

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5855-01
Bill No.: SB 903
Subject: Crimes and Punishment; Motor Vehicles; Roads and Highways;
 Telecommunications; Transportation
Type: Original
Date: February 7, 2018

Bill Summary: This proposal modifies provisions relating to the operation of motor vehicles.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	Up to (\$729,624)	Up to (\$729,624)	Up to (\$729,624)
Total Estimated Net Effect on General Revenue	Up to (\$729,624)	Up to (\$729,624)	Up to (\$729,624)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
Federal Highway Funds	\$0 or (\$25,000,000)	\$0 or (Up to \$65,000,000)	\$0 or (Up to \$65,000,000)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0 or (\$25,000,000)	\$0 or (Up to \$65,000,000)	\$0 or (Up to \$65,000,000)

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
General Revenue	Up to 14 FTE	Up to 14 FTE	Up to 14 FTE
Total Estimated Net Effect on FTE	Up to 14 FTE	Up to 14 FTE	Up to 14 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 2019	FY 2020	FY 2021
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

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

The proposal will likely violate federal Commercial Driver License (CDL) provisions prohibiting the use of a hand-held device or texting while operating a commercial motor vehicle (CMV) under 49 CFR §383.51, as adopted in Missouri under §304.820, RSMo, for offenses committed by drivers operating a CMV. This proposal would likely jeopardize federal compliance (49 CFR Part 384) for Missouri's CDL program, would risk the loss of substantial federal highway funding to the state via withholding (49 CFR §383.401), and could result in decertification (49 CFR §384.405), meaning Missouri would be unable to issue CDL credentials.

Failure to comply with federal regulations (49 CFR part 384) could result in the loss of Missouri's portion of federal highway funds, with the first year of non-compliance resulting in a 5% reduction (approximately \$25 million), and each subsequent year subject to a 10% reduction (approximately \$50-65 million). Missouri may lose the ability to issue CDLs if it is not compliant.

§304.812

Adds violations of the degree of care to include, but not limited to, using a cell phone, personal digital assistant, electronic device with mobile data access, laptop computer, pager, electronic game, portable computing device, or global navigation satellite system receiver, or while otherwise diverting one's attention from safe operation of the vehicle.

§304.820

Repeals the provision prohibiting texting while driving for persons twenty-one years of age or younger and prohibiting the use of a hand-held device and texting while operating a CMV.

Administrative Impact

Under the proposed legislation, all drivers will be prohibited from operating a vehicle while using an electronic device of any kind and for any reason. Previously, these violations only applied to drivers 21 years of age and younger and/or persons operating a commercial motor vehicle. A person committing these types of violations will now be charged with a careless & imprudent (C & I) driving offense. This will result in an increase in the number of C & I convictions received and processed by the Department. If the increase is more significant than anticipated or additional laws are passed that impact the staff who process convictions, additional FTE will be requested through the appropriation process.

ASSUMPTION (continued)

Administrative Impact (continued)

DOR notes there were 5,194 careless and imprudent driving convictions received in 2017.

To implement the proposed legislation, the Department will be required to:

- Update forms and procedures;
- Update the Department website; and
- Train staff.

FY 2019 - Driver License Bureau

Management Analysis Spec II	80 hrs. @ \$20.57 per hr.	= \$1,646
Revenue Manager Band I	40 hrs. @ \$25.05 per hr.	= <u>\$1,002</u>
Total		= \$2,648

FY 2019 - Personnel Services Bureau

Administrative Analyst III	30 hrs. @ \$19.43 per hr.	= \$ 583
Management Analysis Spec I	25 hrs. @ \$18.42 per hr.	= <u>\$ 461</u>
Total		= \$1,044

Total Costs **\$3,692**

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 notes the federal regulations require states to post convictions for using a hand-held device and/or texting while operating a CMV to driver records and these convictions are considered serious violations. By moving these violations to §304.012, the Department will no longer be displaying these offenses on the driver record as "OP CMV W/Hand-Held Phone" or "OP CMV While Texting". Instead, they will be displayed as C & I convictions. This may be considered masking. As such, the proposal will likely violate federal Commercial Driver License (CDL) provisions prohibiting the use of a hand-held device or texting while operating a commercial motor vehicle (CMV) under 49 CFR §383.51, as adopted in Missouri under §304.820, RSMo, for offenses commended by drivers operating a CMV.

