

## SS SCS SB 761 & 774 -- Transportation and Motor Vehicle Regulations

Sponsor: Stouffer

This substitute changes the laws regarding transportation and the regulation of motor vehicles.

### SCHOOL BUS MOTOR FUEL TAX EXEMPTION (Section 142.815, RSMo)

The substitute exempts fuel used to operate school buses from the motor fuel tax. The exemption will be granted to the school district for which the fuel is consumed in the form of a refund, regardless of whether the school district paid the tax or the tax was paid by a person contracted with the district to provide school bus services.

### ANNUAL BID BOND (Section 227.103)

The Highways and Transportation Commission is authorized to accept an annual bid bond for its construction and maintenance projects. The commission will prescribe the form and content of an annual bid bond.

### DRUNK DRIVING VICTIM MEMORIAL SIGN PROGRAM (Section 227.295)

The substitute establishes David's Law which requires the Department of Transportation to establish and administer a drunk driving memorial sign program. The department must adopt, by rules and regulations, program guidelines for the application and placement of signs including, but not limited to, the sign application and qualification process, a procedure for the dedication of signs, and a procedure for the replacement or restoration of any signs that are damaged or stolen.

Any person may apply to the department to sponsor a drunk driving victim memorial sign in memory of an immediate family member who died as a result of a motor vehicle accident caused by a person who was shown to have been operating a motor vehicle in violation of an alcohol-related traffic law at the time of the accident. A person who is not a member of the victim's immediate family may also make a request if he or she submits the written consent of a member of the victim's immediate family. The department will charge the sponsoring party a fee to cover the department's cost in designing, constructing, erecting, and maintaining the sign. Signs will remain in place for 10 years and may be renewed for another 10 years after payment of the appropriate maintenance fees.

The signs developed by the department will feature the words

"Drunk Driving Victim!", the initials of the deceased victim, the month and year in which the victim was killed, and the phrase "Who's Next?".

All private roadside memorials or markers commemorating the death of a drunk driving victim are prohibited. No person, other than a department employee or designee, may erect a drunk driving victim memorial sign.

TRANSPORTING RADIOACTIVE WASTE (Sections 260.392, 260.398, 260.399, and 260.750)

The substitute requires entities which ship specified types of radioactive waste to be assessed a fee for the transportation of waste through or within the state. State-funded universities will instead pay the State Highway Patrol for the actual cost to escort shipments, and federal military and national defense shipments of radioactive materials are exempt.

For truck shipments of radioactive waste, the cost will be \$1,800 per cask with an additional surcharge of \$25 per mile for each mile over 200 miles that the truck travels in Missouri. Rail shipments of radioactive waste will cost \$1,300 for the first cask and \$125 per cask for each additional cask. Certain low-level radioactive waste shipments will cost only \$125 per truck or train. Fees must be collected by the Department of Natural Resources prior to shipment, and notice of shipment by the shipper must be made pursuant to existing regulations. Failure to pay the fee or provide notice may result in a civil lawsuit for an amount not to exceed 10 times the amount assessed and not paid.

The revenue generated from the fees will be deposited into the Environmental Radiation Monitoring Fund, administered by the department, and may be used for inspection, monitoring, and reimbursement purposes involving the costs of handling radioactive waste. The fund may retain \$300,000 at the end of the fiscal year with any excess being returned to shippers on a prorated basis.

Beginning December 31, 2009, and every two years thereafter, the department must submit a report to the General Assembly on the costs and income derived from this fee program.

The provisions of the substitute do not apply to certain radioactive waste being shipped by or for the federal government for military or national defense purposes.

SALVAGE VEHICLES (Section 301.010)

The definition of "salvage vehicle" is revised by clarifying that the damaged vehicle was purchased during a year that is no more than six years after the manufacturer's model year designation for the vehicle.

#### COMMERCIAL INSERTS PROHIBITION (Section 301.040)

The substitute prohibits commercial inserts or other forms of advertising from accompanying motor vehicle registration notices.

#### COMMERCIAL MOTOR VEHICLE WEIGHTS (Sections 301.057, 301.058, and 304.180)

The weight limits on certain commercial motor vehicles with specific axle configurations are increased to 85,500 pounds. The increased weight limitations will only apply to vehicles being operated on U. S. Highway 65 or U. S. Highway 36. The substitute also establishes registration fees for the new weight limits.

#### EXEMPTION FROM REISSUANCE REQUIREMENT (Section 301.130)

The substitute exempts permanent nonexpiring license plates that are issued to certain commercial motor vehicles and trailers from the new plate design and reissuance requirements that take effect on January 1, 2009.

