

## HCS SS SCS SB 969 -- TRANSPORTATION

SPONSOR: Stouffer (St. Onge)

COMMITTEE ACTION: Voted "do pass" by the Committee on Transportation by a vote of 15 to 0.

This substitute changes the laws regarding transportation and motor vehicles.

### OUTDOOR ADVERTISING

The substitute authorizes the Highways and Transportation Commission to void billboard permits without paying compensation:

- (1) When there has been any misrepresentation of a material fact by the applicant on a permit application and the sign is removed under law;
- (2) When the commission determines that a change has been made to a conforming sign by the sign owner and the sign has been removed under law; or
- (3) When the commission determines that a substantial change has been made to a nonconforming sign by the sign owner so that the sign's nonconforming status was terminated and the sign was removed under the commission's administrative rules for maintenance of nonconforming signs.

The commission may also void any permit when it determines that a permit has been erroneously issued by any Department of Transportation staff member in violation of any state law or administrative rule. The billboard must be subject to removal, and compensation must be paid pursuant to law.

A local zoning authority will be prohibited from requiring the removal or alteration of a legally erected outdoor advertising structure as a condition or prerequisite for the issuance or continued effectiveness of a permit, license, or other approval for any use, structure, development, or activity other than outdoor advertising including a request for rezoning without the payment of just compensation.

### UNIFORM REGISTRATION FEES

A flat fee of \$26.25 will be charged for all passenger motor vehicles and commercial motor vehicles with a gross weight rating of 12,000 pounds or less. This provision becomes effective July 1, 2007.

#### SPECIALTY LICENSE PLATES ISSUANCE

The Department of Revenue will be allowed to deny applications and the issuance of special license plates if no applications are received within five years of the effective date of the law authorizing the plate.

#### DRIVEAWAY SADDLEMOUNT COMBINATIONS

The maximum length for driveaway saddlemount combinations are increased from 75 feet to 97 feet. Combinations having a length greater than 97 feet may not be operated on the interstate highway system.

#### IDLE REDUCTION TECHNOLOGY WEIGHT INCREASE

The maximum gross vehicle weight limit and axle weight limit for heavy-duty vehicles equipped with idle reduction technology may be increased up to an additional 400 pounds to compensate for the additional weight of the technology.

#### EXPUNGEMENT OF COMMERCIAL DRIVER'S LICENSE (CDL) RECORDS

The substitute prohibits the expungement of a minor in possession charge for a holder of a commercial driver's license or a person operating a commercial motor vehicle at the time of the violation and specifies that no records will be expunged for a CDL holder who has been convicted of or pled guilty to an offense when the person's blood-alcohol content was .04 or above.

The expungement of records of a minor who has pled guilty to or been found guilty of purchasing or possessing intoxicating liquor as a commercial motor vehicle driver or operating a commercial motor vehicle at the time of violation is also prohibited.

#### LIENS ON MOTOR VEHICLES FOR STORAGE OR SERVICES

A lienholder may apply for a title to a motor vehicle if the statutory notice is returned marked "not forwardable" or "addressee unknown." The application for the lien must be accompanied by a copy of the statutory notice given to the owner of the motor vehicle and other lienholders of interest. The substitute removes the requirement that the Department of Revenue must notify the motor vehicle owner or other lienholder of interest before issuing a lien title and adds a provision which allows the filing of a petition to challenge whether the chattel was wrongfully taken.

#### FAILURE TO APPEAR

The substitute adds failure to appear or pay by a commercial driver's license holder as a driving offense requiring suspension until compliance is fulfilled.

#### ABANDONED MOTOR VEHICLES

Abandoned property sold under a bill of sale will not be subject to the transfer notification provisions which require private sellers to notify the Department of Revenue of the sale. The substitute requires registered owners to present a copy of their most recent registration receipt or title for the abandoned property to law enforcement or the towing company in order to have the property released, and a property or casualty insurance company or a holder of a valid security interest will be required to present evidence that the abandoned property is insured by or subject to a claim involving an insured to claim any abandoned property.

#### CERTIFICATION PROCEDURES FOR LOCAL LAW ENFORCEMENT OFFICIALS

The State Highway Patrol will be required to establish a program to certify local law enforcement officers regarding enforcing weight, height, length, size, and load restrictions. The certification procedures must include training, testing, on-the-job experience, data collection, and other specified components and must meet the requirements established by the Commercial Vehicle Safety Alliance (CVSA). The patrol is authorized to establish reasonable fees to cover the costs of training and certification. Beginning July 1, 2007, no law enforcement officer may make an arrest, issue a citation, or conduct a commercial motor vehicle roadside inspection to determine compliance unless the law enforcement officer has satisfactorily completed a basic training course developed by CVSA and has been certified by the patrol.

