

Legislative Bulletin



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P.O. Box 1247, 102 East High Street ★ Jefferson City, Missouri 65101 ★ Phone (573) 634-3388 ★ Fax (573) 634-4197
Tom Crawford, President & CEO ★ mota@motrucking.org ★ www.motrucking.org

SESSION UPDATE

Fuel Tax Update: On April 26, the House Transportation Committee, chaired by Rep Glen Kolkmeier (R-Odesa) heard SS/SB 623 sponsored by Sen Doug Libla (R-Poplar Bluff). SS/SB 623 would increase the fuel tax by 5.9 cents per gallon for both gasoline and diesel on January 1, 2017, IF approved by the voters at the November 2016 election.

Recall that this substitute was the substitute offered by Sen Libla on the floor of the Senate during debate for perfection of the bill to provide a 1.5 cent increase on gas and a 3.5 cent increase on diesel, without a public vote. Based on the very real threat of a filibuster in the Senate and difficulty of passage in the House, Sen Libla offered the Substitute with a flat 5.9-cent increase across the board. While the SS helped with passage in the Senate, the challenge in the House is still monumental.

In addition to the challenges in the House re: pushing a tax increase, the SS also lacks a key item that would have been beneficial to include or at least consider — it would be beneficial to tax all motor fuels, including but not limited to electric, hydrogen, renewable and natural gas fuels at the same rate as gas and diesel. Other items that could have been debated include a clean 6 cent increase as opposed to a 5.9 cent increase, and the perennial debate over a phase in of the 6 cent increase (2+2+2) over a 3 year period as a more palatable option for the public to consider.

Having said all of that, SS/SB 623 was ultimately approved by the House Transportation Committee, the House Select Committee on State and Local Government, and the House Fiscal Review Committee. Unfortunately, SS/SB 623 did not make it through in a quick enough fashion to be approved by the full House, and died on the House calendar at the end of session.

Reallocation of General Revenue to Transportation: Earlier this session we saw press conferences from House and Senate leaders indicating a plan to devote some resources from tightening of public assistance programs to transportation. Early reports were that the number for transportation would be in the \$50 million range. Later reports have scaled that number back to \$30 million and even lower in the most recent estimates. Senate Appropriations Chairman Kurt Schaeffer (R-Columbia) announced his support for keeping the Highway Patrol funded largely in part through the State Road Fund. Expect this issue to continue to develop as the session progresses.

Ultimately, \$20 million of General Revenue was appropriated for a cost share program for MODOT and municipalities to work on transportation projects together (aka “local cost share program.”)

Truck Platooning: On April 27, the Senate rolled the truck platooning language into a floor substitute on a bill relating to transportation issues broadly. As of our last Legislative Report, the bill was awaiting a hearing in the Governmental Accountability Committee (held the morning of Thursday, April 28). Once approved by the GAFO Committee and the full Senate, the bill will be able to be accepted by the House or sent to conference. The truck platooning language is not considered controversial, but recent opposition has sprung up from a lobbyist representing labor.

Despite the last minute opposition from the Teamsters, SS/HB 1733 was approved by the House by a nearly veto

proof majority (107-42) even with several supporters absent for the vote. SS/HB 1733 was sent to the Governor on May 25, 2016. The Governor must act on the bill by July 14, 2016.

Ports/PPP Expansion: For the past 4 years, MoTA has been working to ensure the language to help river ports increase their capabilities and infrastructure is not an “anti-truck” piece of legislation. Recall that early on, projects were to be evaluated based on their ability to “take trucks off the road.” In reality, more port activity nearly always results in more truck activity, as I am unaware of any port that delivers to a retail facility!

In 2016, SB 861 had been progressing through the legislative process, and was not an “anti-truck” bill. During the process, supporters of Public Private Partnerships amended the Ports bill to include an expansion of currently allowed PPP projects. After meeting with the main lobbyist pushing the ports bill and informing him of MoTA’s concern and opposition to the PPP language and the possibility of that amendment and successful passage of the language being used by MoDOT as the basis for FHWA granting MoDOT an extension for their authority to toll I-70, we were able to come to an agreement on the following language that was included in the final version of the bill sent to the Governor’s desk: **“The commission or private partner shall not have the authority to collect user fees in connection with the project from motor carriers as defined in section 227.630. Project shall not include any highway, interstate or bridge construction, or any rest area, rest stop or truck parking facility connected to an interstate or highway under the authority of the commission.”**

Local Log Truck: (HB 2412) This issue is yet another example of the value and need for representation of your interests during a legislative session. Initially, HB 2412 was a simple bill to allow local log trucks to operate outside the forested site or outside the 100-mile radius from the site at current 80,000-pound limits. In the initial bill, no changes were made to the allowable payload/cargo a local log truck could haul — it remained “harvested forest products.” As filed, HB 2412 was not a bill MoTA opposed, but it was a bill that we were monitoring.