#### LICENSE PLATE REFUND (Section 301.140)

A motor vehicle owner will be allowed to receive a refund for the unused portion of a registration fee if the unused portion is in an amount of \$5 or greater when the owner sells the motor vehicle and does not replace it with another. Currently, owners can receive credit for the unused portion of a registration fee if they cannot transfer their license plates to a newly acquired vehicle due to a change in vehicle category.

#### NO PARKING IN ACCESS AISLE (Section 301.143)

Political subdivisions of the state may by ordinance or resolution designate an access aisle. The term "access aisle" means the area that is adjacent to a designated disabled parking space that is to be used exclusively by a disabled person for the purpose of entering and exiting a vehicle.

#### SALVAGE POOL (Section 301.218)

The substitute specifies that it is the operator of a salvage pool or salvage disposal sale or the subsequent purchaser who must stamp the words "FOR EXPORT ONLY" on the face of the title and each unused reassignment space on the back of the title and

forward it to the Department of Revenue.

#### FALSE STATEMENTS (Section 302.230)

The penalty for making a false unsworn statement or affidavit in the driver's license process is increased from a class A misdemeanor to a class D felony.

#### SCHOOL BUS ENDORSEMENT (Sections 302.272 and 301.275)

Any person authorized to operate a school bus will be required to notify the superintendent of the school district or employing contractor of any citation for an intoxicated-related traffic offense. Failure to notify will constitute a valid reason to discharge the person.

The Director of the Department of Revenue will be prohibited from issuing or renewing a school bus endorsement to any person whose driving record shows they have been convicted of an intoxication-related traffic offense while operating a school bus. Any person found guilty of or pleading guilty to an intoxication-related traffic offense while operating a school bus will have their school bus endorsement permanently denied by the court.

#### RESTRICTED LICENSE PLATES (Section 302.305)

Any person whose driver's license has been suspended, revoked, or disqualified for a period greater than 60 days must immediately surrender his or her current license plates to the Director of the Department of Revenue. The person will be issued a set of restricted license plates that will bear a special series of numbers or letters to be readily identified by the State Highway Patrol and other law enforcement. The restricted plates must be displayed on all motor vehicles registered solely or jointly in the person's name for the period of the suspension, revocation, denial, or disqualification. Law enforcement may stop vehicles bearing the restricted license plates to determine whether the driver has a valid driver's license. A registered owner of a motor vehicle who has been issued restricted plates may not sell the motor vehicle during the period the vehicle is required to display the plates unless the registered owner applies to the department for permission to transfer the title. If the department director is satisfied that the proposed sale is in good faith, for a valid consideration, and not to circumvent the provisions of the substitute, he or she may certify consent to the owner. Any vehicle acquired by the applicant during the period of restriction must display the restricted plates.

#### DRIVING WHILE REVOKED (Section 302.321)

Any person convicted of operating a school bus while his or her driver's license is revoked will be subject to a fine of not less than \$1,000.

#### EXPUNGEMENT OF RECORDS OF COMMERCIAL DRIVER'S LICENSE HOLDERS (Sections 302.545 and 311.326)

The expungement of a minor in possession charge for the holder of a commercial driver's license or a person operating a commercial motor vehicle at the time of the violation is prohibited. The substitute specifies that no records can be expunged if a person with a commercial driver's license is found guilty with a blood-alcohol content of .04 or higher at the time of the offense.

#### FAILURE TO APPEAR (Sections 302.700 and 302.755)

Failure to appear by a commercial license holder or operator of a commercial motor vehicle will be a commercial driver offense requiring indefinite suspension until fulfilling compliance.

#### HAZARDOUS MATERIAL ENDORSEMENT REVOCATION (Section 302.735)

The substitute requires the immediate revocation of a hazardous material endorsement upon receipt of an Initial Determination of Threat Assessment and Immediate Revocation from the federal Transportation Security Administration. The state must revoke or deny a hazardous material endorsement within 15 days of the receipt of a final determination.

#### FARM VEHICLE COMMERCIAL DRIVER'S LICENSE EXEMPTION (Section 302.775)

The substitute clarifies that in order to qualify for a commercial driver's license exemption, a farm vehicle must be controlled by a farmer or his or her family member; be used to transport agricultural products, machinery, or supplies to or from a farm; not be used in the operations of a common or contract carrier; and be used within 150 miles of the person's farm.

