

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1079H.011
Bill No.: HB 389
Subject: Business and Commerce; Motor Vehicles; Law Enforcement Officers and
Agencies
Type: Original
Date: March 8, 2021

Bill Summary: This proposal establishes the Commercial Vehicle Towing Advisory
Committee.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
State Road Fund	(\$534,524)	(\$641,429)	(\$641,429)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$534,524)	(\$641,429)	(\$641,429)

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
State Road Fund	7.5 FTE	7.5 FTE	7.5 FTE
Total Estimated Net Effect on FTE	7.5 FTE	7.5 FTE	7.5 FTE

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri Department of Transportation (MoDOT)** assume the following regarding this proposal:

This bill establishes the Commercial Vehicle Towing Advisory Committee and includes MoDOT's Director as one of the members of the Committee. This bill mandates the Missouri Highways and Transportation Commission (MHTC) to promulgate rules regulating the towing of commercial vehicles. This bill requires the MHTC to establish a process by which to receive, investigate and adjudicate complaints against towing companies. It is unclear if the MHTC determinations will be considered a contested case and if the MHTC determinations under this bill will be appealable to the Administrative Hearing Commission or Circuit Court.

Title	Classification/Grade	Salary /yr	Benefit /yr (86.45%)	Cost S+B/FTE	Number Of FTE	Cost
Sr. Agent	Technician - 9.4	\$37,692	\$32,585	\$70,277	2	\$140,553
Motor Carrier System and Training Analyst	Professional - 12.0	\$41,832	\$36,164	\$77,996	.25	\$19,499
Sr. Investigator	Professional - 13.7	\$49,056	\$42,409	\$91,465	3	\$274,395
Supervisor	Professional - 14.2	\$47,316	\$40,905	\$88,221	0.5	\$44,110
Project Manager	Professional - 17.4	\$60,276	\$52,109	\$112,385	0.25	\$28,096
					6	\$506,654

Motor Carrier Services (MCS) anticipates the need for additional support from MoDOT's Chief Counsel's Office. The estimated fiscal impact of that assistance is as follows:

Sr. Asst. Counsel	Professional -	\$70,752	\$61,165	\$131,917	0.25	\$32,979
Senior Paralegal	Professional - 15.3	\$51,060	\$44,141	\$95,201	0.25	\$23,800
Senior Executive Assistant	Professional - 11.4	\$41,832	\$36,164	\$77,996	1	\$77,996
					1.5	\$134,775

Write and promulgate rules

- Draft rules (Paralegal, Attorney, Project Manager, Division Director)

- Seek and receive feedback from affected parties and public at large (Project Manager, Division Director)
- Coordinate processes to present draft rules to Commission (Senior Executive Assistant, Project Manager, Paralegal)
- Coordinate processes to present draft rules to Secretary of State (Paralegal)
- Respond to public comment (Project Manager, Paralegal)
- Review and update rules as required by Section 536.175.1 RSMo (requires each state agency, including the Commission and MoDOT, to review each of its rules in the Code of State Regulations every five years.)
- Review and update rules as deemed necessary at points between the five-year review process.

Processes introduced as new work

- Receive complaints
- Record complaints
- Investigate complaints
- Record investigation information
- Record investigation results
- Adjudicate complaints
- Record adjudication processes
- Record adjudication results
- Facilitate open records and Sunshine Law requests
- Dispose of post-retention date records
- Communicate processes, statuses and results
 - Facilitate advisory committee
 - Facilitate meetings
 - Schedule meetings
 - Plan meetings
 - Organize appearances by those who petition to address the committee
 - Find, secure and prepare location of meetings
 - Recording, recordkeeping and retention of meeting notes
 - Facilitate presentation of recommendations
 - Facilitate action based on approval/disapproval of recommendations
- Facilitate advisory committee review of complaint results

The total fiscal impact of this legislation likely exceeds \$600,000 in salary and benefits alone. Additionally, MoDOT is unaware of any authority that empowers it to adjudicate civil issues between private parties. Thus, neither MoDOT nor the Committee will have the necessary authority to enforce the findings of any proceedings under this legislation. MoDOT has the authority to dispose of regulatory violations detected by MCS's investigatory staff in a State vs. Citizen Case, but for private parties to be made whole, court action as a civil matter is likely necessary for any charges deemed excessive or fraudulent.

Oversight does not have information to the contrary and therefore, Oversight will reflect the cost estimates as provided by MoDOT.

Officials from the **Missouri Highway Patrol, Department of Revenue and Attorney General's Office** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State** notes many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The Secretary of State's office 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 Secretary of State's office for Administrative Rules is less than \$5,000. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, they also recognize 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 our office can sustain with our core budget. Therefore, they reserve 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.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
STATE ROAD FUND			
<u>Cost – MoDOT – FTE to implement proposal</u>	<u>(\$534,524)</u>	<u>(\$641,429)</u>	<u>(\$641,429)</u>
FTE Change – MoDOT	7.5 FTE	7.5 FTE	7.5 FTE
ESTIMATED NET EFFECT ON THE STATE ROAD FUND	<u>(\$534,524)</u>	<u>(\$641,429)</u>	<u>(\$641,429)</u>
Estimated Net FTE Change to the State Road Fund	7.5 FTE	7.5 FTE	7.5 FTE

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

Small towing companies could be impacted as a result of this proposal.

FISCAL DESCRIPTION

This act creates within the Department of Transportation the "Commercial Vehicle Towing Advisory Committee", with membership as specified in the act. The committee shall hold its first meeting no later than June 1, 2022, and shall, at the discretion of the Department of Transportation, make recommendations regarding the towing of commercial vehicles.

No later than June 1, 2023, the Department of Transportation, in consultation with the Highway Patrol and the Commercial Vehicle Towing Advisory Committee, shall promulgate rules regarding the towing of commercial vehicles.

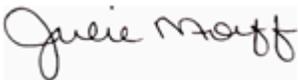
The rules shall ensure towing companies charge fair, equitable, and reasonable rates for services rendered, and shall be made available on the Department of Transportation's website. The rules shall:

- Establish factors used in determining whether a rate is fair, equitable, and reasonable;
- Establish a process for complaints against towing companies;
- Establish a process for suspending or removing a towing company from any tow list; and
- Establish information required to be included on invoices or notices associated with commercial vehicle towing.

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

Missouri Department of Transportation
Department of Revenue
Missouri Highway Patrol
Attorney General's Office
Office of the Secretary of State
Joint Committee on Administrative Rules



Julie Morff
Director
March 8, 2021



Ross Strobe
Assistant Director
March 8, 2021