

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0590-03
Bill No.: SCS for HCS for HB 130
Subject: Boards, Commissions, Committees, and Councils; Business and Commerce;
Consumer Protection; Contracts and Contractors; Employees - Employers; Fees;
Kansas City; Licenses - Miscellaneous; Motor Carriers; Department of Revenue;
Roads and Highways; Transportation
Type: Original
Date: February 24, 2017

Bill Summary: This proposal establishes a regulatory system for transportation network companies.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	\$18,778 or (\$383,946)	\$40,000 or (\$130,152)	\$40,000 or (\$131,845)
Total Estimated Net Effect on General Revenue	\$18,778 or (\$383,946)	\$40,000 or (\$130,152)	\$40,000 or (\$131,845)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Criminal Records System Fund	(\$9,174)	(\$9,174)	(\$9,174)
Highway Fund	(\$278,027)	(\$333,630)	(\$333,630)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$287,201)	(\$342,804)	(\$342,804)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 14 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	0 or 3 FTE	0 or 3 FTE	0 or 3 FTE
Total Estimated Net Effect on FTE	0 or 3 FTE	0 or 3 FTE	0 or 3 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	(Could exceed \$79,280)	(Could exceed \$84,330)	(Could exceed \$84,330)

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Department of Revenue (DOR)** state the following regarding this proposal:

§67.1819

Amends the taxi cab code to require a criminal background check policy for current and prospective taxi drivers under the Taxi Cab Code, 67.1812.

§387.400

Contains definitions for TNCs, including "prearranged ride," Transportation Network Company, drivers, and excludes taxis or other for-hire vehicles.

§387.402

The Department shall not require the vehicle used by a TNC driver to be registered as a commercial or for-hire vehicle.

§387.404

Beginning August 28, 2017, the Department is to license transportation network companies (TNC), after confirming they meet the requirements of §§387.400 -387.440, for operation in the state of Missouri to screen and license TNC drivers. A \$5,000 license fee is required to be paid to the Department.

§387.412

TNC drivers to transmit detailed receipts to TNC riders.

§387.414

TNC drivers are deemed to be independent contractors of TNCs, and not employees.

§387.418

Transportation Network Companies are required to establish a zero tolerance policy for TNC drivers for alcohol or drug intoxication.

§387.420

Subsection 1 requires TNC drivers to register with the TNC. The TNC is to conduct or utilize a third party to conduct local and national criminal background checks for drivers, including review of a driving history report.

ASSUMPTION (continued)

Subsection 2(a)-An applicant shall not be licensed by a TNC as a driver if she or he has three moving "violations" or a "violation" for a 'major offense' including, but not limited to attempt to evade a law enforcement officer, reckless driving, or driving under suspension or revocation.

Subsection 2(b)-A TNC driver shall not be licensed if he or she has been "convicted" within the last seven years of DWI, or a felony the commission of which involved a motor vehicle.

§387.425

Requires all TNCs to adopt a privacy policy to protect personal identifying information and to submit such policy to the Department with its application for licensure as a TNC.

§387.428

TNCs are to maintain customer records for individual trips for a period of one year from the date of the trip, and TNC driver information for a period of one year following the end of the "relationship" with the TNC.

§387.430

TNCs and drivers are to be controlled exclusively by §§387.400-387.434. No other local or state tax or licensure may be imposed, except for income or earnings taxes. Rule-making authority is granted to the Department.

§387.433

Exempts not-for-profit groups, local, state and federal entities, and Indian tribes from the provisions of §§387.414-.432.

§387.434

The Taxi Cab Code shall not apply to TNCs or drivers.

§387.436

A TNC is required to immediately revoke a TNC driver's authority to accept trip requests and to notify the Department of the TNC driver's name, driver license number, and license plate number upon receipt of information that a driver has been convicted for the offense of driving while intoxicated (drugs or alcohol), or the offense of use of a motor vehicle to commit a felony involving property damage or accident resulting in serious physical injury or death. The Department is required develop and implement a process to provide such information to all other TNCs licensed in the state. Information provided to the Department in this regard is exempt from chapter 610 sunshine record requests.

