

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

This bill changes the laws regarding motor vehicles.

DRIVEAWAY OPERATIONS

The definition of "driveaway operation" is modified 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 bill also extends the area of operation for a 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 bill 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 St. Louis City or Kansas City. The notification and appeals process are specified.

VEHICLE-RELATED FINES

Certain cities are allowed 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.

TRADE-IN CREDITS

The bill removes the restriction requiring a person trading in an article to be the owner or holder of a properly assigned certificate of ownership for trade-in credit or partial payment on a motor vehicle, trailer, boat, or outboard motor.

HIGHWAYS AND TRANSPORTATION COMMISSION

Two members, one from each opposing political party, who have the most seniority will serve as commission chair and vice chair until March 1, 2005. Then the commission will elect the two senior members from the opposing political parties to serve as chair and vice chair for one year. The following year and thereafter the chair and vice chair will rotate positions.

CHIEF COUNSEL

The chief counsel is placed under the direction of the Director of Transportation, with the consent of the Highways and Transportation Commission. The chief counsel currently is directed by the commission.

EMINENT DOMAIN

When the Highways and Transportation Commission acquires real estate through eminent domain, the restriction or loss of access to any adjacent highway must be considered when assessing damages. Restriction or loss of access includes the prohibition of making right or left turns into or out of the real estate involved if access was present before the proposed improvement was built.

LOCAL LOG TRUCK TRACTORS

A "local log truck tractor" is defined as a commercial motor vehicle used exclusively in Missouri to transport harvested forest products from a site in an area extending not more than a 50-mile radius and operating with a weight not exceeding 22,400 pounds on one axle or 44,800 pounds on any tandem axle. When operating on an interstate highway system, the vehicle will have to abide by the weight restrictions provided by law and not have more than three axles and not pull a trailer which has more than two axles.

REISSUANCE OF LICENSE PLATES

An advisory committee is established within the Department of Revenue 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. The Department of Revenue, beginning January 1, 2007, will 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.

TABS

Beginning January 1, 2009, tabs will be produced and issued on demand in each license bureau office. The numbers recorded on the tab must be the same number that appears on the license plate.

PERSONALIZED LICENSE PLATES

The restriction that personalized plates not exceed six characters in length is removed. The bill 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 until the personalized license plate is available.

SPECIAL LICENSE PLATES

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

"MARCH OF DIMES," "NAACP," "MISSOURI STATE SOCIETY DAUGHTERS OF THE AMERICAN REVOLUTION," "MISSOURI AGRICULTURE," "FORMER MISSOURI LEGISLATOR," "FRIENDS OF KIDS WITH CANCER," "SPECIAL OLYMPICS MISSOURI," "BE AN ORGAN DONOR," "FOXTROTTER-STATE HORSE," "TO PROTECT AND SERVE," "THE MASTERS," "FRIENDS OF YOUTH," "MISSOURI SOCIETY OF PROFESSIONAL ENGINEERS," "ALPHA PHI OMEGA," "BOY SCOUTS OF AMERICA," "WE SHALL NOT FORGET," "DELTA TAU DELTA," "CAMP QUALITY-FUN FOR KIDS WITH CANCER," "SEARCH AND RESCUE," "THETA CHI FRATERNITY," "U. S. VET," and "WINNING WOMEN."

The bill 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," "FIREFIGHTER," "CONSERVATION HERITAGE," and "CHILDREN'S TRUST FUND" license plates.

The Joint Committee on Transportation Oversight will review for approval or denial all applications for the development of specialty plates. Approval must be by unanimous vote. The committee will not approve any application if they receive a signed petition from five members of the House of Representatives or two members of the Senate stating their opposition to the proposed license plate. The committee will notify the Department of Revenue upon approval or denial of an application.

No special plates will be issued until 200 applications have been received and the organization deposits with the Department of Revenue a fee of up to \$5,000 to defray the cost of issuing,

developing, and programming the implementation of the specialty plate.

Biennial registration is allowed for speciality plates.

SALVAGE MOTOR VEHICLES

The definition of "salvage vehicle" is revised 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 bill also defines "fair market value."

Insurance companies are allowed 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 bill 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 number will be conducted by the highway patrol before an original Missouri certificate of ownership is issued.

A junking certificate of title may be issued to the possessor of a vehicle manufactured 26 years or more prior to the current model year who has a bill of sale as long as no claim of theft has been made on the vehicle.

Salvage titles may be negotiable with one reassignment on the back of the title by a registered dealer or an insurance company.

Certification by a member of the highway patrol is required to license a salvage motor vehicle dealer. In first classification counties, however, the certification may be performed by a

metropolitan police officer.

Salvage motor vehicle dealer licenses are required to be renewed biennially instead of annually and the \$65 annual fee changes to \$130 for a biennial license.

