

HCS HB 665 -- TRANSPORTATION

SPONSOR: Dixon

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

This substitute changes the laws regarding transportation.

SAFETY BELTS

Currently, the driver and each front-seat passenger of cars and trucks with a licensed gross weight under 12,000 pounds must wear a safety belt. Exemptions are allowed for United States Postal Service employees while performing their duties, persons operating or riding a motor vehicle being used in agricultural work-related activities, and persons with a medical reason. The substitute requires all drivers and passengers in all cars and trucks to wear a safety belt except those already exempt. A person with a medical reason must possess documentation from a physician.

The substitute removes the provision that prohibits a person from being stopped, inspected, or detained solely for not wearing a properly adjusted and fastened safety belt.

Currently, failure to wear a safety belt can be admitted as evidence to mitigate damages if the evidence supports the fact that the plaintiff who failed to wear the belt contributed to his or her injuries and the amount of his or her recovery can be reduced by up to 1% of the awarded damages. The substitute increases the reduction in the amount of the awarded damages to up to 50% with the remaining percent of the damages awarded going to the Division of Highway Safety within the Department of Transportation to be used solely for promoting safety belt awareness.

TOWING BY LAW ENFORCEMENT

Currently, property is considered to be abandoned when it has been on the right-of-way of any highway or freeway in an urbanized area for 10 hours. Property on the right-of-way on any highway or freeway outside of an urbanized area is not considered abandoned until it has been on the right-of-way for 48 hours. The substitute specifies that property outside of an urbanized area will be considered abandoned after it has been left unattended for 12 hours on the right-of-way of the state highway system.

The substitute also authorizes law enforcement officers to tow a

vehicle abandoned by a person who eludes arrest for an alleged offense for which the officer would have taken the offender into custody and allows officers to immediately remove abandoned property from the right-of-way of any interstate, freeway, or state highway if the abandoned property is creating a traffic hazard. Currently, only the Department of Transportation is authorized to immediately remove a hazard from a state highway.

#### DEPARTMENT OF TRANSPORTATION

Employees of the Department of Transportation are prohibited from being compensated for participating in any political activity or while lobbying as specified in Section 105.470, RSMo. Any person lobbying for the department must be registered as a lobbyist.

The department must adhere to all local ordinances when planning, designing, constructing, improving, maintaining, or operating a project located in a local political subdivision.

#### WIRELESS TELEPHONE USE WHILE DRIVING

The substitute prohibits a person from operating a motor vehicle on public property while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking and is being used in that manner or the motor vehicle is stationary. Any person using a wireless telephone for emergency purposes; an emergency services professional using a wireless telephone in the scope of his or her duties; or a person using a digital two-way radio who is driving a commercial vehicle excluding pick-up trucks, wreckers, or tow trucks will be exempt from the provisions of the substitute. The fine for violating this provision will be \$100 with the fine to be used as follows:

- (1) \$50 for safety purposes pursuant to 23 U.S.C. Section 406(e);
- (2) \$25 distributed to the local school district where the violation occurred; and
- (3) \$25 to the Division of Highway Safety within the Department of Transportation for promoting safety belt awareness programs.

#### TEXT MESSAGING WHILE DRIVING

The substitute prohibits drivers from sending, reading, or writing text messages or electronic messages while operating motor vehicles on the highways in Missouri. This provision does not apply to persons operating emergency vehicles or any person operating a motor vehicle who sends a text message to report

illegal activity, summon medical or other emergency help, prevent personal or property injuries, or relay information between a transit or for-hire operator and a dispatcher. Anyone violating this provision will be guilty of an infraction which will be considered a moving violation for purposes of point assessment. These provisions supersede any local laws that regulate the use of electronic wireless communication devices by the operator of a motor vehicle.

#### RAILROAD CROSSING SAFETY

The Highways and Transportation Commission is required to investigate all accidents occurring on any railroad or street railroad and to investigate upon receiving a complaint related to the safety of any public grade crossings located in a flood plain or on a crossing that has a high volume of school buses.

Upon investigation if it is determined that a railroad crossing is not safe and it is found necessary to protect and promote public safety, the commission must determine how to make the crossing safer. In the event the crossing is not made safer, the crossing will be closed to the public.

#### SEARCH WARRANTS

The substitute specifies that the State Highway Patrol, not the county sheriff, will have the authority to serve search warrants for offenses relating to driving while intoxicated and the investigation of motor vehicle traffic accidents. The patrol will not be required to notify the county sheriff of the search warrant in these cases.

#### MISSOURI UNIVERSAL RED LIGHT ENFORCEMENT ACT

The substitute establishes the Missouri Universal Red Light Enforcement Act which allows various political entities to establish automated photo red light enforcement systems to detect red light signal violations.

Prior to installation, all systems must be registered with the Department of Transportation. At the time of registration, a one-time, \$500-per-light fee will be collected and deposited into the newly created Red Light Enforcement Fund for conducting audits to ensure entity compliance with the provisions of the substitute.

