

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4715-04
Bill No.: CCS for HCS for SB 640
Subject: Boards, Commissions, Committees, Councils; Boats and Watercraft; Buses;
 Crimes and Punishment; Highway Patrol; Licenses - Motor Vehicle; Licenses -
 Miscellaneous; Motor Vehicles
Type: Original
Date: May 12, 2016

Bill Summary: This proposal modifies provisions relating to vehicles.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2021)
General Revenue	\$22,841	(\$13,503,260)	(\$5,804,268)	(\$271,436)
Total Estimated Net Effect on General Revenue	\$22,841	(\$13,503,260)	(\$5,804,268)	(\$271,436)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2021)
Highway Fund	\$1,135,091 to \$1,157,828	\$1,614,892 to \$1,666,110	\$11,217,498 to \$11,278,088	Less than \$677,211
Insurance Dedicated Fund	Up to \$2,000	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$1,135,091 to \$1,159,828	\$1,614,892 to \$1,666,110	\$11,217,498 to \$11,278,088	Less than \$677,211

Numbers within parentheses: () indicate costs or losses. This fiscal note contains 27 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2021)
Unemployment Insurance Administration	\$0 or (\$38,000,000)	\$0 or (\$38,000,000)	\$0 or (\$38,000,000)	\$0 or (\$38,000,000)
Wagner-Peyser	\$0 or (\$12,000,000)	\$0 or (\$12,000,000)	\$0 or (\$12,000,000)	\$0 or (\$12,000,000)
Federal Highway Funds	\$0 or (\$6,650,000)	\$0 or (\$6,650,000)	\$0 or (\$6,650,000)	\$0 or (\$6,650,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (\$56,650,000)	\$0 or (\$56,650,000)	\$0 or (\$56,650,000)	\$0 or (\$56,650,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)				
FUND AFFECTED	FY 2017	FY 2018	FY 2019	Fully Implemented (FY 2021)
General Revenue	0 FTE	0 FTE	6 FTE	6 FTE
Total Estimated Net Effect on FTE	0 FTE	0 FTE	6 FTE	6 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 2017	FY 2018	FY 2019	Fully Implemented (FY 2021)
Local Government	\$0	\$0	Greater than \$3,386,054	Greater than \$225,737

FISCAL ANALYSIS

ASSUMPTION

§301.067

Officials from the **Department of Revenue (DOR)** assume this section of the proposal opens permanent trailer registrations to any trailer as defined in §301.010, RSMo, and semitrailers, at a fee of \$52.50, by deleting restrictions for trailers or semitrailers which are operated coupled to a towing vehicle by a fifth wheel and kingpin assembly or by a trailer converter dolly.

Administrative Impact:

Motor Vehicle Bureau (MVB)

- Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours at a cost of \$890 in FY 2017.
- The Department's website will need to be updated. This will require 10 hours for an Administrative Analyst III, at a cost of \$240 in FY 2017.

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, DOR could request funding through the appropriation process.

DOR stated currently one and three year trailer registrations expire at the end of each given calendar year. Due to permanent trailer plates being non-expiring, there will be a cost reduction from the elimination of renewal notices that are currently mailed at the end of each year, or three years. This proposal would result in savings to the Department for the cost of postage (\$.224 for each renewal notice) and forms (\$.0224 per renewal notice).

DOR cannot determine how many applicants will switch to a permanent registration upon renewal of their current one or three year registration; therefore, for purposes of this fiscal note, it is assumed 10% of all applicants will obtain a permanent registration at the time of renewal, thus eliminating the need for a renewal notice in subsequent years. All renewals expiring at the end of 2016 (FY 2017) will need to be mailed, and thus there will be no savings. For FY 2018 there will be a savings of \$5,764 and in FY 2019 \$9,722.

ASSUMPTION (continued)

Revenue Impact:

There are currently 297,924 trailer registrations expiring at the end of 2016 (FY 2017), 289,114 at the end of 2017 (FY 2018), and 86,207 at the end of 2018 (FY 2019). Based on current statistics 54% of trailer registrations are one year and 46% are three year.

DOR cannot determine how many applicants will obtain a permanent registration in lieu of a one or three year registration either at initial issuance or renewal; therefore, for purposes of this fiscal note, it is assumed 10% of all applicants will obtain a permanent registration.