RECONSTRUCTED MOTOR VEHICLES

The Department of Revenue will issue a reconstructed motor vehicle certificate of ownership for a vehicle classified as a reconstructed motor vehicle 40 years or older with a value of up to \$3,000 upon the submission of a application including:

- (1) An affidavit explaining how the vehicle was acquired and, if applicable, the reason a valid certificate of ownership cannot be furnished;
- (2) Photo copies of receipts, bills of sale, or titles and the source of all major component parts used to rebuild the vehicle;
- (3) A \$150 fee in addition to the regular fees; and
- (4) An inspection from the highway patrol or other law enforcement agency authorized by the Director of the Department of Revenue.

TRANSFER NOTICES

A transfer notice procedure is established when a person sells or transfers an interest in a motor vehicle or trailer. Transferors must notify the department within 30 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 its 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 or she knowingly submits false information on the transfer notice. 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.

BENEFICIARY TRANSFER

A beneficiary is allowed to make one reassignment of a title upon the death of the owner without transferring the title to the beneficiary.

MONTHLY SALES REPORTS

The department is allowed 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 bill 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.

RECREATIONAL VEHICLE DEALER SHOWS

Out-of-state recreational vehicle dealers who wish to participate in a vehicle show or exhibition are required to notify the Department of Revenue at least 30 days prior to the event. The department must then determine if the dealer complies with Missouri's laws. If the dealer does not comply, the department must notify the dealer at least 15 days prior to the event of its inability to participate. The department may assess a fine up to \$1,000 for any violation.

TOWING COMPANIES

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 at least \$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.

Towing companies are allowed to electronically access department records when attempting to determine the owner of abandoned property.

ABANDONED PROPERTY

The current criminal statute on abandoning a motor vehicle is modified. 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 unless 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 and submits 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 City of Kansas City is allowed 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.

A law enforcement officer is authorized to remove property abandoned on the right-of-way of an interstate highway which is left unattended for four 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 four hours, instead of 48 hours, if it is a serious hazard to other motorists may also be removed.

RAILROAD CROSSINGS

Operators of commercial motor vehicles are required to reduce their speed and be sure that a railroad track is clear.

SCHOOL BUS ENDORSEMENTS

Individuals who operate 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.

STREET ROD AND CUSTOM VEHICLE REGISTRATIONS

New registration procedures are established for street rods and custom vehicles. The bill spells out when and what type of vehicle may qualify under these categories. The annual fee will be \$15 in addition to the regular registration fees. Owners of these vehicles must certify at the time of registration that the vehicles will be maintained for occasional transportation, exhibits, club activities, parades, tours, and similar uses and will not be used for daily transportation. New vehicle owners must show proof at the time of registration that the vehicle has passed a safety inspection. Other owners are exempt from periodic vehicle inspections and emission tests. License plates for these vehicles will bear the words "STREET ROD" or "CUSTOM VEHICLE." A street rod or custom vehicle may use blue dot tail lights for stop lamps, rear turning indicator lamps, rear hazard lamps, and rear reflectors.

COMMERCIAL MOTOR VEHICLE REGISTRATIONS

The statutory provisions regulating commercial motor vehicle registration are moved 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 Highways and Transportation Commission is allowed to establish procedures for the quarterly staggering of annual commercial motor vehicle registrations.

COMMERCIAL DRIVER'S LICENSES

The bill 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. Any person convicted of driving a commercial motor vehicle while revoked is guilty of 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.

Holders of a commercial driver's license (CDL) are allowed 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 bill 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) 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 before the initial issuance of a CDL and for the first renewal; and

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

The definition of "disqualification" is modified 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 bill also 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 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 obtaining a CDL license, 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 States Secretary of Transportation has determined to constitute an imminent hazard. Individuals who drive a commercial motor vehicle without their CDL in their possession will be guilty of a class A misdemeanor although a person may later submit proof of proper license to the court. 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 bill, 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.

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

DIGITIZED IMAGES

A photo or digital image of a person's full facial features is

required on all driver's or nondriver's licenses unless the person files an objection due to a religious affiliation.

LAWFUL PRESENCE

Beginning July 1, 2005, the director of the department will not issue a driver's, nondriver's, or CDL license for a period that exceeds an applicant's lawful presence in the United States. The director may establish procedures, by rule or regulation, to verify the lawful presence of an applicant and establish the duration of any license issued. United States citizens will be considered lawfully present regardless of their physical location at any given time.

LICENSE FRAUD

Any person who commits or assists another person in committing fraud or deception during any examination process or knowingly conceals a material fact; provides information which contains or is substantiated with false or fraudulent information or documentation; or otherwise commits a fraud in an application for an instruction permit, driver's, nondriver's, or commercial driver's license or permit is guilty of a class A misdemeanor. This provision contains an emergency clause.

