

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1005 Motorist Safety

**SPONSOR(S):** Economic Affairs Committee; Transportation & Highway Safety Subcommittee; Slosberg

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1376

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Kiner	Miller
2) Local & Federal Affairs Committee	14 Y, 0 N	Nelson	Rojas
3) Economic Affairs Committee	14 Y, 0 N, As CS	Kiner	Creamer

### SUMMARY ANALYSIS

CS/CS/HB 1005 authorizes, but does not require, the governing board of a county to create a "yellow dot" critical motorist medical information program for the purpose of assisting emergency medical responders and program participants in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle. Participants in the program receive a yellow dot decal to place on their vehicle's rear window, which alerts emergency services personnel to look for a corresponding yellow folder in the glove box. The yellow folder may include the injured participant's emergency contact and medical information.

Under the bill, a person's participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships to cover expenditures, including the cost of the yellow dot decals and folders. The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

The bill limits the liability of emergency medical responders, and requires the governing body of a participating county to adopt guidelines and procedures to ensure that confidential information is not made public.

This bill has no fiscal impact. The bill will take effect on July 1, 2014, only if legislation is filed during the 2014 legislative session creating a public records exemption for the information required in Section 1 of the bill is adopted and becomes law.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1005e.EAC

**DATE:** 4/11/2013

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

The “yellow dot” program is a system to alert first responders at an accident scene to search for medical information about the injured—especially if the injured is unconscious or unable to speak.<sup>1</sup> According to the newspaper *USA Today*, the yellow dot program is “...simple but effective: [p]articipants in the free program receive a yellow dot to place on their rear window; it alerts emergency services personnel to look for a corresponding yellow folder in the glove box.”<sup>2</sup> The yellow folder may include the injured participant’s name, photograph, emergency contact information, medical information, hospital preference, and other vital information.

The program began in Connecticut in 2002, and now, with slight variations, is in counties scattered across at least eight other states: Kansas, Illinois, Iowa, Minnesota, Massachusetts, Virginia, Alabama and New York.<sup>3</sup>

#### **Effect of Proposed Changes**

The bill authorizes, but does not require, the governing body of a county to create a yellow dot critical motorist medical information program for the purpose of assisting emergency medical responders and program participants in the event of a motor vehicle accident or a medical emergency involving a participant’s vehicle.

Under the bill, a person’s participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships from interested business entities and not-for-profit organizations to cover expenditures, including the cost of the yellow dot decals and folders that are provided free of charge to participants. Two or more counties also may enter into an interlocal agreement to solicit these sponsorships.

The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

Any owner or lessee of a motor vehicle may participate in the program upon submission of an application. The application is created by the county and must include a statement that the information submitted will be disclosed only to authorized personnel of law enforcement and public safety agencies, emergency medical services agencies, and hospitals in the case of a motor vehicle accident or other emergency situation. The application must describe the confidential nature of the medical information voluntarily provided by the participant. The application must also require that the participant give express written consent for the use and disclosure of the yellow folder’s contents to authorized personnel for the following purposes:

- to positively identify the participant;
- to ascertain whether the participant has a medical condition that might impede communications between the participant and the responder;
- to inform the participant’s emergency contacts about the location, condition, or death of the participant;
- to learn the nature of any medical information reported by the participant; and

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<sup>1</sup> *See*, additional information about the Yellow Dot program at [www.yellow-dot.com](http://www.yellow-dot.com) (Last viewed on 4/5/13).

<sup>2</sup> *See*, “Yellow Dot car program speeds to help crash victims.” Larry Copeland, *USA Today* (5/24/2011) at

[http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers\\_n.htm](http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers_n.htm) (Last viewed on 4/5/13).

<sup>3</sup> *Id.*

- to ensure that the participant's current medications and preexisting medical conditions are considered when emergency medical treatment is administered for any injury to or condition of the participant.

After submitting a completed application, the participant is given a yellow dot decal to affix onto the lower left corner of his or her vehicle's rear window (or a clearly visible location on a motorcycle), a yellow dot folder, and a form for the participant's information.

The form, which is to be placed inside the yellow folder, is to contain the following information:

- the participant's name;
- the participant's photograph;
- emergency contact information of no more than two persons;
- the participant's medical information, including medical conditions, recent surgeries, allergies and medications;
- the participant's hospital preference; and
- contact information for no more than two physicians.

When the driver of a vehicle with an affixed yellow dot decal is involved in an accident or emergency situation, an emergency medical responder at the scene is authorized to search the glove compartment of the vehicle for the corresponding yellow dot folder. With regard to liability, the bill provides that—except for wanton or willful conduct—an emergency medical responder, or the employer of a responder, does not incur any liability for:

- failing, in good faith, to make contact with a participant's emergency contact person; or
- disseminating, or failing to disseminate, any information from the yellow dot folder to any other emergency medical responder, hospital, or health care provider who renders emergency medical treatment to the participant.

The governing body of a participating county is required to adopt guidelines and procedures for ensuring that any information that is confidential is not made public through the program.

See, FISCAL COMMENTS, below, for fiscal impact information.

The bill will take effect on July 1, 2014, only if legislation is filed during the 2014 legislative session creating a public records exemption for the information required in Section 1 of the bill is adopted and becomes law.

#### B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law authorizing a motorist medical information program.

Section 2: Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None. Neither DHSMV nor DOT is required to provide training, education or to publicize the program.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
See, FISCAL COMMENTS.
2. Expenditures:  
See, FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See, FISCAL COMMENTS.

D. FISCAL COMMENTS:

The bill does not require a county to create a yellow dot program. If the governing body of a county decides to create such a program, the bill authorizes the county's governing body to seek sponsorships to cover costs. Public participation in the program is voluntary and free.

The cost of the program is unknown. One small corporation in Reno, Nevada (Yellow Dot LLC) advertises a booklet with sticker priced at \$5.00. See, <http://www.yellow-dot.com/3301.html>.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require DHSMV or DOT to create rules, and does not impact either department's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Drafting Issues**

Line 69: The word "for" should be substituted for the word "with."

Line 74: While the bill provides that a person who rides in a motor vehicle as a passenger may also participate in the program, it provides no guidance for that participation.

**Other Comments**

Under its home rule powers, a county may enact a yellow dot program without the authority provided by this bill. Nonetheless, a statute, such as the one proposed, may serve to encourage participation in this program, while requiring some uniformity.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Wednesday, March 20, 2013, the Transportation & Highway Safety Subcommittee adopted one amendment to HB 1005. The amendment revised the bill in the following manner:

- corrected a bill drafting error on line 114 by removing the word "is" from the statement "medical responder or the employer of a responder is does not incur any liability";

- authorized instead of required a medical responder at the scene of an accident to search the glove compartment of the injured person's vehicle for the corresponding yellow dot folder. This amendment made the language consistent with language in the bill that absolves a medical responder of any liability except for wanton or willful conduct.

On Tuesday, April 9, 2013, the Economic Affairs Committee adopted one amendment to CS/HB 1005. The amendment changed the bill's effective date and makes it contingent upon passage of a separate bill creating a public records exemption during the 2014 session.

This bill analysis is drafted to CS/CS/HB 1005.