The fee of \$52.50 will be charged for the issuance of permanent registrations resulting in the revenue estimate impact for permanent registrations vs. one and three-year trailer registrations as shown below:

	FY 2017	FY 2018	FY 2019
1 Year Trailer Plate	(\$120,659)	(\$175,732)	(\$120,319)
3 Year Trailer Plate	(\$308,351)	(\$426,890)	(\$265,957)
Permanent Plate	\$1,564,101	\$2,226,199	\$1,462,802
Total Increase to Highway Fund	\$1,135,091	\$1,623,577	\$1,076,526

Since it is unknown how many potential permanent trailer registrations will be issued, for fiscal note purposes only, **Oversight** will use DOR's estimate. Oversight will reflect a revenue increase for the proposed \$52.50 registration fee and a savings of cost associated with renewals to the Highway Fund.

Oversight notes that income to the Highway Fund may begin to reduce starting in the 4th fiscal year due to fewer 1 year and 3 year trailer plate renewals.

§§301.125 and 301.130.9

Officials from the **Department of Revenue (DOR)** assume the following regarding this section of the proposal:

This subsection establishes a committee that will design the new license plate to be issued for vehicle registrations.

ASSUMPTION (continued)

- Qualifying registrations would be exempt from the additional fee;
- Qualifying registrations would be exempt from the bicentennial license plate design.

Administrative Impact

Advisory Committee Expenses

This proposed legislation requires the advisory committee to hold at least three public meetings in different areas of the state to invite public input on the final design. This will require travel, meals, and lodging expenses in FY 2017 for the Director of Revenue.

Meals \$34 per day x 6 days = \$204

Lodging \$100 per day x 6 days = \$600

Mileage 200 miles @ \$.37 per mile x 6 days = \$444

Total travel expense: \$1,248

Motor Vehicle Bureau

This proposal requires a license plate re-issuance to begin January 1, 2019. Due to biennial registrations and three-year trailer plates, a license plate re-issuance will require a three-year implementation.

It is assumed all preparation would need to be performed in FY 2019 in order for an implementation date of January 1, 2019, which is in FY 2019.

- Procedures will need to be developed. This will require 160 hours for a Management Analyst Specialist I, at a cost of \$3,560 in FY 2019.
- Develop a notice to plate holders requiring special handling. This will require 40 hours for a Management Analyst Specialist I, at a cost of \$890 in FY 2019.
- Develop a notice to plate holders exempt from the bicentennial plate requirement. This will require 40 hours for a Management Analyst Specialist I, at a cost of \$890 in FY 2019.
- The Department's website will need to be updated. This will require 10 hours for an Administrative Analyst III, at a cost of \$240 in FY 2019.

ASSUMPTION (continued)

- Technology system changes and development will need to be documented, designed, and tested. This will require 160 hours for a Management Analyst Specialist I, at a cost of \$3,560 in FY 2019.
- 160 hours at a cost of \$3,560 for a Management Analyst Specialist I in FY 2018 to coordinate and work with the license plate advisory committee to have the new license plate design ready by January 1, 2019.
- OA-ITSD services will be required at a cost of \$387,504 (5,166.72 hours @ \$75 per hour) in FY 2019.

Approximately six million registrations exist annually. An announcement and notification will be sent to all registration holders providing instruction on obtaining new bicentennial plates. This announcement will replace the current renewal notice. Postage will increase from \$.25 postcard rate to \$.376 letter rate.

Due to biennial versus annual registrations and three-year trailer plate registration, it is assumed 75% of the six million will be mailed the announcement for the bicentennial plate in FY 2019, 20% in FY 2020, and 5% in FY 2021 resulting in an increased cost of \$567,000 in FY 2019, \$151,200 in FY 2020, and \$37,800 in FY 2021.

Plate Costs

The Department must order and pay for license plates in FY 2018 for plates that will be issued in CY 2019; pay for plates in FY 2019 that will be issued in CY 2020, and pay for license plates in FY 2020 for plates that will be issued in CY 2021.

- Plate costs are currently \$3.50 per flat plate and \$1.605 per embossed plate.

Assuming all six million registrations will be re-issued the bicentennial plate at renewal, it is assumed 75% of the six million will be ordered for CY 2019, 20% in CY 2020, and 5% in CY 2021 at cost of \$13,544,216 in FY 2018, \$3,611,791 in FY 2019, and \$902,948 in FY 2020.

Personalized License Plates

The Department will mail a notice to all personalized license plate holders (excluding specialty personalized and personalized historic registrations) after January 1, 2019, providing instruction on retaining their personalized configurations on the new bicentennial plate. There are currently 110,523 personalized registrations resulting in a cost of \$61,340 in FY 2019 for envelopes (\$0.04), letters (\$0.025), and postage (\$0.49)

ASSUMPTION (continued)

Online and Mail in Renewals

This proposal will require funding for mailing of plates due to mail in and online registration renewals. Once a renewal is performed online or via the mail a new set of the reissued plates will be mailed to the applicant. In FY 2015 there were 217,012 mail in and online renewals. The cost to mail a set of stock and embossed plates is \$3.54 (the cost for mailing is weight based and will decrease if only one plate or a motorcycle plate is mailed).

