

FIRST REGULAR SESSION

# HOUSE BILL NO. 819

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOSMER, GASKILL, KELLEY (47), SKAGGS, BOUCHER, WILLIAMS (Co-sponsors), BRITT, MYERS, REINHART, MARBLE, BRAY, BONNER AND BARNETT.

Read 1<sup>st</sup> time February 15, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

0264L.03I

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### AN ACT

To repeal sections 302.010, 302.060, 302.302, 302.505, 302.510, 302.520, 302.530, 302.541, 302.545, 577.012, 577.017, 577.021, 577.023, 577.037, 577.041, 577.049, 577.054, 577.600, 577.602 and 577.604, RSMo 2000, relating to driving with excessive blood alcohol content, and to enact in lieu thereof twenty-one new sections relating to the same subject, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 302.010, 302.060, 302.302, 302.505, 302.510, 302.520, 302.530, 302.541, 302.545, 577.012, 577.017, 577.021, 577.023, 577.037, 577.041, 577.049, 577.054, 577.600, 577.602 and 577.604, RSMo 2000, are repealed and twenty-one new sections enacted in lieu thereof, to be known as sections 302.010, 302.060, 302.302, 302.505, 302.510, 302.520, 302.530, 302.541, 302.545, 577.012, 577.017, 577.021, 577.023, 577.037, 577.041, 577.049, 577.054, 577.600, 577.602, 577.604 and 577.700, to read as follows:

302.010. Except where otherwise provided, when used in this chapter, the following words and phrases mean:

- (1) "Circuit court", each circuit court in the state;
- (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than fifteen passengers;
- (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction, except that when any conviction as a result of which points are assessed pursuant to section 302.302 is appealed, the term "conviction" means the original

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

10 judgment of conviction for the purpose of determining the assessment of points, and the date of  
11 final judgment affirming the conviction shall be the date determining the beginning of any  
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Director", the director of revenue acting directly or through the director's authorized  
14 officers and agents;

15 (5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement  
16 for drawing plows, mowing machines and other implements of husbandry;

17 (6) "Highway", any public thoroughfare for vehicles, including state roads, county roads  
18 and public streets, avenues, boulevards, parkways, or alleys in any municipality;

19 (7) "Incompetent to drive a motor vehicle", a person who has become physically  
20 incapable of meeting the prescribed requirements of an examination for an operator's license, or  
21 who has been adjudged by a probate division of the circuit court in a capacity hearing of being  
22 incapacitated;

23 (8) "License", a license issued by a state to a person which authorizes a person to operate  
24 a motor vehicle;

25 (9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks  
26 except motorized bicycles, as defined in section 307.180, RSMo;

27 (10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition  
28 shall not include motorized bicycles as defined in section 301.010, RSMo;

29 (11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle  
30 operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

31 (12) "Moving violation", that character of traffic violation where at the time of violation  
32 the motor vehicle involved is in motion, except that the term does not include the driving of a  
33 motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170  
34 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;

35 (13) "Municipal court", every division of the circuit court having original jurisdiction  
36 to try persons for violations of city ordinances;

37 (14) "Nonresident", every person who is not a resident of this state;

38 (15) "Operator", every person who is in actual physical control of a motor vehicle upon  
39 a highway;

40 (16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is  
41 the subject of an agreement for the conditional sale or lease thereof with the right of purchase  
42 upon performance of the conditions stated in the agreement and with an immediate right of  
43 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle  
44 is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed  
45 the owner for the purpose of sections 302.010 to 302.540;

46 (17) "Record" includes, but is not limited to, papers, documents, facsimile information,  
47 microphotographic process, electronically generated or electronically recorded information,  
48 digitized images, deposited or filed with the department of revenue;

49 (18) **"Relating to driving while intoxicated", as used in section 302.060 includes**  
50 **driving while intoxicated, driving with excessive blood alcohol content, involuntary**  
51 **manslaughter and murder where driving while intoxicated is an element of the offense;**