#### CROSSING SOLID YELLOW CENTER STRIPE (Section 304.016)

A vehicle must not be driven to the left of a solid yellow center stripe except when executing a lawful turn, overtaking a vehicle that is traveling at a speed less than 25 miles per hour, avoiding debris in the roadway, or passing a bicycle.

#### UTILITY VEHICLES (Section 304.032)

The term "utility vehicle" is defined as any motorized vehicle manufactured and used exclusively for off-highway purposes which is 63 inches or less in width, has an unladen dry weight of 1,900 pounds or less, travels on four or six wheels, and is used primarily for agricultural, landscaping, lawn care, or maintenance purposes. Utility vehicles must not be operated upon the highways of this state except under certain circumstances specified in the substitute. No person is allowed to operate a utility vehicle within any stream or river except by the person who owns the property or has permission to be on the property on which the waterway flows through or when fording a low-water crossing. A person operating a utility vehicle on a highway must have a valid operator's or chauffeur's license. The vehicle must not be operated at a speed of more than 30 miles per hour on a highway. No operator of a utility vehicle can carry a passenger, except for agricultural purposes, unless the seat of the utility vehicle is designed to carry more than one person. Utility vehicles are exempt from titling and registration.

#### FAILURE TO STOP FOR SCHOOL BUSES (Section 304.070)

Driver's license suspension periods are increased for motorists who fail to stop for school buses that are loading or unloading children. The suspension period for a first violation is increased from 90 days to 120 days. The period for a second or subsequent violation is increased from 120 days to 180 days.

#### COMMERCIAL MOTOR VEHICLE INSPECTIONS (Sections 304.230 and 304.232)

The State Highway Patrol will be required to establish an approved program for local law enforcement officers regarding the enforcement of the commercial motor vehicle laws. The certification procedures approved by the patrol must include training, testing, on-the-job experience, data collection, and other specified criteria. The certification procedures must meet the requirements established by the federal Commercial Vehicle Safety Alliance. The patrol is authorized to establish reasonable fees to recover the costs of training and certification. Law enforcement officers who have received Commercial Vehicle Safety Alliance certification prior to January 1, 2009, will be exempt from these requirements.

Beginning January 1, 2009, only law enforcement officers that have been approved by the patrol under the substitute, members of the patrol, or commercial vehicle enforcement officers will have the authority to conduct random roadside examinations or inspections to determine compliance with the commercial motor vehicle weight and size limit laws, and with or without probable cause to believe that the size or weight is in excess of that

permitted by the law, to require the driver, operator, owner, lessee, or bailee to stop, drive, or otherwise move to a location to determine compliance. A law enforcement officer not certified may stop a vehicle that has a visible external safety defect that could cause immediate harm to the traveling public. The law enforcement officer must identify to the driver the defect that caused the stop. If the vehicle passes the roadside inspection, the law enforcement officer, highway patrolman, or other authorized person will issue a Commercial Vehicle Safety Alliance inspection decal to be affixed to the vehicle.

#### AFFIRMATIVE DEFENSE FOR PROCEEDING THROUGH RED LIGHT (Section 304.281)

The substitute specifies that a person operating a motorcycle or bicycle 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 all of the following conditions:

- (1) The motorcycle or bicycle has been brought to a complete stop;
- (2) The traffic signal continues to show a red light for an unreasonable time;
- (3) The traffic signal is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and
- (4) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard.

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

#### TEMPORARY VESSEL CERTIFICATES ISSUANCE (Section 306.016)

Designees of the Department of Revenue are allowed to issue temporary vessel certificates of registration.

#### WATER PATROL EMPLOYEES (Section 306.228)

The substitute eliminates the limitation on the number of water patrol sergeants, corporals, and patrolmen that the patrol may employ. Currently, it may not have more than 99 members.

#### DELINQUENCY FEES (Section 306.535)

The penalty for a delinquent outboard motor certificate of title applications is increased from \$10 to \$25 for each 30 days of delinquency up to \$200.

#### MOTORCYCLE HEADLAMP MODULATORS (Section 307.100)

The substitute allows a motorcycle headlamp to be wired or equipped to allow either its upper beam or its lower beam, but not both, to modulate from a higher intensity to a lower intensity at a rate of modulation of 200 to 280 cycles per minute. A headlamp modulator installed on a motorcycle with two headlamps must be wired in a manner to prevent the headlamps from modulating at different rates or not in synchronization with each other. A headlamp modulator installed on a motorcycle must meet federal standards.