TRAFFIC SIGNAL PREEMPTION SYSTEMS

The use of traffic signal preemption systems which are used to control traffic signals at intersections and in front of emergency stations are regulated. The bill allows these devices to be used by:

- (1) Emergency vehicle operators during an emergency or to control a traffic signal from a station where emergency vehicles are housed;
- (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 definition of "all-terrain vehicle" (ATV) is changed to include ATVs weighing up to 1,000 pounds and ATVs with a seat designed to carry more than one person. The bill also specifies

that current provisions for ATVs which prohibit carrying a passenger will not apply to ATVs designed to carry more than one person.

LOW-SPEED VEHICLES

Operators of low-speed vehicles are allowed 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 bill.

EXTENDED SERVICE CONTRACTS

The bill regulates the sale of extended service contracts for the repair, replacement, or maintenance of motor vehicles. The bill does not apply to warranties, maintenance agreements, commercial transactions, and service contracts sold to non-consumers. Those providing service are required 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 bill 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 violations; and gives the director enforcement powers.

REGIONAL TAXICAB COMMISSION

The Regional Taxicab Commission is allowed 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 bill 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 check the person's criminal history. The prospective or current driver must pay all appropriate fees for the background check. The bill allows the commission to require taxicabs operating under its jurisdiction to display a special license plate which will be issued by the Department of Revenue

and to confiscate the plates, if a license is revoked, and return them to the department director. The bill specifies the fee and description on the plate.

LEMON LAW

Auto manufacturers, after settling with a consumer under the Lemon Law provisions, are allowed to apply to the Department of Revenue for a reimbursement equal to any amount refunded to the consumer for any sales taxes, license fees, registration fees, and title fees paid as a result of purchasing the vehicle. Manufacturers may, in lieu of applying to the department, direct the consumer to apply for the refund. The department with satisfactory proof of payment must refund the taxes and fees.

DISABLED PLATES, PLACARDS, AND PARKING SPACES

The procedures relating to obtaining an instruction permit, driver's, or non-driver's license; obtaining a disabled license plate and placard; and the use of designated disabled parking spaces are revised. The bill:

- (1) Changes the fraudulent procurement or use of a disabled license plate or placard from a class C misdemeanor to a class B misdemeanor;
- (2) Changes the penalty for certifying an individual for a disabled plate or placard outside the practitioner's scope from a class C misdemeanor to a class B misdemeanor and requires certification to meet certain standards;
- (3) Allows other health care practitioners (chiropractors, podiatrists, and optometrists) to certify individuals for disabled license plates or placards;
- (4) Excludes age as a factor in determining whether a person is entitled to a disabled license plate or placard;
- (5) Establishes record maintenance requirements for physicians and health care practitioners who issue a physician's statement for a disabled license plate or placard. These records must be open to inspection and review by the practitioner's licensing board to verify compliance;
- (6) Requires a physician's statement to be on a form prescribed by the Director of the Department of Revenue, state the specific diagnosis which renders the person physically disabled, include the physician's license number, and be signed by the physician or health care practitioner;

(7) Limits to two the number of removable windshield handicap placards that may be issued by the director to any one person;

(8) Increases the fee for removable windshield handicap placards from \$2 to \$4;

(9) Limits the use of the placard to when the person is in the motor vehicle at the time of parking or when the person is being delivered; and

(10) Requires, beginning August 1, 2005, every applicant or renewal for a disabled license plate or placard to present a new physician's statement dated no more than 90 days prior to the application. Thereafter, the director must not renew pre-existing disabled plates or placards unless the applicant furnishes a new physician's statement every four years.

The disabled license plate, placard, and parking space provisions of the bill become effective January 1, 2005.

RACIAL PROFILING

Currently, peace officers are required to make informational reports concerning the age, gender, and race or minority group of the individual stopped, as well as the nature of the stop and any action taken on every motor vehicle stop involving violations of any motor vehicle statute or ordinance. The bill requires reporting on every motor vehicle stop. Peace officers who stop a driver of a motor vehicle pursuant to a lawfully conducted sobriety check point or road block will be exempt from the reporting requirements.

OTHER PROVISIONS

The bill also contains provisions regarding width restriction removal for implements of husbandry, use of headlights due to weather conditions or fog, car rental agreements, court suspension of a driver's license for passing a stopped school bus, one assignment of vessels and outboard motors by a surviving beneficiary or beneficiaries, titling outboard motors older than a 1960 model, liability insurance requirements for Highways and Transportation Commission equipment, exemption of certain intrastate commercial motor vehicles from federal safety regulations, flashing lights for commercial passenger transport vehicles, Kansas City's commercial zone requirements, and the transfer on death of a title on a manufactured home.