52 (19) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle,  
53 either publicly or privately owned, used to transport students to and from school, or to transport  
54 pupils properly chaperoned to and from any place within the state for educational purposes. The  
55 term "school bus" shall not include a bus operated by a public utility, municipal corporation or  
56 common carrier authorized to conduct local or interstate transportation of passengers when such  
57 bus is not traveling a specific school bus route but is:

58 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or  
59 (b) Furnishing charter service for the transportation of persons enrolled as students on  
60 field trips or other special trips or in connection with other special events;

61 [(19)] (20) "School bus operator", an operator who operates a school bus as defined in  
62 subdivision (18) of this section in the transportation of any school children and who receives  
63 compensation for such service. The term "school bus operator" shall not include any person who  
64 transports school children as an incident to employment with a school or school district, such as  
65 a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under  
66 contract with or employed by a school or school district as a school bus operator;

67 [(20)] (21) "Signature", any method determined by the director of revenue for the  
68 signing, subscribing or verifying of a record, report, application, driver's license, or other related  
69 document that shall have the same validity and consequences as the actual signing by the person  
70 providing the record, report, application, driver's license or related document;

71 [(21)] (22) "Substance abuse traffic offender program", a program certified by the  
72 division of alcohol and drug abuse of the department of mental health to provide education or  
73 rehabilitation services pursuant to a professional assessment screening to identify the individual  
74 needs of the person who has been referred to the program as the result of an alcohol or drug  
75 related traffic offense. Successful completion of such a program includes participation in any  
76 education or rehabilitation program required to meet the needs identified in the assessment  
77 screening. The assignment recommendations based upon such assessment shall be subject to  
78 judicial review as provided in subsection [13] 14 of section 302.304 and subsections 1 and 5 of  
79 section 302.540;

80 [(22)] (23) "Vehicle", any mechanical device on wheels, designed primarily for use, or  
81 used on highways, except motorized bicycles, vehicles propelled or drawn by horses or human

82 power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized  
83 wheelchairs operated by handicapped persons.

302.060. The director shall not issue any license and shall immediately deny any driving  
2 privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor  
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

6 (3) To any person whose license has been suspended, during such suspension, or to any  
7 person whose license has been revoked, until the expiration of one year after such license was  
8 revoked;

9 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

10 (5) To any person who has previously been adjudged to be incapacitated and who at the  
11 time of application has not been restored to partial capacity;

12 (6) To any person who, when required by this law to take an examination, has failed to  
13 pass such examination;

14 (7) To any person who has an unsatisfied judgment against such person, as defined in  
15 chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such  
16 person, as defined in section 303.120, RSMo, has been established;

17 (8) To any person whose application shows that the person has been convicted within  
18 one year prior to such application of violating the laws of this state relating to failure to stop after  
19 an accident and to disclose the person's identity or driving a motor vehicle without the owner's  
20 consent;

21 (9) To any person who has been convicted more than twice of violating state law, or a  
22 county or municipal ordinance where the judge in such cases was an attorney and the defendant  
23 was represented by or waived the right to an attorney in writing, relating to driving while  
24 intoxicated; except that, after the expiration of ten years from the date of conviction of the last  
25 offense of violating such law or ordinance relating to driving while intoxicated, a person who  
26 was so convicted may petition the circuit court of the county in which such last conviction was  
27 rendered and the court shall review the person's habits and conduct since such conviction. If the  
28 court finds that the petitioner has not been convicted of any offense related to alcohol, controlled  
29 substances or drugs during the preceding ten years and that the petitioner's habits and conduct  
30 show such petitioner to no longer pose a threat to the public safety of this state, the court may  
31 order the director to issue a license to the petitioner if the petitioner is otherwise qualified  
32 pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license  
33 pursuant to the provisions of this subdivision through court action more than one time;

34 (10) To any person who has been convicted twice within a five-year period of violating

