

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0896-07  
Bill No.: Truly Agreed To and Finally Passed HCS for SS for SCS for SB 132  
Subject: Insurance Dept.; Motor Vehicles; Licenses - Professional  
Type: Original  
Date: June 9, 2011

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Bill Summary: Modifies the law with respect to the sale of motor vehicle extended service contracts.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	Unknown, expected to exceed \$100,000	Unknown, expected to exceed \$100,000	Unknown, expected to exceed \$100,000
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>Unknown, expected to exceed \$100,000</b>	<b>Unknown, expected to exceed \$100,000</b>	<b>Unknown, expected to exceed \$100,000</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Insurance Dedicated	Unknown	Unknown	Unknown
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 8 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Total Estimated Net Effect on FTE</b>			

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of State Courts Administrator, Joint Committee on Administrative Rules, Office of State Treasurer, Office of Prosecution Services, and City of Kansas City** assume the proposal would have no fiscal impact on their agencies.

Officials from the **Office of Attorney General (AGO)** assume any potential costs arising from this proposal can be absorbed with existing resources. However, if there is a significant increase in caseload, the AGO may seek additional appropriations.

Officials from the **Office of Administration - Administrative Hearing Commission** anticipate this legislation would not significantly alter its caseload. However, if other similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

Officials from the **Department of Corrections (DOC)** state the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase of direct offender costs either through incarceration (FY 10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY 10 average of \$3.92 per offender, per day, or an annual cost of \$1,431 per offender). The DOC assumes the narrow scope of the crime will not encompass a large number of offenders and the low felony status enhances the possibility of plea-bargaining or imposition of a probation sentence. The probability also exists that offenders would be charged with a similar, but more serious offense, or that sentences may run concurrent to one another. Therefore, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration (DIFP)** state the department will collect licensure fees for portable electronics insurance which will be deposited in the Insurance Dedicated Fund. The amount of licensure revenue that would be deposited into the Insurance Dedicated fund is currently unknown due to the uncertainty of the number of potential licensees and the amount of the fee the department would charge so that fees would not exceed the cost and expense of administering provisions of this bill.

ASSUMPTION (continued)

The DIFP is unable to determine how many producers would need to be licensed as business entity producers with respect to motor vehicle extended service contracts due to licensure exemptions listed in the proposal.

The DIFP assumes the work required under the provisions of this bill can be accomplished within current staffing levels. However, should the workload be more than anticipated, FTE and expenses will be requested through the budget process.

This legislation may result in annual additional general revenue from taxes on premiums paid for surplus lines insurance. The DIFP bases its assumption on reports for calendar year 2010 in cases where the insured risk was partly allocated to Missouri based on where the insured risk was resident, located or to be performed. Based on these reports, the department estimates that the change from the current allocation method to a method based on the home state of the insured would result in additional surplus lines tax.

**Oversight** assumes minimal penalties will be collected as a result of the provisions of the proposal and is not presenting penalties in the fiscal note.

Officials from the **Office of Secretary of State (SOS)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to an earlier version of the proposal, the SOS stated the fiscal impact for this proposal is less than \$2,500. The SOS 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 SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Office of State Public Defender (SPD)** did not respond to **Oversight's** request for a statement of fiscal impact. However, in response to an earlier version of this proposal, the SPD assumed the proposal would have no fiscal impact on their organization.

FISCAL IMPACT - State Government                      FY 2012                      FY 2013                      FY 2014

**GENERAL REVENUE FUND**

Income - DIFP

Increase in taxes on premiums paid for surplus lines insurance	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>	<u>Unknown,</u> <u>expected to</u> <u>exceed</u> <u>\$100,000</u>
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**ESTIMATED NET EFFECT ON GENERAL REVENUE FUND**

	<u><b>Unknown,</b></u> <u><b>expected to</b></u> <u><b>exceed</b></u> <u><b>\$100,000</b></u>	<u><b>Unknown,</b></u> <u><b>expected to</b></u> <u><b>exceed</b></u> <u><b>\$100,000</b></u>	<u><b>Unknown,</b></u> <u><b>expected to</b></u> <u><b>exceed</b></u> <u><b>\$100,000</b></u>
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**INSURANCE DEDICATED FUND**

Income - DIFP

Licensure revenue	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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**ESTIMATED NET EFFECT ON INSURANCE DEDICATED FUND**

	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>	<u><b>Unknown</b></u>
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FISCAL IMPACT - Local Government                      FY 2012                      FY 2013                      FY 2014

	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>
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FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact on small businesses selling extended service contracts.

