

HCS SS SB 58 -- TRANSPORTATION

SPONSOR: Stouffer (Dixon)

COMMITTEE ACTION: Voted "do pass" by the Committee on Transportation by a vote of 11 to 0.

This substitute changes the laws regarding transportation.

TRANSPORTATION APPOINTEES (Sections 21.795 and 226.030, RSMo)

The position of Transportation Inspector General within the Joint Committee on Transportation Oversight is eliminated.

Currently, the two members of the Highways and Transportation Commission, one from each political party, who have the most seniority in commission service serve as commission leadership with one as chair and the other as vice chair for a period of one year. At the end of the year, the chair and vice chair rotate. The substitute gives the chair and vice chair the option to rotate positions.

MOTOR FUEL TAX (Section 142.800)

The substitute specifies that the definition of "diesel fuel" for motor fuel tax purposes does not include biodiesel until the biodiesel is blended with other diesel fuel or sold for highway use.

PUBLIC ROADWAYS (Section 226.222)

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.

DEPARTMENT OF TRANSPORTATION (Section 226.227)

The Department of Transportation is prohibited from using appropriated or received funding for any activity specifically designed to urge state or local legislators to favor or oppose the adoption of any specific legislative proposal. Officers or employees of the department can testify before a legislative body in response to the invitation of any member of that legislative body or a state executive office.

DRUNK DRIVING VICTIM MEMORIAL SIGN PROGRAM (Section 227.295)

The substitute requires the Department of Transportation to establish a drunk driving risk reduction awareness program to be known as "David's Law," including 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.

MEMORIAL HIGHWAYS AND BRIDGES (Sections 227.310, 227.311, 227.313, 227.368, 227.402, 227.407, 227.409, and 227.410)

The substitute designates the following memorial highways and bridges:

- (1) The portion of State Highway 100 located in Franklin County from its intersection with State Highway 47 to the highway's connection with Interstate 44 as the "Veterans Memorial Highway";
- (2) The portion of the Poplar Bluff bypass located in Butler County from State Highway 60 where it crosses over the Black River to State Highway 67 where it crosses State Route M as the "Veterans Memorial Highway";

(3) The portion of State Highway 266 located in Greene County from North Missouri Road AB to one mile east as the "Dr. Martin Luther King Jr. Memorial Mile";

(4) The bridge over Interstate 44 on Business Loop 44 at Exit 127 in Laclede County as the "Specialist James M. Finley Memorial Bridge";

(5) The bridge over the Gasconade River on State Highway 17 in Pulaski County as the "WWII Okinawa Veterans Memorial Bridge";

(6) The portion of Interstate 435 from mile marker 63.4 to mile marker 54.2 as the "Lamar Hunt Memorial Highway";

(7) The portion of Interstate 64/U. S. Highway 40 from the McClausland/Skinker interchange east to the Interstate 64/Interstate 55 interchange as the "Jack Buck Memorial Highway"; and

(8) The portion of U. S. Highway 160 in Greene County from the intersection of Farm Road 142 to the intersection of West Sunshine Street as the "Rabbi Abraham Joshua Heschel Memorial Highway."

ALL-TERRAIN VEHICLES (Section 301.010)

The substitute revises the definition of "all-terrain vehicle" (ATV) by increasing the vehicle's unladen dry weight from 1,000 pounds to 1,500 pounds and by specifying that an ATV is a vehicle with four or more nonhighway tires and defines a "recreational off-highway vehicle" as any motorized vehicle manufactured and used exclusively for off-highway use which is 60 inches or less in width, with an unladen dry weight of 1,500 pounds or less, traveling on four or more nonhighway tires, with a nonstraddle seat and steering wheel which are subject to the same registration requirements and trail use as all-terrain vehicles.

SPECIAL LICENSE PLATES (Sections 21.795, 301.165, 301.2998, 301.3155, 301.3158, 301.4005, 301.4006, 301.4010, 301.4016, 301.4018, and 301.4020)

The substitute allows for the following special license plates:

- (1) Brain Tumor Awareness;
- (2) Armed Forces Expeditionary Medal;
- (3) Legion of Merit;
- (4) Missouri Bicycle Federation;

- (5) Nixa Education Foundation;
- (6) National Wild Turkey Federation;
- (7) Missouri Stream Team;
- (8) D.A.R.E. (Drug Abuse Resistance Education); and
- (9) United States Submarine Veteran.

The Joint Committee on Transportation's speciality license plate approval process is revised; and once a specialty plate is approved for issuance, the Department of Revenue cannot issue the plate until receiving 200 applications.