Assuming the rate of online and mail in renewals remain consistent, the cost will be \$640,185 in FY 2019 (6 months) and \$787,428 in FY 2020.

The mailing cost may decrease or increase based on the weight of the package and the area to which it is being sent.

Additional FTE will be required for a Revenue Processing Tech I to mail new plates to the mail in and online renewal applicants. Assuming the rate of online and mail in renewals remain consistent, in FY 2015 there were 835 transactions processed per day.

217,012	Annual Online and Mail-in Renewals
/ 260	Work days per year
835	Received per day
/144	Plates prepared and Mailed per day
6	FTE required (Revenue Processing Tech I)

The Department will require equipment, floor space, and expenses associated with this FTE requirement.

In summary, DOR assumes a cost of **\$13,549,024** (\$1,248 + \$3,560 + \$13,544,216) in FY 2018, **\$5,585,746** (\$3,560 + \$890 + \$890 + \$240 + \$3,560 + 567,000 + \$3,611,791 + \$61,340 + \$640,185 + 387,504 + \$163,216 + \$105,118 + \$35,6464 +\$4,806) in FY 2019, **\$1,841,576** (\$151,200 + \$902,948 + \$787,428) in FY 2020 and **\$37,800** in FY 2021.

Revenue Impact

This legislation provides for a fee to be charged to each applicant to cover the cost of the bicentennial plate for all new and renewal registrations. Assuming all 6 million registrations will be re-issued the bicentennial plate it is assumed that, due to the propensity for an applicant to obtain a one-year registration over two-year expiration, 75% of the 6 million will be issued the bicentennial plate in FY 2019, 20% in FY 2020, and 5% in FY 2021.

ASSUMPTION (continued)

And assuming the actual cost for the plate will be charged based on the number and type of plates (embossed or flat) issued there will an increase in revenue as shown below.

		FY 2019	FY 2020	FY 2021
Increase from fee		\$13,544,216	\$3,611,791	\$902,948
Highway Fund	75%	\$10,158,162	\$2,708,843	\$677,211
Cities	15%	\$ 2,031,632	\$ 541,769	\$135,442
Counties	10%	\$ 1,354,422	\$ 361,179	\$ 90,295

This will increase **Total State Revenue**.

§301.136

Officials from the **Department of Revenue (DOR)** assumed the following regarding this section of the proposal:

Provides that any camping or fifth-wheel trailer, as defined in §407.1320, RSMo, that is over twenty-five years old may be permanently registered upon payment of a registration fee of \$25 dollars.

- §407.1320, RSMo, defines fifth-wheel trailer as a "vehicle, mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, of such size or weight as to not require a special highway movement permit, of gross trailer area not to exceed four hundred square feet (37.2m²) in the set-up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle."

Administrative Impact

Motor Vehicle Bureau (MVB)

- Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours at a cost of \$890 in FY 2017.
- The Application for Historic License Plates (DOR-570) will need to be revised to include a "Year of Manufacture" trailer registration option. This will require 40 hours for a Management Analyst Specialist I, at a cost of \$890 in FY 2017.

ASSUMPTION (continued)

- The Department's website will need to be updated to include the new plate type. This will require 10 hours for an Administrative Analyst III, at a cost of \$240 in FY 2017.
- The Department would incur 20 hours for a Revenue Processing Tech II to set up the new plate within MVB systems and testing at a cost of \$467 in FY 2017.

This proposal allows for permanent, non-expiring trailer license plates and "year of manufacture" trailer license plates to be registered to camper trailers and fifth wheel camper trailers over 25 years old at a fee of \$25. The Department assumes "over 25 years old" mean 25 years old or older, as it is interpreted in §301.131, RSMo, for historic and year of manufacture motor vehicle registrations.

- The Department currently issues permanent trailer registrations under §301.067, RSMo. It is assumed the same permanent trailer plates currently in use will be issued to those camper trailers and fifth wheel camper trailers that are over 25 years under this proposal. Therefore, no costs for the creation of a new plate are being shown.
- The applicant must list on the application the year of the camper trailer and the body style as a camper.
- The "year of manufacture" trailer plates will be applied for, processed, and registrations issued through the central office only, similar to year of manufacture motor vehicle plates under §301.131, RSMo.