During the initial hearing in February, reference was made to the possible need to amend the language to allow a slight expansion of the allowable payload/cargo hauling capabilities for local log trucks operating outside the 100-mile radius. In April, HB 2412 had an executive committee session, with the proponents of the legislation expanding the allowable payload/cargo for local log trucks to “harvested or processed forest products” and adding an additional fee of \$200 for the “extended distance local log truck” permit.

During an executive committee session, the committee does not typically take testimony from proponents or opposition — during this particular executive session, the proponent’s lobbyist did come forward to answer some questions regarding the language and effect of the amendment being offered. After the hearing, MoTA approached Rep Paul Fitzwater to express our opposition to his language and suggest that his additional fee was “about \$1,000 too low.” His response was that the fee was negotiable and he was open to continuing the discussion on the appropriate amount. On May 4, HB 2412 was adopted as an amendment on SB 703 on the House floor, along with 6 other amendments. The fee was not changed, and continued to be an additional \$200 for the extended local log truck permit (with the \$300 base fee for the local log truck plate), essentially allowing a local log truck to haul intrastate for “harvested or processed forest products” for \$500 as compared to an average intrastate permit investment of \$1600. Even with the discount of the payload/cargo being slightly limited to “harvested or processed forest products,” the level of fee advantage for an intrastate local log truck was unacceptable for MoTA.

In the conference committee meeting held May 10 on SB 703, proponent lobbyists were again called on to explain the amendment language and the need for the change. During the exchange, the amount of \$800 for the extended local log truck permit was mentioned repeatedly. Upon further questioning and review of the actual language, the lobbyist said that while the language said what it said, they had intended for the additional permit to be \$500, making the total permit \$800.

After significant discussion as to whether acceptance of the “intended” amount resulted in the conference committee exceeding the differences or not, the conference committee did accept the \$800 amount. Had this legislation successfully passed both bodies and been signed by the Governor, this would have been an item a court would almost assuredly used to overturn the changes.

Fortunately, although the conference committee report was approved and on the calendar for both bodies, the Senate adjourned before SB 703 could be brought up for final approval. We anticipate this issue to return in 2017.

Employee Reclassification: On April 26, the Senate Small Business, Insurance and Industry Committee, chaired by Sen Mike Parson (R-Bolivar) heard HCS/HB 1756 sponsored by Rep Kurt Bahr (R-O’Fallon). HCS/HB 1756 is a prime example of the need to keep focused on what a bill actually says as opposed to what the title of the bill says it does. Originally, this bill started as the annual bill filed by Rep Bahr to “clarify” the statutes relating to misclassification of employees and independent contractors. In Missouri, this issue is of significant importance to trucking as many carriers engage in the use of owner/operators aka independent contractors for their operations. Recall we have been watching and discussing this issue intently for decades, both through the court system and in particular the legislature after the state auditor’s report in 2009 highlighted the lack of progress by the MO Dept of Labor at successful “reclassifications.”

With that background, the HCS language before the Senate Committee would place every MO employer at a potential loss due to the carve out of a specific and special group of employers. The estimated loss to MO businesses was along the magnitude of just short of \$1 billion annually. MoTA and Mo Chamber testified in opposition to the bill.

HB 1756 died in the Senate Committee on Small Business, Insurance and Industry.

Towing: (HB 2320/SB 1043) Both bills made progress through their respective body’s committee process. After approval from their committees, the language was amended onto several bills throughout the legislative session. Ultimately, the towing language ended up on the Governor’s desk in SCS/HCS/HB 1976. If approved by the Governor, this language would authorize the Missouri Highway Patrol to utilize the services of a tow management company or a tow list. Several parameters are established for towing companies and access for customers needing to view or retrieve vehicles is spelled out. Trucking companies retain their rights and responsibilities relative to their ability to call their own tow or use towing companies under contract with the motor carrier, subject to the usual emergency response time issues.