The roadway must be clearly marked with a white stripe indicating the stop line and the perimeter of the intersection prior to activation of the system. The entity must also install warning signs within 500 feet of the white stripe indicating the stop

line and have the signal phase timings at the intersection certified by the department. Prior to installing the automated enforcement system, the entity must give notice of the intersection where the system will be located and the date on which the system will begin to monitor the intersection. The entity must give the notice at least 14 days prior to the installation of the system in a newspaper of general circulation throughout the area served by the entity.

The substitute requires entities implementing a system to submit an annual report to the department regarding:

- (1) The number of intersections enforced by an active system;
- (2) The number of notices of violation mailed;
- (3) The number of notices of violation paid;
- (4) The number of hearings; and
- (5) The total revenue collected as a result of the system.

Any entity failing to complete the annual report within 45 days of its due date will be fined \$50,000 and must remove all automated photo red light enforcement systems.

Entities that establish an automated photo red light enforcement system may contract with a private vendor to perform operational and administrative tasks associated with the use of the system but not the issuance of the notice of violation. Any compensation paid to a private vendor must not be based upon the number of violations mailed, the number of citations issued, the number of violations paid, or the amount of revenue collected by the entity.

Before a notice of violation may be issued, all images produced by a system must be reviewed and approved by a law enforcement officer employed by the entity in which the alleged violation occurred. Based on inspection of recorded images, a signed notice of violation or copy of the notice alleging that the violation occurred will be evidence of the facts and will be admissible in any proceeding.

The substitute specifies what the notice of violation is to contain including a copy of two recorded images and a zoomed and cropped image of the vehicle's license plate and an image of the driver as well as information on how he or she can review the alleged violation and contest it. Any issued notice of violation must be mailed no later than three business days after the violation was recorded by the automated system.

The penalties and court costs imposed for a violation must not exceed an amount that would have been imposed if the violation had been detected by a law enforcement officer present when the violation occurred. A person who commits a red light violation will be guilty of a moving violation as specified in Section 302.302. A person charged with committing a red light violation may rebut the violation by filing an affidavit with the court that he or she was not the operator of the vehicle at the time of the alleged violation.

Entities must issue warning notices for the first 30 days after a system is installed, and no entity may use a photo radar system to enforce speeding violations. Entities will also be required to maintain photographic and other recorded evidence for at least three years. Photographic and recorded evidence will not be subject to disclosure under the Open Meetings and Records Law, commonly known as the Sunshine Law.

#### UNINSURED MOTORISTS

The Uninsured Motorist Stipulation of Benefits Act of 2009 is established. An uninsured motorist involved in an accident with a complying policyholder will be subject to a 100% reduction of recovery for noneconomic damages. The reduction will not apply if it can be proven that the insured motorist caused the accident while under the influence of drugs or alcohol or if the insured motorist is convicted of vehicular assault or homicide. Passengers in the uninsured motor vehicle will not be subject to the waiver. The substitute will not apply to a motorist whose insurance policy was terminated for failure to pay the premium unless notice of termination for failure to pay was provided by the insurer at least 30 days prior to the accident.

Any person who knowingly or intentionally produces, manufactures, sells, or distributes a fraudulent insurance identification card will be guilty of a class D felony. A person who is knowingly or intentionally in possession of a fraudulent insurance identification card will be guilty of a class B misdemeanor and if in an accident with a complying policyholder will be subject to a 100% reduction of recovery for noneconomic losses. Any person who owns or operates a motor vehicle under the influence of drugs or alcohol and is in an accident will be subject to a 100% reduction of recovery for noneconomic losses.

If a motor vehicle owner fails to maintain financial responsibility as required in Section 303.160, the owner will be guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a subsequent violation and will have his or her motor vehicle impounded and driver's license suspended until proof of financial responsibility is provided. The substitute

allows the departments of Public Safety and Revenue to enter into agreements with local law enforcement agencies to collect and return to the Department of Revenue suspended or revoked driver's licenses, motor vehicle registrations, and motor vehicle license plates. If financial responsibility is not maintained, the vehicle owner must surrender the vehicle license plate and registration certificate to the Department of Revenue within five days after loss of financial responsibility.

In its discretion, the Department of Revenue can authorize automobile insurers to use alternative methods to provide notice of cancellation, refusal to renew, new policies written, and renewals to the department for individuals whose financial responsibility is through insurance coverage. A registration certificate cannot be reissued until satisfactory evidence of financial responsibility has been filed. The substitute establishes an appeal process for individuals who at the time of suspension have maintained financial responsibility.

Upon proof of financial responsibility, a reinstatement fee of \$200 must be paid by a vehicle owner who has not voluntarily surrendered his or her license plates and registration certificate. Any person who willfully fails to return his or her license plates and registration certificate will be guilty of a misdemeanor and will be punished as follows:

- (1) For a first offense, a fine of not less than \$100 but no more than \$200, or a 30-day imprisonment;
- (2) For a second offense, a fine of \$200, a 30-day imprisonment, or both; and
- (3) For a third or subsequent offense, imprisonment for not less than 45 days but no more than six months.