The Department would incur additional postage costs for mailing "year of manufacture" trailer registrations to applicants.

It is unknown how many applicants would specifically apply for "year of manufacture" trailer license plates. The following range is based on 10% of trailer owners that fit the appropriate category registering as "year of manufacture". The mailing costs could range from \$0.00 to \$154 in FY 17 for envelopes (\$0.04), letters (\$0.025), and postage (\$0.49). As stated above in the revenue impact, the future fiscal years are all based on previous fiscal years. For purposes of this fiscal note, the range will be applied through the three applicable fiscal years coming out to about \$80 per fiscal year.

Oversight assumes DOR is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this section of the proposal.

ASSUMPTION (continued)

Revenue Impact

The revenue impact is dependent on the amount of individuals that choose the permanent registration. The fiscal impact could range from \$0.00 to \$22,737 in FY 17. This range is based on none of the eligible individuals registering with the permanent plate (\$0.00) to all eligible individuals registering with the permanent plate (\$22,737). In FY 18, there is a potential range of -\$8,685 to \$42,533. In FY 19, there is a range of -\$17,190 to \$43,400.

The fiscal years outside the scope of this note will have a larger potential and probable decrease in revenue. This is due to the fact that in the fourth year of a person having a permanent trailer plate, this is when the state really begins to see a decrease in revenue.

Each fiscal year is dependent on the previous fiscal year. If the majority of those eligible register permanently, the years following will see a decrease in registration fees. Therefore, there may be a slight increase in revenue for the first several fiscal years followed by a decrease in revenue.

§§301.560 & 301.564

Officials from the **Department of Revenue (DOR)** assume the following regarding these sections of the proposal:

This section of the proposal eliminates the reference to the Missouri State Water Patrol and adds "or authorized or designated employee" of the Highway Patrol in regards to the inspection performed to certify that an applicant for licensure as a boat manufacturer or boat dealer is a bona fide place of business.

It also removes "water patrol" and adds "or authorized or designated employee" of the Highway Patrol in regards to the term "law enforcement official" as used in this section.

Administrative Impact:

Motor Vehicle Bureau

- Procedures will need to be revised by a Management Analyst Specialist I requiring 40 hours at a cost of \$890 in FY `17.
- The Dealer Operating Manual will need to be revised to include the change. This will require 40 hours for a Management Analyst Specialist I, at a cost of \$890 in FY `17.

ASSUMPTION (continued)

- The Application for Dealer, Auction, or Manufacturer License and Number Plate(s) (DOR-4682) will need to be revised to include the change. This will require 40 hours for a Management Analyst Specialist I, at a cost of \$890 in FY `17.

In summary, DOR assumes a cost of \$2,670 (\$890 + \$890 + \$890) in FY `17 for this proposal.

Oversight assumes the Department of Revenue is provided with core funding to handle a certain amount of activity each year. Oversight assumes DOR could absorb the costs related to this proposal.

§304.153

In response to a similar proposal from 2016 (HB 2320), officials from the **Department of Corrections (DOC)** assumed the following regarding this section of the proposal:

This section of the proposal creates three new crimes; one of which would be supervised by the DOC. The D and A Misdemeanors listed in 304.153 would not be supervised by the DOC. However, upon the committing of a third offense, a tow operator could be charged with a D Felony. As the previously held statute does not have any comparable offenses and this is a new crime, it is not possible to pinpoint the exact impact of this particular statute. The average sentence for nonviolent D Felonies is 3.5 years with 1.5 of those years served in prison and 2 on parole or with 3 years served on probation. It is shown that this non-violent D Felony will lead to one new prison sentence and two new probation sentences per year. After four years, this should lead to an increase in the institutional population by 1.5 and the field population by 8.

The FY `15 average cost of supervision is \$6.04 per offender per day or an annual cost of \$2,205 per offender. The DOC cost of incarceration is \$16.809 per day or an annual cost of \$6,135 per offender.

The DOC would assume this legislation will result in long term cost as indicated in the chart below.