#### AFFIRMATIVE DEFENSE FOR PROCEEDING THROUGH A RED LIGHT WITH A MOTORCYCLE

The substitute specifies that a person operating a motorcycle who enters or crosses an intersection controlled by a traffic signal against a red light will have an affirmative defense to that charge if the person establishes that:

- (1) The motorcycle was brought to a complete stop;
- (2) The traffic signal continued to show a red light for an unreasonable amount of time;
- (3) The traffic signal was apparently malfunctioning or, if programmed or engineered to change to a green light only after

detecting the approach of a motor vehicle, the signal apparently failed to detect the arrival of the motorcycle; and

(4) No motor vehicle or person was approaching or was so far away from the intersection that it did not constitute an immediate hazard.

The affirmative defense applies only to a violation for entering or crossing an intersection controlled by a traffic signal against a red light and does not provide a defense to any other civil or criminal action.

#### CIVIL ENFORCEMENT OF TRAFFIC AND MOTOR VEHICLE VIOLATIONS

The substitute allows for the civil enforcement of certain traffic and motor vehicle violations and converts various minor traffic and motor vehicle violations from low-grade misdemeanors to infractions.

#### SALVAGE VEHICLES

Currently, the definition of "salvage vehicle" includes a motor vehicle that has been damaged to the extent that the cost of repairs to rebuild it exceeds 75% of the fair market value of the vehicle. The substitute changes the damage threshold from 75% to 80% and restricts the 80% damage threshold to vehicles which have a manufacturer's model year designation within three years of when the vehicle was damaged. Repairing hail damage will not be considered in the cost to rebuild or reconstruct a vehicle.

#### DISABLED PLACARDS

The substitute removes the \$4 fee for the permanent removable windshield disabled parking placard but keeps the \$4 fee for a temporary replacement windshield placard and requires them to be renewed every four years instead of two years.

#### ELECTRONIC BIDDING

The Highways and Transportation Commission is authorized to receive bids and bid bonds for any contract for construction, maintenance, repair, or improvement of any bridge or highway on the state highway system electronically through the Internet. At its discretion, the commission may elect to receive both electronic and paper bids or may specify electronic bidding exclusively for any proposed contract. The substitute establishes minimum criteria for the electronic bidding program.

#### LICENSE PLATE COVERS

License plates may be encased in transparent covers as long as the plates are plainly visible and their reflective qualities are not impaired.

#### SCHOOL BUSES

The substitute increases the penalties for those who fail to stop for school buses that are loading or unloading children. Any person who fails to properly yield for a school bus and causes an injury to a child will be guilty of a class D felony. Any person who fails to properly yield for a school bus and causes the death of a child will be guilty of a class C felony.

#### LOCAL LOG TRUCK

The radius within which a local log truck or log truck tractor may operate is increased from 50 to 100 miles.

#### PROOF OF LAWFUL PRESENCE

Applicants for the renewal of a noncommercial driver's license, noncommercial instruction permit, or nondriver's license will be exempt from showing proof of lawful presence if the applicant:

- (1) Has previously held a noncommercial driver's license, noncommercial instruction permit, or nondriver's license for a period of 15 years or more; or
- (2) Is 65 years of age or older and has previously been issued a Missouri noncommercial driver's license, noncommercial instruction permit, or nondriver's license.

#### UTILITY ALL-TERRAIN VEHICLES

The substitute changes the definition of "all-terrain vehicle" to include certain utility vehicles manufactured and used exclusively for off-highway use.

#### VACATING ROADS

A procedure is established that is similar to that used by township counties for residents of St. Charles County to vacate any road no longer serving the public.

#### CONVEYANCE OR EXCHANGE OF EXCESS REAL PROPERTY

The Highways and Transportation Commission is allowed to convey or exchange its interest in land or leasehold for the property's approximate fair market value. The commission, at its discretion, will be allowed to convey at no cost or exchange its

interest in any land or leasehold that is no longer necessary for its use to any federal, state, or local governmental entity.

#### MOTOR VEHICLE PROTECTION ACT

The substitute establishes the Motor Vehicle Protection Act which prohibits a person from selling or offering for sale a vehicle protection product in Missouri unless the seller, warrantor, or any administrator complies with the provisions of the proposed act. A vehicle protection product warrantor, a seller of a vehicle protection product, or a warranty administrator that complies with the provisions will not be subject to the state insurance code.

The provisions will apply to all warranted products sold or offered for sale on or after January 1, 2007. The failure of any person to comply with the provisions before its effective date will not be admissible in any court proceeding, administrative proceeding, arbitration, or alternative dispute resolution proceeding and may not be used to prove that the action of any person or the vehicle protection product was unlawful or otherwise improper.