License Plate Readers: (HB 1945/SB 1040) The issue of LPRs and red light cameras is intermingled and usually proposed in various manners of an attempt to ban or limit the data collected by the devices. When it comes to trucking, LPRs are used in various weigh station bypass systems. Without their use, the functionality and usefulness of the bypass system may be limited, forcing congestion and loss of productivity issues that would be unacceptable. Nearly every time our concerns are expressed to the various sponsors of LPR or red light camera legislation, an exemption is created for the continued usage of LPR technology in the commercial motor vehicle setting. That is the case with both of these bills this session. Ultimately however, neither bill advanced much beyond a positive committee vote in 2016.

Uber: MoTA has been tracking the Uber bills all session, as this issue is one that could have significant impacts to most MoTA members in the future. Currently, Uber (and other “Transportation Network Companies”) are currently focused in the taxicab type arena. Very quickly in many locales, Uber et al have begun delivery of food (Uber Eats) and other “personal convenience” types of deliveries such as dry cleaning. The possibilities are literally endless. Amazon is also involved in these discussions.

The impact on the transportation and logistics industry is transformational. Uber, et al, have been working their way through the various state legislatures attempting to carve out and exempt themselves from most regulatory requirements. We are working to protect the “for hire” domain from these exemptions, to varying degrees of success.

During 2016 legislative session, we tracked/worked on at least 4 bills on the Uber/transportation network company issue. By late April, the bills had made decent progress, but faced significant hurdles for final passage. The sheer number of lobbyists working for this legislation kept the legislation “in play” despite the hurdles.

To be clear, MoTA is not “anti-Uber, et al” but we are looking to make sure that if and when they want to compete in the logistics sector, they are competing under the same rules as the rest of the sector.

When the dust settled at the end of the 2016 session, only SB 947 relating to creating regulations for insurance requirements for TNC and TNC drivers made it to the Governor’s desk. For all practical purposes, this issue will be back in 2017.

Primary Seat Belt: (SB 820/HB 1987) On the Senate side, SB 820 received a hearing in the Senate Transportation Committee early in session, but was never voted out of committee. In the House, HB 1987 was filed early and second read, but did not get referred to a house committee until mid April. HB 1987 never had a hearing in the House.

Ban on Texting: (SB 569/SB 821) Both of these bills were referred to the Senate Transportation Committee and had a hearing early in session, but were never voted out of committee.

REAL ID: SB 902 is an effort by Senator Ryan Silvey (House companion is HB 2235 by Rep Kevin Corlew R-Kansas City) to resolve a problem for Missourians who need REAL ID compliant drivers licenses and still allow those with privacy concerns to continue to not receive a REAL ID compliant Missouri driver’s license.

Many Missourians believe this issue has been resolved as the news portrayal of the issue is that the federal government (DHS and airports) has been announcing that Missourians (and other non-compliant states) will have until 2018 to comply with this directive. In reality, CDL holders are feeling the impact of this issue on a potential daily basis. As is the case with many credentialing issues, it turns into a case-by-case scenario.

Regardless of the solution that ultimately gets decided by the legislature and Administration, Missouri Trucking Association support for the issue is an effort to remind the legislature that CDL holders have the need to continue to gain access to federal facilities, and having a “valid” and compliant state drivers license as the basic form of identification was necessary for them to obtain further credentials for access.

Neither bill made any substantial progress and this issue will be back in 2017.

Right to Work: Not much movement on this issue this year in the private sector, after the failure of the override attempt in the fall of 2015. The debate this session focused on the public employee being required to pay dues to a labor organization. HB 1891, called “paycheck protection” by supporters and “paycheck deception” by opponents passed the General Assembly in early March and was vetoed on March 18. The House overrode the Governor’s veto on May 4 109-47. Ultimately, the Senate failed to override the Governor’s veto on May 12 by a vote of 10-22. Two Republicans who represent labor leaning districts voted no: Sen Romine and Sen Silvey.

For those interested in such things, MoTA tracked a total of 316 bills out of the 2216 bills that were filed. Unfortunately, all of the bills have to be read in order to find the bills to track!