ASSUMPTION (continued)

	# to Prison	Cost Per Year	Total Cost Prison	# to Probation and/or Parole	Cost Per Year	Total Cost of Probation and Parole	Grand Total Prison and Probation
Year 1 (10 mos)	1.0	(\$6,135)	(\$6,135)	2.0	(\$2,205)	(\$4,410)	(\$8,788)
Year 2 (2% inflation)	1.5	(\$6,135)	(\$9,203)	4.5	(\$2,205)	(\$9,923)	(\$19,508)
Year 3 (2% inflation)	1.5	(\$6,135)	(\$9,203)	7.5	(\$2,205)	(\$16,538)	(\$26,780)
Year 4 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$28,485)
Year 5 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$29,055)
Year 6 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$29,363)
Year 7 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$30,229)
Year 8 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$30,834)
Year 9 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$31,450)
Year 10 (2% inflation)	1.5	(\$6,135)	(\$9,203)	8.0	(\$2,205)	(\$17,640)	(\$32,079)

ASSUMPTION (continued)

Oversight assumes the Department of Corrections is provided with core funding to handle a certain amount of activity each year. Oversight assumes the DOC could absorb the costs related to this proposal.

§304.170

Oversight notes this section of the proposal adds a provision that buses, recreational motor vehicles or trackless trolleys may exceed forty-five feet in length, but not have a length in excess of sixty feet (not including safety bumpers), when such buses are articulated buses, having two or more sections connected by a flexible joint or other mechanism. Oversight assumes this section of the proposal will not have a fiscal impact.

§306.100

This section of the proposal creates a fine of up to \$25 for operators of watercraft that do not carry adequate lifesaving devices or do not place them as to be readily accessible. **Oversight** assumes this would create an unknown amount of additional fine revenue. For simplicity, Oversight will reflect the fine revenue will be paid to local political subdivisions.

§306.125

Oversight notes this section of the proposal creates a fine of up to \$25 for operators of watercraft that violate the slow-no wake speed on any lake. Oversight assumes the amount of fine revenue resulting from the new infractions imposed in this bill will not be material and will not reflect a fiscal impact from this proposal.

§306.126

Oversight notes this section of the proposal exempts certain vessels from provisions prohibiting passengers from riding in certain areas of a boat. Oversight assumes this section of the proposal will not have a fiscal impact.

§§379.1700 & 387.600

Officials from the **Department of Revenue (DOR)** assume the following regarding these sections of the proposal:

§379.1700 provides definitions, regulations, requirements, and restrictions for transportation network companies and transportation network company (TNC) drivers to operate in the state of Missouri.

§387.604 provides that, beginning August 28, 2016, TNCs shall be required to obtain an annual permit from the Department at a fee of \$5,000.

ASSUMPTION (continued)

Administrative Impact

Motor Vehicle Bureau

- Procedures will need to be developed for the issuance TNC permits. This will require 80 hours for a Management Analyst Specialist I, at a cost of \$1,780 in FY 2017.
- Develop a new application for annual permit issuance for TNCs. This will require 40 hours for a Management Analyst Specialist I, at a cost of \$890 in FY 2017.
- The Department's website will need to be updated. This will require 10 hours for an Administrative Analyst III, at a cost of \$240 in FY 2017.
- 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 at a cost of \$890 in FY 2017.

The Department has identified one TNC currently operating within the state of Missouri. 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 application.

The Department assumes that the insurance requirements in this proposal are in addition to all other insurance requirements under Chapter 303.

Driver License Bureau

- Procedures will need to be updated for the insurance information in Chapter 303 for TNC. This will require 10 hours for a Revenue Band Manager I, at a cost of \$260 in FY 2017.
- Procedures will need to be updated for the insurance information in Chapter 303 for TNC. This will require 10 hours for an Appeals Referee I, at a cost of \$220 in FY 2017.

ASSUMPTION (continued)

OA-ITSD services are required at a cost of \$12,879 (171.72 hours x \$75 per hour).

In summary, DOR assumes a cost of \$17,159 (\$1,780 + \$890 + \$240 + \$890 + \$260 + \$220 + \$12,879) in FY 2017.

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 one TNC currently operating in Missouri, there will be an increase of \$5,000 each year from the issuance of TNC license. The Department assumes this increase will be deposited into General Revenue.

In response to a previous version, officials from the **Department of Labor and Industrial Relations (DOLIR)** assumed this proposal adds a new section 387.620, which indicates that drivers shall be independent contractors and not employees of the transportation network company (TNC) if certain conditions are met. This bill also adds section 387.634.1, which indicates that TNC drivers shall not be considered employees of the TNC for purposes of Chapters 285, 287, 288, and 290 (certain labor laws, including employment security and workers' compensation) unless there is a written employment agreement.

A TNC is "a corporation, partnership, sole proprietorship, or other entity that is licensed and operating in Missouri that uses a digital network to connect transportation network corporation riders to transportation network corporation drivers who provide prearranged rides."