TOWING ABANDONED VEHICLES (Sections 302.289 and 304.155)

The substitute establishes the procedures for a towing company to recover reasonable towing and storage fees after towing abandoned property from public property when directed by law enforcement. The towing company can file within 30 days, but not more than 45 days after removal, an affidavit along with an application including certain information regarding the personal property towed as well as a copy of the crime inquiry and inspection report to the Department of Revenue.

Within five days of receipt of the application, the department director must send notice to the registered owner of the abandoned property that a claim for reasonable towing and storage charges has been filed. If the owner does not provide satisfactory proof of payment of the charges within 30 days of receiving the notice, the owner's driver's license or driving privileges and any motor vehicle registrations registered in the owner's name will be suspended. A notice of suspension must be mailed to the registered owner at the last known address specifying the reasons for and the effective date of the suspension and include information regarding the right and procedures for requesting a hearing.

The suspension becomes effective 30 days after it is deemed the notice has been received and will continue until the owner submits proof that he or she has satisfied all reasonable towing and storage charges associated with the abandoned property. Reasonable storage charges cannot exceed 90 days.

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.

TRAFFIC FINE REVENUES (Section 302.341)

The substitute requires the City of Macks Creek, if more than 35% of its annual revenue is received from traffic fines, to forward all revenues in excess of the 35% threshold to the Department of Revenue for distribution to the state school system.

INSURANCE IDENTIFICATION CARDS (Section 303.024)

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.

MOTOR VEHICLE VIOLATION PENALTIES (Sections 301.131, 301.150, 301.310, 301.420, 301.440, 301.716, 307.010, 307.015, 307.090, 307.120, 307.125, 307.155, 307.172, 307.173, 307.195, 307.198, 307.365, 307.375, 307.390, 307.400, 488.006, and 556.021)

The substitute changes the laws regarding the penalties for certain violations of motor vehicle licensing, registration, and equipment provisions. In its main provisions, the substitute:

(1) Changes the penalties for persons violating the provisions of Sections 301.010 - 301.440 regarding registration and licensing of motor vehicles. Currently, persons violating a provision of these sections can be found guilty of a class C misdemeanor and be subject to a fine of not less than \$5 or more than \$500 and/or imprisonment in the county jail for a term not exceeding one year. The substitute reduces the penalty to an infraction with the same fines;

(2) Specifies that any person who willfully or knowingly makes a false statement on an application for the registration of a motor vehicle or trailer, or as a dealer, or in an application for or

assignment of a certificate of ownership will be guilty of a class C misdemeanor;

(3) Changes a violation of the following from a misdemeanor to an infraction:

(a) Provisions of Sections 301.700 - 301.714 and Section 307.198 regarding all-terrain vehicles;

(b) Provisions regarding when materials fall off a vehicle, trailer, or semitrailer while being transported or carried;

(c) Provisions requiring vehicles to be equipped with mud flaps;

(d) Provisions of Sections 307.020 - 307.120 regarding vehicle light regulations;

(e) Provisions regarding the lighting requirements for animal-driven vehicles;

(f) Provisions of Sections 307.130 - 307.160 regarding vehicle safety glass;

(g) Provisions regarding maximum vehicle bumper heights;

(h) Provisions regarding vehicle side window tinting;

(i) Provisions regarding the improper operation of a motorized bicycle;

(j) Provisions of Sections 307.350 - 307.390 regarding motor vehicle inspections; and

(k) Provisions of Section 307.400 regarding commercial vehicles and drivers of commercial vehicles;

(4) Changes a violation of the following from an infraction to a class C misdemeanor:

(a) Provisions of Section 307.365 regarding requirements of official inspection stations; and

(b) Provisions of Section 307.375 regarding inspections of buses used to transport children to or from school;

(5) Requires Missouri courts, unless otherwise provided by law, to assess all court costs, fees, surcharges, and other miscellaneous charges for any infraction in the same manner and amount as for a misdemeanor;

(6) Specifies that an offense is an infraction if it is designated as one or if a violation can result only in a fine, forfeiture, other civil penalty, or any combination thereof. A determination of whether an infraction has occurred will be made by the filing of a civil action. The action must be filed by a person who is authorized to bring a criminal action or an action to enforce an ordinance if the conduct constituted a crime or ordinance violation. The action will be brought in the name of the state or the appropriate political subdivision. An infraction violation must be proved by a preponderance of the evidence but must not be tried by a jury. If an infraction violation is proven, judgment must be entered for the plaintiff; and

(7) Requires the driver of any vehicle or the rider of any animal traveling on a roadway to stop on the signal of any law enforcement officer and to obey any reasonable signal or direction of the officer given in the course of enforcing any infraction. Any person who willfully fails or refuses to obey any signal or direction or who resists or opposes an officer while enforcing any infraction will be guilty of a class A misdemeanor.

