highway funds.

The commercial driver license provisions become effective September 30, 2005.

TRAFFIC SIGNAL PREEMPTION SYSTEMS

The substitute regulates the use of traffic signal preemption systems which are used to control traffic signals at intersections. The substitute allows these devices to be used by:

- (1) Emergency vehicle operators during an emergency;
 - (2) Authorized bus operators to maintain a longer green light;
- and

(3) Authorized operators in a traffic signal maintenance vehicle in order to facilitate traffic signal maintenance activities.

An unauthorized person using the device will be guilty of a class B misdemeanor.

ALL-TERRAIN VEHICLES

The substitute changes the definition of "all-terrain vehicle" (ATV) to include ATVs weighing up to 1,000 pounds and ATVs with a seat designed to carry more than one person. The substitute also specifies that current provisions for ATVs which prohibit carrying a passenger will not apply to ATVs designed to carry more than one person.

FLASHING LIGHTS

The substitute allows commercial transport vehicles or railroad passenger cars that are stopped to load or unload passengers to use alternately flashing warning signals.

LOW-SPEED VEHICLES

The substitute allows operators of low-speed vehicles to use public highways under certain conditions. A low-speed vehicle is a four-wheeled vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards. It cannot be operated on a street or highway with a posted speed limit greater than 35 miles per hour. The vehicle will be exempt from inspection and emission testing, but must comply with the federal standards. Every operator of a low-speed vehicle must maintain financial responsibility and have a driver's license. Cities and counties may promulgate ordinances which are more stringent than the provisions in the substitute.

EXTENDED SERVICE CONTRACTS

The substitute regulates the sale of extended service contracts for the repair, replacement, or maintenance of motor vehicles. The substitute does not apply to warranties, maintenance agreements, commercial transactions, and service contracts sold to non-consumers. The substitute requires those providing service to demonstrate financial responsibility by insuring the service contracts under reimbursement insurance policies or by other means such as a surety bond. Service contract administrators are required to register with the Department of Insurance. The substitute specifies the requirements of a reimbursement policy for insuring a service contract; the form

and content of motor vehicle extended service contracts; requires contract administrators to maintain certain records; provides for civil penalties for violating the act; and gives the director enforcement powers.

These provisions are based on the National Association of Insurance Commissioners (NAIC) Service Contracts Model Act and become effective January 1, 2007.

REGIONAL TAXICAB COMMISSION

The substitute allows the Regional Taxicab Commission to impose an administrative penalty not to exceed \$200. The commission must develop a schedule of penalties which will be available to the public and taxicab drivers. The substitute allows the commission to request a criminal history record check from the State Highway Patrol. Prospective taxicab drivers will submit two sets of fingerprints to the highway patrol to check the person's criminal history. The prospective or current driver must pay all appropriate fees for the criminal record background check. The substitute allows the commission to require taxicabs operating under its jurisdiction to display a special license plate which is established and allows the commission to confiscate the plates.

EMISSION INSPECTION EXEMPTION

The substitute provides that vehicles manufactured 26 years prior to the current model year are exempt from the emission inspection process.

FISCAL NOTE: Estimated Income on General Revenue Fund of \$0 in FY 2005, \$2,251,290 in FY 2006, and \$4,502,580 in FY 2007. Estimated Income on Other State Funds of \$662,588 in FY 2005, \$5,518,583 in FY 2006, and \$15,007,834 in FY 2006.

PROPOSERS: Supporters say that the bill address numerous problems relating to motor vehicles.

Testifying for the bill were Senator Dolan; Department of Revenue; Towing and Recovery Association; Department of Transportation; State Highway Patrol; Missouri Motor Carriers Association; Missouri Automobile Dealers Association; Enterprise Rent-A-Car Company; and City of Kansas City.

OPPOSERS: Those who oppose the bill say that provisions dealing with the determination of a salvage vehicle is bad policy and is not consumer friendly. Without disclosure, unsafe vehicles may be rebuilt without any knowledge of the magnitude of the damage a vehicle may have sustained.

Testifying against the bill were Bernard Brown; and Dale Irwin.

Robert Triplett, Legislative Analyst