A \$5 fine payable to the Department of Revenue is established for every day in which there is a lapse in the required financial responsibility. The total amount of the fine cannot exceed \$200 for a first offense.

The substitute repeals the provisions regarding proof of financial responsibility notification, suspension, and hearings in Sections 303.041 and 303.042.

#### CONTRACT CARRIERS TRANSPORTING RAILROAD EMPLOYEES

The substitute requires drivers for contract carriers that transport railroad employees to have a valid chauffeur's license and a recent driving record from each prospective driver. The carrier must also conduct a review of the driving record of each

applicant prior to his or her being hired and maintain a personnel file on each driver.

A driver transporting railroad employees is limited to 16 hours of total on-duty time within any 24-hour period. A driver who has 12 hours of actual vehicle operation within any 24-hour period or 16 hours of total on-duty time within any 24-hour period must have at least eight consecutive hours off duty before operating a vehicle under their employ again.

A contract carrier transporting railroad employees must maintain individual daily time records for a minimum of six months indicating the times all for-hire motor carrier drivers employed by them reported for duty, the corresponding times of relief from duty, total time driven each day, total time on duty each day, and total time off duty for each day. All records required to be maintained under this provision must be made available for inspection by the Department of Transportation.

Each contract carrier must maintain liability insurance in an amount not less than \$1.5 million for each vehicle used to transport railroad employees.

#### MOTOR VEHICLE WINDSHIELD STICKERS

The substitute requires a window sticker instead of a license plate tab to be placed on the inside front windshield of a motor vehicle to show the current registration. A window sticker will not be issued for a motorcycle or trailer registration.

The Director of the Department of Revenue is allowed, beginning January 1, 2012, to prescribe additional information to be recorded on the window sticker to ensure that it positively correlates with the license plate or plates issued for the vehicle.

#### PUBLIC ROADWAYS

The substitute requires the Department of Transportation's plans, programs, and projects to provide full consideration for the safety and contiguous routes for bicyclists, pedestrians, disabled persons, and transit users of all ages and abilities. Bicycle and pedestrian ways must be given full consideration in the planning and development of transportation facilities by the department, including their incorporation into state plans and programs.

#### DRUNK DRIVING VICTIM MEMORIAL SIGN PROGRAM

The Risk Awareness Program is established which requires the

Department of Transportation to establish and administer a drunk driving victim memorial sign program. The department must adopt, by rules and regulations, program guidelines for the application for and placement of signs including, but not limited to, the sign application and qualification process, the procedure for the dedication of signs, and procedures 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 "Think About It!".

All other 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.

#### COMMERCIAL DRIVER'S LICENSE

The substitute prohibits the expungement of a minor in possession charge or for being found guilty with a blood-alcohol content of at least .04 for holders of commercial driver's licenses or persons operating commercial motor vehicles when the violation occurred. Any person will be disqualified from driving a commercial motor vehicle for a period of not less than one year if convicted for the first violation of an alcohol-related violation.

The Director of the Department of Revenue will disqualify a commercial driver's license holder or operator of a commercial motor vehicle as a commercial driver upon receipt of a conviction for an offense or failure to appear or pay. The disqualification will remain in effect until the department director receives notice that the person has complied with the requirement to appear or pay.

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

The state must immediately revoke a hazardous material endorsement upon receipt of an Initial Determination of Threat Assessment and Immediate Revocation from the federal Transportation Security Administration and must revoke or deny a hazardous material endorsement within 15 days of receipt of a final determination. The definition of "hazardous materials" is revised to be consistent with federal law and regulations.

Any person convicted for driving while out of service will be disqualified from driving a commercial motor vehicle in a manner prescribed by federal regulations.

The provisions regarding motor vehicle windshield stickers become effective January 1, 2011.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$4,413,592 in FY 2010, \$4,481,442 in FY 2011, and \$4,656,270 in FY 2012. Estimated Income on Other State Funds of \$285,650 in FY 2010, \$1,383,567 in FY 2011, and \$2,404,354 in FY 2012.

PROPOSERS: Supporters say that the bill will increase seat belt usage which will save lives. When you wear a safety belt, you greatly reduce the risk of having a serious injury or death.

Testifying for the bill were Representative Deeken; Robert Johnson, St. John's Hospital; Missouri Employers Mutual Insurance; Greg White, Cole County Sheriff; Department of Transportation; Michael Boland, Mothers Against Drunk Driving; State Farm Insurance Companies; Joy Oesterly, Missouri Kids First; Missouri Chamber of Commerce and Industry; Missouri Insurance Coalition; Missouri Safety Council; Missouri Police Chiefs' Association; Carl Wolf, Hazelwood Police Department; Mike Force, Lake St. Louis Police Department; Robert Pruet, Bellefontaine Neighbors Police Department; Michael Serbert, Bolivar Police Department; Delmar Haase, Carl Junction Police Department; and Terry Foster, Moscow Mills Police Department.

OPPOSERS: There was no opposition voiced to the committee.