A person cannot act as a warrantor or represent to the public that the person is a warrantor without registering with the Department of Insurance. A warrantor must file warrantor registration records annually and update them within 30 days of any change. The substitute specifies the information that the registration records must contain. The department will be required to make information regarding the warrantor's name and the name and address of its designated agent for service of process available to the public.

The department may charge each registrant a reasonable fee, not to exceed \$500 per year, for processing a registration and maintaining the records. If a registrant fails to register by the renewal deadline established by the department, the department will give the registrant written notice of the failure and allow the registrant 30 days to complete the renewal before suspending the warrantor.

No vehicle protection product may be sold or offered for sale in Missouri unless the vehicle protection product warrantor acquires insurance under a warranty reimbursement insurance policy or maintains a net worth or stockholder's equity of \$50,000,000.

Warranty reimbursement policies must provide that the insurer will reimburse or pay on behalf of the warrantor all covered amounts that the warrantor was legally obligated to pay or will provide all services the warrantor was legally obligated to

perform according to the warrantor's contractual obligations under its vehicle protection product warranty. The policy must provide that if payment due under the warranty is not provided by the warrantor within 60 days after the warranty holder filed proof of loss according to the terms of the warranty, the warranty holder may file proof of loss directly with the warranty reimbursement insurance company. The policy must provide that the premium for the policy will be considered paid if the warranty holder paid for the warranted product and the insurer's liability under the policy will not be reduced or relieved by a failure of the warrantor, for any reason, to report the issuance of a warranty to the insurer. The substitute also specifies certain requirements regarding the cancellation of the policy.

A person cannot sell or offer for sale in Missouri a warranted product unless the warranty is written in clear, understandable language and printed or typed in an easy-to-read type, size, and style. The warranty must state that the obligations of the warrantor to the warranty holder are guaranteed under a warranty reimbursement insurance policy or are backed by the warrantor's net assets. The warranty must state that if a warranty holder must make a claim against a party other than the warrantor, the warranty holder is entitled to make a direct claim against the warranty reimbursement insurer upon the failure of the warrantor to pay any claim or meet any obligation under the terms of the warranty within 60 days after proof of loss was filed with the warrantor. The substitute specifies other provisions that the warranty must contain.

The substitute prohibits a person from selling or offering for sale a vehicle protection product warranty unless it clearly states the terms and conditions governing the cancellation of the sale and warranty. A warrantor may cancel a warranty only if the warranty holder:

- (1) Fails to pay for the warranted product;
- (2) Makes a material misrepresentation to the seller or warrantor;
- (3) Commits fraud; or
- (4) Substantially breaches the warranty holder's duties under the warranty.

A warrantor canceling a warranty must mail written notice to the warranty holder at his or her last known address at least 30 days before the effective date of a cancellation. The notice will state the effective date of the cancellation and the reason.

Unless licensed as an insurance company, a vehicle protection product warrantor cannot use in its name, contracts, or literature the word "insurance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty, or surety business. A warrantor also may not use any name or words in its name that were deceptively similar to the name or description of any insurer or surety or any other vehicle protection product warrantor. A vehicle protection product seller or warrantor may not require as a condition of financing that a person buying a motor vehicle purchase a vehicle protection product.

A vehicle protection product warrantor must keep accurate accounts, books, and records concerning transactions regulated under the substitute. The substitute specifies what the records must contain. A warrantor must retain all required accounts, books, and records pertaining to each warranty holder for at least three years after the specified period of coverage has expired. A warrantor discontinuing business must maintain its records until it furnishes the department satisfactory proof that it has discharged all obligations to warranty holders in Missouri. The department may conduct examinations of warrantors, administrators, or other people to enforce the provisions of the substitute and protect warranty holders.

The substitute authorizes the department to promulgate rules that are necessary to implement and administer the provisions of the substitute. The rules must include disclosure requirements for the benefit of warranty holders, record-keeping requirements, and procedures for public complaints.

#### YELLOW CENTER LINE

The substitute prohibits a person from driving a vehicle across a clearly marked solid yellow center stripe of a roadway, indicating a no passing zone, except when executing a lawful turn, overtaking a vehicle traveling at a speed of less than 25 miles per hour, or when avoiding debris in the roadway.

#### COMMERCIAL VEHICLE OFFICERS

The substitute requires that commercial vehicle officers meet the mandatory standards for basic training and licensure of peace officers. Commercial vehicle officers who are performing their duties on August 28, 2006, will have until July 1, 2010, to comply with the mandatory training and licensure standards.

#### DEALER LICENSE PLATE LETTER AND NUMBERS

The substitute makes several technical changes to provisions

pertaining to manufacturer and dealer license plate letter and numbers.