ASSUMPTION (continued)

This proposal would likely jeopardize federal compliance (49 CFR Part 384) for Missouri's CDL program, would risk the loss of substantial federal highway funding to the state via withholding (49 CFR §383.401), and could result in decertification (49 CFR §384.405), meaning Missouri would be unable to issue CDL credentials.

Failure to comply with federal regulations (49 CFR part 384) could result in the loss of Missouri's portion of federal highway funds, with the first year of non-compliance resulting in a 5% reduction (approximately \$25 million), and each subsequent year subject to a 10% reduction (approximately \$50-65 million). Missouri may lose the ability to issue CDLs if it is not compliant.

Oversight will range the fiscal impact of this proposal from \$0 (does not put Missouri out of compliance) to a loss of \$25 million in federal highway funds in FY 2019 and a loss of up to \$65 million in FY 2020 and FY 2021 (if it is found by the federal government that Missouri is out of compliance with the federal requirements for certification of Missouri's Commercial Motor Vehicle program).

Officials from the **Office of the State Public Defender (SPD)** stated in FY 2017, SPD provided representation in 292 cases where indigent persons were charged with careless and imprudent driving. If all of these activities are added to the definition of careless and imprudent driving, and the offense of the same is a new class B misdemeanor, the SPD caseloads would increase significantly. For every misdemeanor, 11.7 attorney hours are required. If there is an additional 2,500 cases, 14 new public defenders would be required ($2,500 \times 11.7 \text{ hours} / 2,080 = 14$). The average cost of an assistant public defender is \$52,116, making the cost \$729,624.

Actual costs would be higher as this cost does not include any supplies, case costs or support staff. The 2,500 cases is only an estimate. There is no way to know the number of cases that would actually require representation.

Officials at the **Office of the State Courts Administrator** assume the fiscal impact of this proposal is unknown. There may be some impact but there is no way to quantify the impact at this time. Any significant changes will be reflected in future budget requests.

Officials from the **Department of Public Safety - Missouri Highway Patrol (DPS-MHP)** assume the proposal will have no fiscal impact on their organization. DPS-MHP notes there were 854 citations issued for the violation of careless and imprudent driving not involving an accident in 2017 and 3,970 citations issued for the violation of careless and imprudent driving involving an accident in 2017.

ASSUMPTION (continued)

Officials from the **Department of Transportation, Department of Corrections, Department of Insurance, Financial Institutions and Professional Registration, and Office of Prosecution Services** each assume the proposal will have no fiscal impact on their respective organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
---	---------------------	---------	---------

GENERAL REVENUE FUND

<u>Cost</u> - SPD - Additional public defenders to handle increased cases of careless and imprudent driving	Up to <u>(\$729,624)</u>	Up to <u>(\$729,624)</u>	Up to <u>(\$729,624)</u>
---	-----------------------------	-----------------------------	-----------------------------

ESTIMATED NET EFFECT ON THE GENERAL REVENUE FUND	Up to <u>(\$729,624)</u>	Up to <u>(\$729,624)</u>	Up to <u>(\$729,624)</u>
---	-------------------------------------	-------------------------------------	-------------------------------------

Estimated Net FTE change for General Revenue Fund	Up to 14 FTE	Up to 14 FTE	Up to 14 FTE
---	--------------	--------------	--------------

FEDERAL HIGHWAY FUNDS

<u>Loss</u> - DOR - Missouri out of compliance with federal requirements for its Commercial Motor Vehicle program	\$0 or <u>(\$25,000,000)</u>	\$0 or (Up to <u>\$65,000,000)</u>	\$0 or (Up to <u>\$65,000,000)</u>
---	---------------------------------	---------------------------------------	---------------------------------------

ESTIMATED NET EFFECT ON FEDERAL HIGHWAY FUNDS	\$0 or <u>(\$25,000,000)</u>	\$0 or (Up to <u>\$65,000,000)</u>	\$0 or (Up to <u>\$65,000,000)</u>
--	---	---	---

<u>FISCAL IMPACT - Local Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
---	---------------------	---------	---------

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	------------	------------	------------

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act repeals the existing texting while driving statute, and modifies another statute requiring motorists to exercise the highest degree of care to expressly prohibit operation of a motor vehicle while using a cell phone or certain other devices, or while otherwise diverting one's attention from safe operation of the vehicle.

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 Transportation
Department of Public Safety - Missouri Highway Patrol
Department of Insurance, Financial Institutions and Professional Registration
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections

Ross Strope



Acting Director
February 7, 2018