FISCAL DESCRIPTION

This proposal establishes a limited-lines insurance license to sell portable electronics insurance. This proposal also modifies the law with respect to motor vehicle extended service contracts and surplus lines insurance. The proposal prohibits political subdivisions from imposing restrictions or enforcing local licensing or registration ordinances in certain emergency situations. The proposal also amends Missouri's retaliatory tax law provision.

FISCAL DESCRIPTION (continued)

The proposal modifies who may sell motor vehicle extended service contracts. The authorized employees of motor vehicle dealers, motor vehicle manufacturers, lenders, and other entities may sell such contracts. Authorized employees of an administrator under contract to effect coverage, collect provider fees, and settle claims of a registered provider may sell motor vehicle extended service contracts provided that such administrators are licensed as business entities. Vehicle owners transferring an existing motor vehicle extended service contract to a subsequent owner of the same vehicle may legally sell or transfer motor vehicle extended service contracts (Section 385.206).

Business entity producers or individual producers licensed under the provisions of this proposal may sell such contracts. Business entity producers must pay an initial and renewal licensure fee not to exceed \$100. Individual producers must pay an initial and renewal licensure fee not to exceed \$25. Examinations for individual producers are waived. Producer licenses issued under the proposal are valid for a period of 2 years and must be renewed biennially. Business entities must provide a list to the director of all of their locations at which they offer service contracts (Section 385.207).

The proposal also makes it unlawful for a person to use fraud in the connection with the offer or sale of a motor vehicle extended service contract. Employing fraud in connection with the sale of a motor vehicle extended service contract is a level 3 violation under the insurance code (civil penalties of \$5,000 per violation, etc.). In addition, persons engaged in fraud in connection with the sale of a service contract shall be guilty of a felony, be subject to imprisonment for a term not to exceed 10 years, and be ordered to pay restitution (Section 385.208).

This act modifies the licensing requirements for insurance producers in the surplus lines insurance market. Beginning on or before July 1, 2012, the director shall participate in the national insurer database of the NAIC for the licensure of surplus lines licensees and the renewal of such licensees. Under the act, a person selling nonadmitted insurance with respect to an insured shall be required to obtain or possess a current surplus lines insurance issued by the director only if this state is the insured's home state (Section 384.043).

Under the terms of this proposal, only the home state of the insured will have the authority to tax and regulate the placement of such policies, regardless of where portions of the risk is located. The proposal imposes the current 5% tax on insureds and self-insurers whose home state is this state on the gross amount of the premium (current law is net amount) (Section 384.051). The 5% tax shall be levied upon and only upon the entire gross premium for nonadmitted or surplus lines insurance policies for which the home state of the insured is Missouri. The placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements of Missouri

FISCAL DESCRIPTION (continued)

law only if this state is the insured's home state. A surplus lines broker is required to be licensed as a surplus lines licensee under the provisions of this chapter only if this state is the insured's home state (Section 384.061).

The surplus lines provisions are subject to an emergency clause.

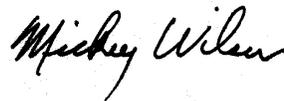
This proposal establishes a limited-lines insurance license to sell portable electronics insurance. The proposal prohibits issuance or sale of portable electronics insurance coverage without licensure by the department of insurance. The proposal creates a licensing framework under which vendors can offer this specialized insurance.

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

Office of Attorney General  
Office of Administration -  
    Administrative Hearing Commission  
Office of State Courts Administrator  
Department of Insurance, Financial Institutions and Professional Registration  
Department of Corrections  
Joint Committee on Administrative Rules  
Office of Prosecution Services  
Office of State Treasurer  
City of Kansas City

**NOT RESPONDING: Office of Secretary of State and Office of State Public Defender**



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