ASSUMPTION (continued)

§387.438

Exempts TNC drivers, taxicab drivers or food delivery service drivers operating a motor vehicle with a gross vehicle weight less than or equal to twelve thousand pounds from having to obtain a Class E for-hire driver license.

§387.440

The City of Kansas City may separately license TNCs at a fee of up to \$5,000 per year, to audit TNCs for compliance, and assess a fine of up to \$500 for each violation, and to remit fines to the Department. Under subsection 5, the Department is granted jurisdiction over any appeals of violations and fines.

Administrative Impact

Motor Vehicle Bureau (MVB)

It is unclear whether the bill contemplates a substantive regulatory process through the promulgation of rules including a complaint process and disciplinary mechanisms for TNCs who violate the provisions of the bill.

Regardless of whether the language is interpreted to require minimal or substantive regulations, the following costs will be incurred:

- Procedures will need to be developed for the issuance TNC permits. This will require 80 hours for a Management Analyst Specialist I in FY 2018.
- Develop a new application for annual permit issuance for TNC. This will require 40 hours for a Management Analyst Specialist I in FY 2018.
- The Department's website will need to be updated. This will require 10 hours for an Administrative Analyst III in FY 2018.
- MVB user acceptance testing for identified system modifications. 80 hours for each system modification for a total of 80 hours by a Management Analyst Specialist I in FY 2018.

FY 2018 (MVB)

Management Analyst Specialist I -- 200 hrs. @ \$20.94/hr. =	\$4,188
Administrative Analyst III -- 10 hrs. @ \$22.59/hr. =	<u>\$226</u>
Total	\$4,414

ASSUMPTION (continued)

Administrative Impact (continued)

Driver License Bureau (DLB)

The following costs will be incurred to modify procedures and manuals related to persons exempted from Class E license provisions per this proposed legislation:

FY 2018 DLB

Administrative Analyst II -- 20 hrs. @\$29.15 (1 ½ rate) /hr. =	\$583
Management Analyst Specialist II - 20 hrs. @ \$23.61/ hr. =	\$472
Revenue Band Manager II - 20 hrs. @ \$30.59/hr. =	<u>\$612</u>
	\$1,667

FY 2018 Personnel Services Bureau (PSB)

Update Web Page - Administrative Analyst III - 10 hrs. @ \$22.59/hr. =	\$226
Update Forms/Manuals - Management Analyst Spec I - 10 hrs. @ \$20.94/hr. =	\$209
Develop Procedures - Management Analyst Spec I - 10 hrs. @ \$20.94/hr. =	<u>\$209</u>
	\$604

If the Department's regulatory functions are minimal, and rule-making authority is not intended to include a complaint process, audit functions, and disciplinary mechanisms then the TNC would provide basic information on the application such as business name, address, agent contact information, phone number, and would also self-certify that the TNC would abide by all the requirements in §§387.400 to 387.434, RSMo. There would be no statutory basis for denying issuance of a permit or revoking a permit once it has been issued. The bill itself only requires that an annual fee be paid and does not set a time-frame in which the permit itself expires. If the Department's regulatory function is minimal, the Department will need the following:

- OA-ITSD services will be required at a cost of **\$21,222** (282.96 hours x \$75 per hour) in FY 2018.

If the Department's regulatory functions are intended to be substantive, the Department would have to promulgate rules for the following: a complaint process where individuals and entities could report violations of the law; an audit and investigation function whereby the Department could investigate alleged violations or perform random audits; and an administrative hearing process for disciplinary actions the remedies of which could include reprimand, assessments, suspension, probation, settlement, revocation, and denial proceedings. The Department's fiscal response will significantly increase. If the Department's regulatory function is more substantive, the Department will need the following:

ASSUMPTION (continued)

Administrative Impact (continued)

With regard to the audit function of home rule cities, ten records can be audited twice per year (20 records per year, per TNC). Based on the assumption of there being 8 TNCs operating in Missouri, there is the potential for 160 records that can be audited annually. Estimating 50% of the audited records contained violations would mean 80 possible violations annually. For purposes of administrative appeals and pursuing disciplinary action under promulgated rules, one FTE would be required and will be requested through the appropriations process.