Each year, on October 31, the Secretary of Labor certifies the state unemployment insurance programs that conform and comply substantially with federal law. (26 U.S.C. § 3304.) If, and only if, a state's unemployment insurance program is certified to be in conformity with Federal requirements, employers within the state are eligible to receive a credit against their Federal Unemployment Tax Act (FUTA) taxes. (26 U.S.C. § 3302.)

ASSUMPTION (continued)

This proposal may raise an issue with federal law since section 387.620 indicates that drivers shall be considered independent contractors and not employees of the TNC if certain conditions are met.

Section 387.634.1 specifically provides, for the purposes of Chapter 288, that a TNC shall not be considered the employer of a driver, and that a driver shall not be considered the employee of a TNC, unless there is a written contract. The designation of independent contractor status for services performed for a TNC that may include entities required to be covered under 3304(a)(6)(c)(7), FUTA) and certain nonprofit organizations (Section 3306(c)(8), FUTA) must be covered under the UC system if an employer/employee relationship exists.

Section 3304(a)(6)(A), FUTA, requires as a condition of certification of the unemployment compensation (UC) program that unemployment compensation (UC) be payable based on certain services that are not subject to the FUTA tax. Services performed for state and local governmental entities and Indian Tribes (Section 3306(c)(7), FUTA) and certain nonprofit organizations (Section 3306(c)(8), FUTA) must be covered under the UC system if an employer/employee relationship exists.

Section 3306(I), FUTA, references the definition of an employee in Section 3121(d) of the Internal Revenue Code (IRC) of 1986. Section 3121(d)(2), IRC, specifies that employee means "any individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee." Regulations implementing Section 3306(I), FUTA, are found at 26 C.F.R. 31.3306(i)-1.

These regulations specify that an individual is an employee if the relationship between the individual and the person for whom services are performed has the legal relationship of employer and employee:

"Generally such a relationship exists when the person for whom the services are performed has the right to control and direct the individual who performs the services, not only as to the results to be accomplished by the work but also as to the details and means by which that result is accomplished."

The regulations go on to point out that "it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if [the employer] has the right to do so." Concerning independent contractors, the regulations are not permissive; if an employer-employee relationship exists, "it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like."

ASSUMPTION (continued)

Thus, the basic determinant of whether or not service is performed by an independent contractor is the right of direction and control, whether or not it is exercised.

While this proposal does not amend the Missouri UI law, the provision in the proposal that an independent contractor relationship exists may preclude the Division of Employment Security from applying the common law of agency right to control test for determination of an employment relationship as provided in Section 288.034.5 RSMo. Missouri UI law must contain a test for an employment relationship at least as strict as the test used by the IRS. The classification of an independent contractor relationship in this bill could result in the exclusion of coverage under the Missouri UI law. Certain individuals could be classified as independent contractors regardless of the outcome of a determination on employment using the common law of agency right to control test. As a result, their services would not be covered under Section 3304(a)(6)(A), FUTA.

In the event that there is the right of direction and control of the services performed by the individual, and the employer is a TNC that is a state and local governmental entity, certain nonprofit organizations, and Indian tribes, the services must be covered under UI law, or a conformity issue would be raised.

Review of this proposal by the United States Department of Labor (USDOL) has identified an issue that may affect certification of Missouri's unemployment insurance (UI) program.

The federal and state governments are jointly responsible for administering the UI system. State laws must meet certain federal requirements for the state agency to receive the administrative grants needed to operate its UI program and for employers to qualify for certain tax credits.

This proposal may create a conformity issue with the Federal UC laws. Non-conformity with federal law would jeopardize the certification of Missouri's UI program. If the program fails to be certified, Missouri would lose approximately \$38 million in federal funds the state receives each year to administer the UI program. Additionally, Missouri would lose the approximately \$12 million in federal funds each year the Department of Economic Development, Division of Workforce Development (DED) uses for Wagner-Peyser reemployment services.

The FUTA imposes a 6.0% percent payroll tax on employers. Most employers never actually pay the total 6.0% percent due to credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan.

ASSUMPTION (continued)

FUTA allows employers tax credits up to a maximum of 5.4% percent against the FUTA payroll tax if the state UI law is approved by the Secretary of Labor.

However, if this bill causes Missouri's program to be out of compliance or out of conformity, Missouri employers would pay the full 6.0% percent, or approximately an additional \$917 million per year.

Oversight will range the fiscal impact of this proposal from \$0 (does not put Missouri out of compliance) to a loss of \$50 million in federal funds (if it is found by the federal government that Missouri is out of compliance with the federal requirements for certification of Missouri's Unemployment Insurance program) in FY `17, FY `18 and FY `19.