#### RECREATIONAL VEHICLE SHOWS

Out-of-state show promoters of recreational vehicles will be allowed to hold shows within the state if:

- (1) The show or exhibition has a minimum of 10,000 recreational vehicle dealers licensed as motor vehicle dealers in the state; and
- (2) More than 50% of the participating recreational vehicle dealers are licensed motor vehicle dealers in the state.

A violation of this provision will result in a \$5,000 fine.

#### THIRD-PARTY TESTING

Beginning August 28, 2006, the Director of the Department of Revenue will only issue or renew third-party tester certification to private companies who operate on the campus of a junior or community college or to private companies who own and maintain their own fleet and administer in-house testing to employees or to school districts and their agents.

#### OUT-OF-SERVICE

The Highways and Transportation Commission is allowed to suspend, revoke, or cancel the registration, license, permit, or other credentials issued to a motor carrier if a federal agency or the commission has issued an out-of-service order against the motor carrier. The law is applicable to out-of-service orders placing a motor carrier's entire operation out of service but does not apply to orders placing an individual driver or vehicle out of service.

When the commission issues an order under the provisions of the substitute, the motor carrier cannot operate any commercial motor vehicle and cannot allow any employee to operate any commercial motor vehicle acting under the carrier's authority or control in intrastate or interstate commerce. The motor carrier must immediately surrender all license plates, motor carrier licenses, registrations, permits, and other credentials. An out-of-state motor carrier will not be eligible to apply for the issuance or reinstatement of any license, registration, permit, certificate, or other credentials until the out-of-service order has been rescinded or the orders have been set aside by a court of proper jurisdiction.

Any federal or state order will be admissible in administrative and court proceedings, and the orders will constitute prima facie evidence that the motor carrier violated federal regulations or that the motor carrier's operation poses an imminent safety hazard, or both.

Persons aggrieved by a commission's order are allowed to appeal to a circuit court for a hearing and a review of the order. Judicial review of the order will be waived unless the petition is filed within 30 days of the issuance of the order.

The commission may receive and disclose any data relating to any out-of-service motor carrier to the federal Motor Carrier Administration, the Department of Revenue, the State Highway Patrol, other law enforcement agencies, and motor carrier liability insurance companies.

The Department of Revenue may immediately, without a hearing, update the records to reflect the suspension, revocation, or cancellation of all motor vehicle license plates, registrations, and other credentials. The department must notify the motor carrier and the commission of all actions taken pursuant to the commission's order.

#### MOTOR VEHICLE SERVICE CONTRACTS

The substitute changes the laws regarding motor vehicle service contracts and product service agreements. In its main provisions, the substitute:

- (1) Prohibits persons from issuing or selling product service agreements without registering and paying a fee to the Director of the Department of Insurance;
- (2) Establishes financial reserve requirements for service agreement providers;
- (3) Requires service contract providers to furnish written statements to consumers outlining their obligations and conveying the terms and restrictions; and
- (4) Requires providers of product service agreements to maintain accurate records of every transaction for a period of at least three years after the specified period of coverage has expired. Records must be made available to the department upon request.

#### CHEMICAL TESTING OF INTOXICATED DRIVERS

The Alan Woods Law is established which specifies that any state, county, or municipal law enforcement officer who has the power to

arrest an individual for driving with excessive blood-alcohol content or driving while intoxicated and is certified under Missouri law will administer a chemical test to any person suspected of driving a motor vehicle involved in a collision which resulted in a fatality or serious physical injury. Any person who is tested, upon request, must receive full information concerning the test.

The provision regarding windshield placards becomes effective January 1, 2007; and the provision regarding uniform registration becomes effective July 1, 2007.

FISCAL NOTE: No impact on General Revenue Fund in FY 2007, FY 2008, and FY 2009. Estimated Income on Other State Funds of \$90,000 in FY 2007, \$250,207 in FY 2008, and \$240,559 in FY 2009.

PROPOSERS: Supporters say that the bill contains numerous provisions that make good common sense and will ensure the safety of the operating public.

Testifying for the bill were Senator Stouffer; State Highway Patrol; Office of State Courts Administrator; Society of Collision Repair Specialists Missouri/Kansas Chapter; Ben Steinman, Ben's Auto Body; Towing and Recovery Association of Missouri; American Family Insurance Group; Missouri Tow Truck Association; and Missouri Motor Carriers Association.

OPPOSERS: Those who oppose the bill say that they are concerned about the provision that will limit certain municipalities from stopping and inspecting commercial motor vehicles.

Testifying against the bill was Missouri Police Chiefs Association.

OTHERS: Others testifying on the bill say that people are selling warranties that do not fulfill the warranty guaranties.

Others testifying on the bill was Missouri Professional Auto Dealers Association.

Robert Triplett, Legislative Analyst