FY 2018

Appeals Referee I (10 months) \$45,192 annually = \$37,660

FY 2019

Appeals Referee I = \$45,644

FY 2020

Appeals Referee I = \$46,100

The Compliance and Investigation Bureau (CIB) would handle all complaints made against TNC drivers. Based on an assumption of 8,000 TNC drivers, there is an anticipated 400 investigations that will occur each year based upon complaints and random audits. A CIB Investigator can handle roughly 200 complaints per year; therefore, two FTEs will be requested.

FY 2018

Investigator II (10 months) \$43,560 annually x 2 = \$72,600

FY 2019

Investigator II x 2 = \$87,991

FY 2020

Investigator II x 2 = \$88,871

If the number of appeals increases significantly and cannot be processed by the existing staff, an additional FTE for a docket clerk would be required and will be requested through the appropriation process.

- OA-ITSD services will be required at a cost of **\$382,563** (5,100.84 hours x \$75 per hour) in FY 2018.

ASSUMPTION (continued)

Administrative Impact (continued)

The Department has identified one TNC currently operating within the state of Missouri and seven potential other TNCs that could operate within the state. The Department assumes that the costs for processing applications will be absorbed with existing resources.

The Department will modify DMVConnect to facilitate the new TNC process and collect the required \$5,000 fee. It is assumed that each TNC annual permit issued will expire twelve months from the date of issuance.

Revenue Impact

The Department is aware of one TNC currently operating within the state of Missouri. Additional research has identified other potential TNCs in operation in the United States and other countries. However, it is unknown as to when, or even if, their services or any other companies offering similar services falling under the provisions of this proposal, will be available in Missouri.

Based on the assumption of eight TNCs operating in Missouri, there will be an increase of at least **\$40,000** each year from the issuance of TNC licenses. The Department assumes this increase will be deposited into General Revenue.

§387.438

The exemption contained in this section would affect not only TNC drivers, but many other drivers currently required to have a Class E license. The Department assumes, based on the proposed language in §387.438, there would likely be a reduction in the number of applications for a Class E for-hire license. However, the exact number of TNC drivers is unknown. For purposes of this fiscal impact analysis the Department assumes there could be up to a 50% reduction in Class E applications, resulting in a loss of revenue.

Total new 3 yr. and 6 yr. Class E applicants FY 2016:

3yr 3,031 x 50% = an estimated reduction of 1,516 3yr Class E applicants
6yr 22,748 x 50% = an estimated reduction of 11,374 6yr Class E applicants

ASSUMPTION (continued)

Revenue Impact (continued)

Estimated Revenue Impact for FY 2018 and Subsequent Years

New Class E 3 yr. license fee equals \$15.00. This fee is distributed as \$5.00 to increased fees (split distribution to Highway Fund 75%, Cities 15% and Counties 10%) and \$10 to the Highway Fund).

New Class E 6yr license fee equals \$30.00. This fee is distributed as \$10.00 to increased fees (split distribution to Hwy Fund 75%, Cities 15% and Counties 10%) and \$20.00 to the Highway Fund.

Estimated Loss of Funds Due to Reduction in 3yr Class E Licenses

1,516 x \$5.00 (increased fee amount of total fee of \$15)
x 75% (Highway Fund) = \$5,685 /12 = \$473.75 x 10 = \$4,738
x Cities 15% = \$1,137 /12 = \$94.75 x 10 = \$ 948
x Counties 10% = \$758 /12 = \$63.16 x 10 = \$ 632
Total FY 2019 & FY 2020 **\$7,580** FY 2018 (10 months) **\$6,318**

1,516 x \$10.00 = \$15,160 /12 months = \$1,263 x 10 months = **\$12,633** - Loss of fees distributed to the Highway Fund FY 2018

1,516 x \$10.00 = **\$15,160** - Loss of fees distributed to the Highway Fund FY 2019 & FY 2020