COMMERCIAL DRIVER'S LICENSES (Sections 302.545, 302.700, 302.735, 302.755, 302.775, and 311.326)

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 the holder of a commercial driver's license or a person operating a commercial motor vehicle 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.

The substitute revises the definition of "farm vehicle" to clarify that it is a commercial motor vehicle operated by a farmer transporting agricultural products, machinery, supplies, or a combination of these within 150 miles to or from the farm.

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.

TRACTOR PARADES (Sections 304.170 and 304.260)

Tractors driven by licensed drivers during daylight hours on specified parade routes for fund-raising activities and other special community events involving tractors are exempt from certain width, height, length, and registration regulations with the approval of the Superintendent of the State Highway Patrol.

TRAFFIC CONTROL SIGNALS (Section 304.285)

The substitute creates an affirmative defense for a motorcycle rider who enters or crosses an intersection controlled by a traffic signal against a red light if the motorcycle has been brought to a complete stop, the traffic signal shows a red light for an unreasonable time, the traffic signal is apparently malfunctioning, and no motor vehicle or person is approaching or is so far away that it does not constitute an immediate hazard.

MISSOURI UNIVERSAL RED LIGHT ENFORCEMENT ACT (Sections 304.287, 304.288, 304.289, 304.290, 304.295, and 304.297)

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 red light camera fee will be collected and deposited into the 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 the inspection of recorded images, a signed notice of violation or a 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 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 fine imposed for a violation must not exceed \$75, no points will be assessed against his or her driver's license, and the violation will not be made a part of his or her operating record. 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.

Enforcement systems in place prior to the effective date of the substitute will not be subject to the requirements of the act.

CONSTRUCTION AND WORK ZONE VIOLATIONS (Section 304.582)

The substitute specifies that no person will be cited for a violation of certain traffic regulations in a construction or work zone if there are no highway workers located or working within the zone at the time of the alleged violation.

TRAILER AND SEMITRAILER SAFETY PRECAUTIONS (Section 304.870)

The substitute prohibits any person from climbing, standing, or working on top of any tanker trailer stopped along any highway unless proper safety precautions are taken. Any person violating this provision will be guilty of an infraction punishable by a fine of between \$50 and \$100.

MOTOR CARRIER FEES (Section 387.040)

Motor carriers are exempt from filing schedules of rates, fares, and charges for shipments of household goods transported wholly and exclusively within commercial zones as defined in Section 390.020 and established by the Highways and Transportation Commission.

CONTRACT CARRIERS TRANSPORTING RAILROAD EMPLOYEES (Section 389.948)

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 again operating a vehicle under the carrier's employ.

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 the carrier 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.

ASSAULT OF A HIGHWAY WORKER (Sections 565.081 - 565.083)

The crime of assault of a corrections officer, law enforcement officer, emergency personnel, or probation and parole officer in the first, second, and third degree is expanded to include a highway worker in a construction or work zone.

CONVEYANCE IN ST. LOUIS CITY (Sections 1 - 5)

The substitute authorizes the Governor to convey state property located in St. Louis City, which is currently being used by the Department of Corrections as a minimum security correctional facility, to the Highways and Transportation Commission for the new Mississippi River Bridge project.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$385,851 to Unknown in FY 2010, \$555,128 to Unknown in FY 2011, and \$571,783 to Unknown in FY 2012. Estimated Effect on Other State Funds of a cost of Unknown - up to \$72,474 in FY 2010, an income of \$103,230 to Unknown in FY 2011, and an income of \$103,230 to Unknown in FY 2012.

PROPOSERS: Supporters say that the bill changes provisions regarding commercial driver's licenses and other transportation issues. The procedure for obtaining a special license plate is also revised.

Testifying for the bill was Senator Stouffer.

OPPONENTS: Those who oppose the bill say that it will cause a person to only have his or her vehicle inspected every 10 years resulting in many people driving dangerous cars because they aren't required to get them fixed. Inspections point out problems, and a person has to get his or her car fixed before the vehicle will pass inspection creating a safer environment for everyone. The red light camera provisions can cause privacy issues for the driver and passengers. The positive identification provision will cause people to hide, cover their face, or duck down to avoid the photo which will be very dangerous.

Testifying against the bill were Mike Moehlenkamp; Steve Pororny; Gregory Kinder; Robert Gion; Ron Reiling; Glen Williams; City of Kansas City; James Schmidt; Missouri Municipal League; Michael Najjar; and Kenneth Wash.

OTHERS: Others testifying on the bill say the inspection program is a good program and needs to stay as it is in current law.

Testifying on the bill was State Highway Patrol.