

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0475-05
Bill No.: SCS for SB 185
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 16, 2017

Bill Summary: This proposal enacts provisions relating to 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
Highway Fund	(\$278,027)	(\$333,630)	(\$333,630)
Total Estimated Net Effect on <u>Other</u> State Funds	(\$278,027)	(\$333,630)	(\$333,630)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 12 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	0 or 3	0 or 3
Total Estimated Net Effect on FTE	0 or 3	0 or 3	0 or 3

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:

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 of 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>
		\$4,414

Driver License Bureau (DLB)

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

ASSUMPTION (continued)

Administrative Impact (continued)

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 - 10 hrs. @ \$30.59/hr. =	\$612
	<u>\$1,667</u>

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. =	\$209
	<u>\$604</u>

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 at a cost of \$21,222 (282.96 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:

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.

ASSUMPTION (continued)

Administrative Impact (continued)

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 = \$87,997

FY 2020

Investigator II x 2 = \$88,871

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

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.

ASSUMPTION (continued)

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

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.

ASSUMPTION (continued)

Revenue Impact (continued)

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

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).

ASSUMPTION (continued)

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.

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 (CKC)** 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 notes that CKC may not be the only city which could be affected by loss of business license fee income and will show losses to cities of "could exceed \$54,000".

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

Officials from the **Department of Insurance, Financial Institutions and Professional Registration, Department of Transportation, Department of Labor and Industrial Relations** and **Department of Public Safety - Missouri Highway Patrol (MHP)** each assume the proposal will have no fiscal impact on their respective organizations.

ASSUMPTION (continued)

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

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.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE FUND			
<u>Revenue</u> - DOR	\$40,000	\$40,000	\$40,000
Permit fees of \$5,000 - §387.404			
<u>Cost</u> - DOR			
Personal Services	\$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	(\$21,222 or \$382,563)	<u>\$0</u>	<u>\$0</u>
<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

<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</u>	<u>(\$278,027)</u>	<u>(\$333,630)</u>	<u>(\$333,630)</u>
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<u>ESTIMATED NET EFFECT ON THE HIGHWAY FUND</u>	<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</u>	<u>(\$15,168)</u>	<u>(\$18,198)</u>	<u>(\$18,198)</u>
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<u>Loss - Cities - loss of business license fees</u>	(Could exceed \$54,000)	(Could exceed \$54,000)	(Could exceed \$54,000)
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<u>Loss - Counties (10%) - reduction of Class E licenses</u>	<u>(\$10,112)</u>	<u>(\$12,132)</u>	<u>(\$12,132)</u>
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<u>ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS</u>	<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 enacts a regulatory scheme for "Transportation network companies" ("TNCs"). It provides that TNCs and TNC drivers are not common carriers, contract carriers, motor carriers, taxicab service or association, or for-hire vehicle services. TNC drivers need not register their vehicles as commercial or for-hire.

FISCAL DESCRIPTION (continued)

Transportation network companies may not operate within the state without first paying a \$5,000 annual fee and obtaining a permit from the Department of Revenue, but no per-car or per-driver fees shall be assessed. TNCs must maintain agents for service of process within the state of Missouri.

TNCs may charge fares, but must disclose the fare or fare structure on its website or digital network. If the fare is based on actual time and distance traveled, the TNC on its website shall also provide riders the applicable rates being charged and the option to receive an estimated fare before the rider enters the vehicle.

The TNC's digital network shall display a picture of the TNC driver and the license plate number of the vehicle before the rider enters the vehicle. The TNC must provide a detailed electronic receipt to the rider within a reasonable time following a trip.

TNC drivers shall be independent contractors and not employees under certain circumstances. TNC drivers are not agents of the TNC unless agreed to in writing.

TNCs must adopt a zero tolerance policy toward drivers using intoxicating substances. This act also requires an investigation and maintenance of related records.

This proposal prescribes driver eligibility requirements, including background checks and registration with the TNC. Transportation network company vehicles must meet Missouri's motor vehicle safety inspection requirements.

TNC drivers shall not solicit or accept street hails. TNCs shall adopt nondiscrimination policies with respect to riders, and shall notify drivers of such policy.

TNCs shall maintain individual trip records of riders for one year following each trip, and individual records of TNC drivers for one year following the end of the TNC's relationship with the driver.

This proposal provides that it is the sole body of law governing TNCs and TNC drivers, and provides that the Department of Revenue may promulgate rules to administer the provisions.

This proposal provides that TNCs shall not be considered employers of TNC drivers unless agreed to by written contract. TNCs must keep the appropriate agencies informed of such contracts and any changes to them.

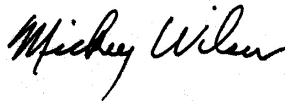
FISCAL DESCRIPTION (continued)

This proposal provides that the statutes relating to regional taxicab districts shall not apply to TNCs, TNC drivers, or TNC services.

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



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