Estimated Loss of Funds Due to Reduction in 6yr Class E Licenses

11,374 x \$10.00 (increased fee amount of total fee of \$30)
x 75% (Highway Fund) = \$85,305/12 = \$7,109 x 10 = \$71,089
x Cities 15% = \$17,061/12 = \$1,422 x 10 = \$14,220
x Counties 10% = \$11,374/12 = \$948 x 10 = \$ 9,480
Total FY 2019 & FY2020 **\$113,740** FY 2018 (10 months) **\$94,789**

11,374 x \$20 = \$227,480/12months= \$18,957 x 10 months = **\$189,567** - Loss of fees distributed to the Highway Fund FY 2018

11,374 x \$20 (Hwy Fund) = **\$227,480** - Loss of fees distributed to the Highway Fund FY 2019 & FY 2020

ASSUMPTION (continued)

Revenue Impact (continued)

In summary, DOR assumes a loss to the Highway Fund of **\$278,027** in FY 2018 (\$4,738 + \$12,633 + \$71,089 + \$189,567) and **\$333,630** in FY 2019 and FY 2020 (\$5,685 + \$15,160 + \$85,305 + \$227,480).

DOR assumes a loss to the Highway Fund for Cities of **\$15,168** in FY 2018 (\$948 + \$14,220) and **\$18,198** in FY 2019 and FY 2020 (\$1,137 + \$17,061).

DOR assumes a loss to the Highway Fund for Counties of **\$10,112** in FY 2018 (\$632 + \$9,480) and **\$12,132** in FY 2019 and FY 2020 (\$758 + \$11,374).

Officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assume the proposal removes the current fingerprint-based background check requirement for taxi cab commissions. The Missouri State Highway Patrol Criminal Justice Information Services Division (CJIS) conducted 417 background checks for the Metropolitan Taxicab Commission in 2016. The costs associated with a state and federal fingerprint-based background check are as follows:

State fee: \$20

FBI fee: \$12

Of these amounts, the state retains the \$20 state fee and \$2 of the federal charge of \$12 for a pass thru fee.

For purposes of this fiscal note, the Highway Patrol anticipates reduced revenue to the Criminal Records System Fund based on an average amount of **\$9,174** (\$22 x 417).

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget.

ASSUMPTION (continued)

Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials from the **City of Kansas City** state this legislation will have a negative fiscal impact on the City of Kansas City, Missouri. Currently, Kansas City issues business licenses to drivers who provide a for-hire driving service. Kansas City charges a small fee for these licenses. This legislation, if passed, would make it impossible for Kansas City to issue such business licenses; therefore, Kansas City could not charge the business license fee. The loss of revenue to Kansas City if this legislation passed would be \$54,000.

Oversight assumes local political subdivisions other than Kansas City may also currently collect licensing fees from drivers, but would not be allowed to if this proposal becomes law (§387.732.1). Therefore, Oversight will assume a loss of revenue to local political subdivisions that “could exceed” the estimate provided by Kansas City.

Officials from the **Department of Transportation, Department of Insurance, Financial Institutions and Professional Registration and Department of Labor and Industrial Relations** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Joint Committee on Administrative Rules** state that the proposal is not anticipated to cause a fiscal impact to their agency beyond its current appropriation.

Oversight conducted some research and found several such transportation network companies (Uber, Lyft, Sidecar, Flywheel, Curb, Hailo, Summon, and Shuddle) that could apply for an annual permit to operate in Missouri. Therefore, Oversight will reflect revenues of **\$40,000** (assumed 8 companies x \$5,000 annual permit fee per §387.404) in FY 2018, FY 2019 and FY 2020 for this proposal.