#### SCHOOL BUS EXEMPTION FROM CHILD PASSENGER RESTRAINT LAW (Section 307.179)

The child passenger restraint law will not apply to school buses transporting children four years of age or older regardless of whether they are being used for educational, religious, or other purposes. Currently, it only applies to school buses used for educational purposes.

#### MISSOURI VEHICLE PROTECTION PRODUCT ACT (Sections 385.400, 385.403, 385.406, 385.409, 385.412, 385.415, 385.418, 385.421, 385.424, 385.427, 385.430, 385.433, and 385.436)

The substitute establishes the Missouri Vehicle Protection Product Act. A person will be prohibited from selling or offering for sale a vehicle protection product in Missouri unless the seller, warrantor, and any administrator complies with the provisions of the substitute. A vehicle protection product warrantor, a seller of a vehicle protection product, or a warranty administrator will not be subject to any other provisions of the state insurance code. The substitute will apply to all warranted products sold or offered for sale on or after January 1, 2009. The failure of any person to comply 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.

#### UNIFIED CARRIER REGISTRATION ACT (Sections 390.021, 390.071, 390.136, and 622.095)



The Highways and Transportation Commission is authorized to take the necessary steps to implement and administer a state plan to conform with the federal Unified Carrier Registration Act of 2005. The federal act includes provisions to eliminate the federal Single State Registration System by January 2007 and replace it with the Unified Carrier Registration Agreement. The substitute also contains provisions regarding the issuance of interstate motor carrier permits and to the single state registration system.

#### LIENS ON MOTOR VEHICLES FOR STORAGE OR SERVICES (Section 430.082)

The substitute changes the laws regarding liens on motor vehicles for storage and repair costs. A lienholder may apply for a title for 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 lienholders of interest before issuing a lien title and allows the motor vehicle, trailer, or vessel owner to file a petition to challenge whether the lien was in error.

#### DWI COURTS (Section 478.001)

Circuit courts may establish a DWI court to provide an alternative for the disposition of cases involving any criminal charge for an intoxicated-related traffic offense involving the use or abuse of alcohol, or any case in which it is alleged that a person was operating a motor vehicle with a blood-alcohol content of .20 or higher. These cases may be referred to an existing drug court in the circuit, or the circuit may establish a separate DWI court. If a separate court is established, the majority of the judges in the circuit may designate a judge to hear the cases or, subject to appropriations and funding, may appoint a person or person to act as DWI court commissioner. Individuals who successfully complete the treatment program may be granted a suspended execution of sentence or may have the sentence or penalty be reduced or modified, but cannot be granted a suspended imposition of sentence.

#### PRIOR INTOXICATION-RELATED OFFENSES (Section 577.023)

The substitute specifies that a plea of guilty or a finding of guilty followed by incarceration, a suspended imposition of sentence, suspended execution of sentence, probation or parole, or any combination thereof, in any intoxication-related traffic offense in a state, county, or municipal court will be treated as a prior conviction for the purpose of enhanced punishment.

#### CONTINUING EDUCATION FOR PEACE OFFICERS (Section 590.050)

Currently, peace officers who make traffic stops must receive three hours of training within the continuing education three-year reporting period. The substitute allows the Director of the Department of Public Safety to waive continuing education requirements for licensees who have been activated for military duty.

#### EMISSIONS INSPECTION EXEMPTION (Section 643.340)

The substitute allows motorists to operate their vehicle for 30 days beyond the vehicle's registration expiration for the purposes of resetting the vehicle's readiness monitors and passing the on-board diagnostic emission inspection. Motorists must keep a copy of the most recent failing diagnostic test results in their vehicle to present to law enforcement. Motorists will still be required to pay any late registration penalties.

#### RAIL TRANSPORT OF HAZARDOUS MATERIALS (Section 1)

Railroad companies or corporations operating in Missouri must provide the Missouri Emergency Response Commission or other designees approved by the Governor with a monthly report on the shipment of certain nuclear fuel or high-level radioactive waste, class 1.1 or 1.2 explosives, and poisonous inhalation hazards or anhydrous ammonia through the state. Reports must include the route of the shipment, railroad name, car initials and number, container weight, and material being transported. Reports are due within 60 days after the last day of the month being reported. Shipments of regulated materials moving less than 10 miles are exempt from the reporting requirements.

The provisions of the substitute regarding restricted license plates and the Missouri Vehicle Protection Product Act become effective January 1, 2009.

The provisions of the substitute regarding transporting radioactive waste will expire six years from the effective date.

The substitute contains an emergency clause regarding the school bus exemption from the child passenger restraint law.