

HCS HB 777 -- REGULATION OF INSURANCE

SPONSOR: Yates

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 12 to 0.

This substitute changes the laws regarding insurance regulation.

INSURANCE IDENTIFICATION CARDS (Section 303.024, RSMo)

The crime of knowingly or intentionally producing, manufacturing, selling, or distributing a fraudulent insurance identification card is created, a class D felony. Any person who knowingly or intentionally possesses a fraudulent insurance identification card will be guilty of a class B misdemeanor.

WRECKER AND TOWING SERVICES (Sections 304.143 - 304.157)

The substitute establishes provisions regarding the licensure of operators and employees of wrecker and towing service companies. In its main provisions, the substitute:

- (1) Requires towing companies and their employees to be licensed by the Missouri Public Service Commission;
- (2) Requires a company to prominently display its state license on both sides of all its wreckers;
- (3) Requires licensees to maintain liability insurance in the amount of at least \$750,000 with a deductible not greater than \$1,000 per occurrence;
- (4) Requires a licensee to pay a \$200 initial licensing fee, renewable annually on December 31 for a \$100 fee;
- (5) Authorizes the commission to cancel, suspend, revoke, or refuse to issue or renew a license;
- (6) Requires a licensee to make provisions for Internet access if a statewide abandoned vehicle database is established;
- (7) Creates the Wrecker License Administration Fund to be used for the administration of the provisions of the substitute;
- (8) Prohibits licensees from towing a damaged or disabled vehicle without specific authorization from the owner or operator;
- (9) Requires a licensee to provide the owner or operator of a

vehicle it has towed with a written disclosure stating the formal name of the business, address, telephone number, address of the vehicle's location, all costs and fees, and an itemized description of the vehicle owner's or operator's rights;

(10) Requires licensees to maintain a copy of the completed disclosure records for at least five years;

(11) Requires all vehicle storage facilities to prominently display a readily visible sign explaining customer rights;

(12) Prohibits a licensee from having any clause in its towing contract that waives or limits liability;

(13) Requires a licensee, upon towing an abandoned vehicle, to report the activity to a law enforcement agency if the licensee does not have access to the Department of Revenue's online records;

(14) Requires a licensee to maintain consistent storage rates on vehicles and not to differ based on whether the owner has insurance covering the charges; and

(15) Requires a licensee who tows an abandoned vehicle without authorization from a law enforcement agency to enter the appropriate information on the statewide abandoned vehicle database.

BAIL BOND AGENTS (Sections 374.702 - 374.755)

Beginning August 28, 2009, the substitute requires a person licensed as an active bail bond agent to hold that license for a period of at least four years prior to owning or being an officer of a licensed general bail bond agent. When applying for license renewal, a general bail bond agent licensed prior to August 28, 2009, must have completed at least two years as a bail bond agent and possess at least \$10,000 in liquid assets along with an executed assignment of \$10,000 to the state. For a general bail bond agent licensed on or after August 28, 2009, he or she must have completed four years as a bail bond agent and possess \$50,000 in liquid assets along with an executed assignment of \$50,000 to the state. In addition, the general bail bond agent must execute an assignment of \$5,000 for each bail bond agent licensed under his or her authority on or after August 28, 2009.

The substitute also removes the provision allowing a person to apply for licensure as a bail bond agent after 15 years from a final adjudication or plea of guilty or nolo contendere in a criminal prosecution.

AUDITED FINANCIAL REPORTS OF CERTAIN INSURERS (Sections
375.1025 - 375.1057)

The substitute changes the laws regarding audited financial reports for certain insurers. In its main provisions, the substitute:

- (1) Exempts insurers with less than \$1 million in direct premiums written in Missouri and less than 1,000 policy or certificate holders nationwide in a calendar year from the financial report auditing requirements unless the Director of the Department of Insurance, Financial Institutions and Professional Registration finds that the audit is necessary;
- (2) Exempts foreign or alien insurers from filing a report of internal control over financial reporting when the insurer has filed a substantially similar report in another state;
- (3) Specifies that a similar 30-day extension is granted for the filing of the management's report of internal control over financial reporting when insurers have been granted an extension of the June 1 filing date for audit reports;
- (4) Requires certain insurers to designate a group of individuals as its audit committee;
- (5) Changes the content requirements for the financial report;
- (6) Adds several provisions regarding the qualifications of certified public accountants for insurers' annual audited financial reports;
- (7) Specifies that insurers can apply, in writing, to the department director for permission to file audited combined financial statements in certain situations;
- (8) Removes the statement of liability insurance coverage from the required contents of the accountant's letter;
- (9) Requires the accountant to have an understanding of the internal control of the insurer to plan the audit;
- (10) Requires insurers to provide the department director with a written communication of any unresolved material weaknesses in its internal control over financial reporting noted during the audit and the completed or proposed actions to correct them, unless the actions have been described in the accountant's communication;
- (11) Establishes the membership requirements and functions of

audit committees;

(12) Specifies that false or misleading statements to an accountant in connection with any audit, review, or required communication will be considered a level three violation under Section 374.049; and

(13) Requires certain insurers to file a report of internal control over financial reporting and establishes the requirements for these reports.

GROUP HEALTH INSURANCE COVERAGE AFTER TERMINATION OF EMPLOYMENT (Section 376.428)

The substitute requires group policies by a health carrier or health benefit plan to comply with the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) provisions regarding the continuation of group health insurance coverage to an individual who has terminated employment or membership.

LIFE INSURANCE (Section 376.502)

Life insurance companies are prohibited from denying or refusing to accept an application for life insurance; refusing to renew, cancelling, restricting, or terminating a life insurance policy; or charging a different rate for life insurance based on the applicant's past or future lawful travel destinations unless it is based on sound actuarial principles or an anticipated experience. A violation of these provisions will be considered an unfair trade practice and subject to penalties specified in Sections 375.930 - 375.948. The provisions of the substitute apply to any life insurance policy issued or renewed on or after August 28, 2009.

CAPTIVE INSURANCE COMPANIES (Sections 379.1300 - 379.1412)

This substitute changes the laws regarding captive insurance companies and allows an association captive insurance company or an industrial insured captive insurance company to be organized as a reciprocal insurer. In its main provisions, the substitute:

(1) Requires the captive insurance company's subscribers' advisory committee to meet at least once a year;

(2) Removes the requirement that a captive insurance company hold at least 35% of its assets in Missouri;

(3) Requires organizers of a reciprocal insurer to petition the Director of the Department of Insurance, Financial Institutions and Professional Registration to issue a certificate finding that

the proposed association will promote the general good of the state;

(4) Specifies that the captive insurance company statutes will control in cases where there is a conflict between them and the reciprocal insurance statutes;

(5) Requires the State Treasurer to deposit 90% of the premium taxes collected from captive insurance companies and special purpose life reinsurance captive (SPLRC) companies into the General Revenue Fund and 10% into the Insurance Dedicated Fund, subject to a maximum of 3% of the current fiscal year's appropriation from the fund;

(6) Allows an association captive insurance company or an industrial insured captive insurance company to be converted to or merged with and into a reciprocal insurer and specifies the requirements and procedures for the conversion or merger plan;

(7) Reduces from two to one the number of Missouri residents required to incorporate or organize a SPLRC; and

(8) Changes the way in which the assets of a SPLRC are valued.

The provisions regarding group health insurance coverage after termination of employment contain an emergency clause.

FISCAL NOTE: Estimated Cost on General Revenue Fund of At least \$299,447 in FY 2010, Could exceed \$359,807 in FY 2011, and Could exceed \$374,747 in FY 2012. Estimated Income on Other State Funds of At least \$11,821 in FY 2010, FY 2011, and FY 2012.

PROPONENTS: Supporters say that the bill is necessary to be in compliance with the National Association of Insurance Commissioners and failure to maintain this status will subject Missouri insurance companies to stricter regulations from other states.

Testifying for the bill were Representative Yates; Department of Insurance, Financial Institutions and Professional Registration; and Reinsurance Association of America.

OPPONENTS: There was no opposition voiced to the committee.