This proposal will increase total state revenue.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Revenue</u> - DOR - Permit fees of \$5,000 - §387.704 (pages 8 & 11)	\$40,000	\$40,000	\$40,000
<u>Costs</u> - DOR			
Personal Services (pages 6 & 7)	\$0 or (\$110,260)	\$0 or (\$133,641)	\$0 or (\$134,971)
Fringe Benefits	\$0 or (\$30,123)	\$0 or (\$36,511)	\$0 or (\$36,874)
IT Services (pages 6 & 7)	(\$21,222 or \$382,563)	\$0	\$0
<u>Total Costs</u> - DOR	(\$21,222 or \$423,946)	\$0 or (\$170,152)	\$0 or (\$171,845)
FTE Change - DOR	0 or 3 FTE	0 or 3 FTE	0 or 3 FTE
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	\$18,778 or <u>(\$383,946)</u>	\$40,000 or <u>(\$130,152)</u>	\$40,000 or <u>(\$131,845)</u>
Estimated Net FTE change for General Revenue Fund	0 or 3 FTE	0 or 3 FTE	0 or 3 FTE
CRIMINAL RECORDS SYSTEM FUND			
<u>Loss</u> - MHP - removal of fingerprint- based background check requirement for taxi cab commissions (page 10)	<u>(\$9,174)</u>	<u>(\$9,174)</u>	<u>(\$9,174)</u>
ESTIMATED NET EFFECT ON THE CRIMINAL RECORDS SYSTEM FUND	<u>(\$9,174)</u>	<u>(\$9,174)</u>	<u>(\$9,174)</u>

<u>FISCAL IMPACT - State Government</u>	FY 2018	FY 2019	FY 2020
(continued)	(10 Mo.)		

HIGHWAY FUND

<u>Loss - DOR - reduction of Class E licenses (page 10)</u>	<u>(\$278,027)</u>	<u>(\$333,630)</u>	<u>(\$333,630)</u>
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ESTIMATED NET EFFECT ON THE HIGHWAY FUND	<u>(\$278,027)</u>	<u>(\$333,630)</u>	<u>(\$333,630)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2018	FY 2019	FY 2020
	(10 Mo.)		

LOCAL POLITICAL SUBDIVISIONS

<u>Loss - Cities (15%) - reduction of Class E licenses (page 10)</u>	<u>(\$15,168)</u>	<u>(\$18,198)</u>	<u>(\$18,198)</u>
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<u>Loss - loss of business license fees (page 11)</u>	<u>(Could exceed \$54,000)</u>	<u>(Could exceed \$54,000)</u>	<u>(Could exceed \$54,000)</u>
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<u>Loss - Counties (10%) - reduction of Class E licenses (page 10)</u>	<u>(\$10,112)</u>	<u>(\$12,132)</u>	<u>(\$12,132)</u>
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ESTIMATED NET EFFECT TO LOCAL POLITICAL SUBDIVISIONS	<u>(Could exceed \$79,280)</u>	<u>(Could exceed \$84,330)</u>	<u>(Could exceed \$84,330)</u>
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FISCAL IMPACT - Small Business

Small transportation businesses could be impacted by this proposal.

FISCAL DESCRIPTION

This proposal outlines the new regulatory treatment of transportation network companies (TNCs).

The proposal further provides that, beginning August 28, 2017, a TNC will apply for an annual permit from the Department of Revenue to do business within the State of Missouri, and maintain the insurance coverage requirements provided.

FISCAL DESCRIPTION (continued)

Criteria for fare charges and customer receipts are specified in the proposal.

The proposal specifies what information and display a TNC shall display on its software application or website and vehicles.

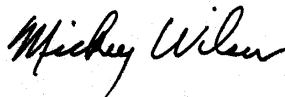
A TNC will be required to conduct a local and national criminal background check for each applicant to act as a driver. Drivers shall be independent contractors and not employees of the transportation network company if specific conditions are met. TNCs shall also adopt a nondiscrimination policy with respect to riders. All vehicles used to provide prearranged rides must meet inspection requirements.

A municipality or other local or state entity cannot impose a tax on or require a license relating to providing prearranged rides for a TNC or its drivers or vehicles. This exemption does not apply to earnings taxes.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Labor and Industrial Relations
Department of Transportation
Department of Revenue
Office of the Secretary of State
Joint Committee on Administrative Rules
Department of Public Safety - Missouri Highway Patrol
Department of Insurance, Financial Institutions and Professional Registration
City of Kansas City



Mickey Wilson, CPA
Director
February 24, 2017

Ross Strobe
Assistant Director
February 24, 2017