In response to a previous version, officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** stated insurers would be required to submit amendments to their policies to comply with the proposal. Policy amendments must be submitted to the department for review along with a \$50 filing fee. One time additional revenues to the Insurance Dedicated Fund are estimated to be up to \$2,000.

Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews the department will need to request additional staff to handle increase in workload.

In response to a previous version, officials from the **Department of Transportation (MoDOT)** stated the proposal could impact MoDOT - Motor Carrier Services. The loss of funds to MoDOT for the Motor Carrier Safety Assistance Program and New Entrant Program would be \$6.65 million each year.

Oversight will range the fiscal impact of this proposal from \$0 (does not put Missouri out of compliance) to a loss of \$6.65 million in federal funds in FY `17 and thereafter (if it is found by the federal government that Missouri is out of compliance).

In response to a similar proposal from 2016 (HB 2330), officials from the **Department of Public Safety - Missouri Highway Patrol (MHP)** assumed the proposal would have no fiscal impact on their organization.

MHP stated they receive \$22 in revenue per background check provided (\$2 from FBI background checks and \$20 from state background checks). MHP also states that it is unknown how many transportation network companies will require background checks.

ASSUMPTION (continued)

Officials from the **Joint Committee on Administrative Rules** state this proposal is not anticipated to cause a fiscal impact 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 §387.604) in FY 2017, FY 2018 and FY 2019 for this proposal.

This proposal will increase **Total State Revenue**.

<u>FISCAL IMPACT -</u> <u>State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
GENERAL REVENUE				
<u>Revenue - DOR</u>				
Permit fees of \$5,000 §387.604	\$40,000	\$40,000	\$40,000	\$40,000
<u>Savings - DOR</u>				
Renewal notices not sent out §301.067	\$0	\$5,764	\$9,722	\$0
<u>Cost - DOR</u>				
Administrative and programming costs §387.604	(\$17,159)	\$0	\$0	\$0
<u>Cost - DOR</u>				
Administrative costs for advisory commission and for creation of bicentennial plates (§301.125 & §301.130.9)				
Personal Services	\$0	\$0	(\$163,126)	(\$166,405)
Fringe Benefits	\$0	\$0	(\$105,118)	(\$107,231)
Equipment and Expense	\$0	(\$13,549,024)	(\$5,585,746)	(\$37,800)
<u>Net Cost - DOR</u>	<u>\$0</u>	<u>\$13,503,260</u>	<u>(\$5,804,268)</u>	<u>(\$271,436)</u>
Total FTE Change - DOR	0 FTE	0 FTE	6 FTE	6 FTE
ESTIMATED NET EFFECT TO GENERAL REVENUE				
	<u>\$22,841</u>	<u>(\$13,503,260)</u>	<u>(\$5,804,268)</u>	<u>(\$271,436)</u>

<u>FISCAL IMPACT - State Government (continued)</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
HIGHWAY FUND				
<u>Revenue - DOR</u>				
Permanent trailer fees §301.067	\$1,135,091	\$1,623,577	\$1,076,526	(Unknown)
<u>Revenue -</u>				
Reissuance cost recovery fee (75%) §301.125 & §301.130.9	\$0	\$0	\$10,158,162	\$677,211
<u>Revenue - DOR</u>				
Permanent registration fee for camping or fifth-wheel trailer over 25 years old §301.136	<u>\$0 or \$22,737</u>	(\$8,685) to <u>\$42,533</u>	(\$17,190) to <u>\$43,400</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT TO HIGHWAY FUND	\$1,135,091 to <u>\$1,157,828</u>	\$1,614,892 to <u>\$1,666,110</u>	\$11,217,498 to <u>\$11,278,088</u>	Less than <u>\$677,211</u>

<u>FISCAL IMPACT -</u> <u>State Government</u> <u>(continued)</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
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**INSURANCE
 DEDICATED
 FUND**

Revenue - DIFP

\$50 filing fee for
 policy
 amendments
 §387.604

<u>Up to \$2,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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**ESTIMATED NET
 EFFECT TO THE
 INSURANCE
 DEDICATED
 FUND**

<u>Up to \$2,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - State Government (continued)</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
FEDERAL FUNDS				
<u>Loss - DOLIR</u>				
Unemployment Insurance program out of compliance §387.604	\$0 or (\$38,000,000)	\$0 or (\$38,000,000)	\$0 or (\$38,000,000)	\$0 or (\$38,000,000)
<u>Loss - DED</u>				
Wagner-Peyser funds not received due to noncompliance §387.604	\$0 or (\$12,000,000)	\$0 or (\$12,000,000)	\$0 or (\$12,000,000)	\$0 or (\$12,000,000)
<u>Loss - MoDOT</u>				
Federal Highway funds not received due to noncompliance §387.604	\$0 or (\$6,650,000)	\$0 or (\$6,650,000)	\$0 or (\$6,650,000)	\$0 or (6,650,000)
ESTIMATED NET EFFECT TO FEDERAL FUNDS	\$0 or <u>(\$56,650,000)</u>	\$0 or <u>(\$56,650,000)</u>	\$0 or <u>(\$56,650,000)</u>	\$0 or <u>(\$56,650,000)</u>

<u>FISCAL IMPACT -</u> <u>Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019	Fully Implemented (FY 2021)
LOCAL POLITICAL SUBDIVISIONS				
<u>Revenue - Cities</u>				
Reissuance				
Recovery Fees (15%)	\$0	\$0	\$2,031,632	\$135,442
<u>Revenue - Counties</u>				
Reissuance				
Recovery Fees (10%)	\$0	\$0	\$1,354,422	\$90,295
<u>Revenue - fines for not having adequate lifesaving devices or not having them readily accessible §306.100</u>				
	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO THE LOCAL POLITICAL SUBDIVISIONS				
	<u>Unknown</u>	<u>Unknown</u>	Greater than <u>\$3,386,054</u>	Greater than <u>\$225,737</u>

FISCAL IMPACT - Small Business

License offices may see a reduction in processing fees collected from trailer registrations.

A small business will be given the option to obtain a permanent trailer registration.

Small business towing companies could be impacted by this proposal.

FISCAL IMPACT - Small Business (continued)

Small transportation businesses could be impacted by this proposal.

There are over 138,000 small businesses (less than 50 employees) covered under Missouri's unemployment insurance system. Because Missouri's UI program is certified in conformity with Federal UI laws, most employers never actually pay the total 6.0% in FUTA taxes due to the credits they receive for the payment of state unemployment taxes and for paying reduced rates under an approved experience rating plan. However, this proposal could cause Missouri employers to pay the full 6.0%, which could result in additional costs of \$917 million per year.

FISCAL DESCRIPTION

Currently, only a trailer or semitrailer that is operated coupled to a towing vehicle by a fifth wheel and kingpin assembly or by a trailer converter dolly may permanently registered the trailer upon the payment of a \$52.50 fee. The proposal allows any trailer or semitrailer to be permanently registered.

This proposal establishes an advisory committee to design uniform designs and common colors for license plates and determine parameters for license plates. The committee is to design a color scheme and design for license plates commemorating the bicentennial of Missouri. The proposal establishes the composition of the advisory commission and requires the commission to develop design and license plate parameters no later than January 1, 2019.

This proposal outlines the new regulatory treatment of transportation network companies (TNCs), providing that the provisions within the proposal exclusively govern TNCs.

It provides that TNCs are not common carriers or for-hire vehicle services, and that TNCs are not required to register any vehicle a driver may use to provide prearranged rides.

The proposal further provides that, beginning August 28, 2016, a TNC will apply for an annual permit from the Department or Revenue to do business within the state of Missouri, and maintain the insurance coverage requirements provided.

A TNC driver or the TNC company, on the driver's behalf, is required to maintain primary automobile insurance coverage as specified in the proposal. The policy of insurance must recognize that the driver uses the vehicle to transport riders for compensation while logged onto the TNC's digital network.

FISCAL DESCRIPTION (continued)

The company is required to notify a TNC driver of the insurance coverage provided by the TNC and to also notify a driver that his or her own personal automobile insurance policy may not provide coverage because the driver uses a vehicle in connection with the TNC service.

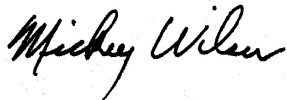
Automobile insurers in Missouri may exclude or limit any and all insurance coverage provided to owner's or operator's of personal vehicles while logged into a TNC's digital network for the purpose of transporting persons or property for compensation.

A TNC company will not allow anyone to act as a TNC driver if he or she has more than three moving violations or one major violation in the past three years, has been convicted of any enumerated crimes in the past seven years, is on the National Sex Offender Registry, does not possess a driver's license, does not have proof of vehicle registration or automobile liability insurance, or is not at least 19 years old.

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 Revenue
Department of Labor and Industrial Relations
Department of Insurance, Financial Institutions and Professional Registration
Department of Transportation
Department of Corrections
Department of Public Safety
Missouri Highway Patrol
Joint Committee on Administrative Rules



Mickey Wilson, CPA
Director
May 12, 2016

Ross Strope
Assistant Director
May 12, 2016