35 state law, or a county or municipal ordinance where the judge in such cases was an attorney and  
 36 the defendant was represented by or waived the right to an attorney in writing, [of] **relating to**  
 37 driving while intoxicated, [or] **except that any person** who has been convicted [of the crime]  
 38 **for one offense** of involuntary manslaughter [while operating a motor vehicle in an intoxicated  
 39 condition] **or murder where driving while intoxicated is an element of the offense shall not**  
 40 **be issued a license or shall have such licensed immediately denied.** The director shall not  
 41 issue a license to such person for five years from the date such person was convicted for  
 42 involuntary manslaughter [while operating a motor vehicle in an intoxicated condition] **or**  
 43 **murder where driving while intoxicated is an element of the offense** or for **other crimes**  
 44 **related to** driving while intoxicated for the second time[. Any person who has been denied a  
 45 license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the  
 46 person's license issued, upon application, unless the two convictions occurred within a five-year  
 47 period, in which case, no license shall be issued to the person for five years from the date of the  
 48 second conviction];

49 (11) To any person who is otherwise disqualified pursuant to the provisions of sections  
 50 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

51 (12) To any person who is under the age of eighteen years, if such person's parents or  
 52 legal guardians file a certified document with the department of revenue stating that the director  
 53 shall not issue such person a driver's license. Each document filed by the person's parents or  
 54 legal guardians shall be made upon a form furnished by the director and shall include identifying  
 55 information of the person for whom the parents or legal guardians are denying the driver's  
 56 license. The document shall also contain identifying information of the person's parents or legal  
 57 guardians. The document shall be certified by the parents or legal guardians to be true and  
 58 correct. This provision shall not apply to any person who is legally emancipated. The parents  
 59 or legal guardians may later file an additional document with the department of revenue which  
 60 reinstates the person's ability to receive a driver's license.

302.302. 1. The director of revenue shall put into effect a point system for the  
 2 suspension and revocation of licenses. Points shall be assessed only after a conviction or  
 3 forfeiture of collateral. The initial point value is as follows:

- 4 (1) Any moving violation of a state law or county or municipal or  
 5 federal traffic ordinance or regulation not listed in this section, other  
 6 than a violation of vehicle equipment provisions or a court-ordered  
 7 supervision as provided in section 302.303 ..... 2 points  
 8 (except any violation of municipal stop sign ordinance where no accident is  
 9 involved ..... 1 point)  
 10 (2) Speeding

11	In violation of a state law . . . . .	3 points
12	In violation of a county or municipal ordinance . . . . .	2 points
13	(3) Leaving the scene of an accident in violation of section	
14	577.060, RSMo . . . . .	12 points
15	In violation of any county or municipal ordinance . . . . .	6 points
16	(4) Careless and imprudent driving in violation of subsection 4	
17	of section 304.016, RSMo . . . . .	4 points
18	In violation of a county or municipal ordinance . . . . .	2 points
19	(5) Operating without a valid license in violation of subdivision (1) or	
20	(2) of subsection 1 of section 302.020:	
21	(a) For the first conviction . . . . .	2 points
22	(b) For the second conviction . . . . .	4 points
23	(c) For the third conviction . . . . .	6 points
24	(6) Operating with a suspended or revoked license prior to restoration of	
25	operating privileges . . . . .	12 points
26	(7) Obtaining a license by misrepresentation . . . . .	12 points
27	(8) For the first conviction of driving while in an intoxicated condition	
28	or under the influence of controlled substances or drugs . . . . .	8 points
29	(9) For the second or subsequent conviction of any of the following	
30	offenses however combined: driving while in an intoxicated condition, driving	
31	under the influence of controlled substances or drugs or driving with a blood	
32	alcohol content of [ten-hundredths] <b>eight-hundredths</b> of one percent or	
33	more by weight . . . . .	12 points
34	(10) For the first conviction for driving with blood alcohol content	
35	[ten-hundredths] of <b>eight hundredths of</b> one percent or more by weight	
36	In violation of state law . . . . .	8 points
37	In violation of a county or municipal ordinance or federal law or	
38	regulation . . . . .	8 points
39	(11) <b>For a conviction of aggravated driving with an excessive blood</b>	
40	<b>alcohol content</b> . . . . .	<b>12 points</b>
41	(12) Any felony involving the use of a motor vehicle . . . . .	12 points
42	[(12)] (13) Knowingly permitting unlicensed operator to operate a motor	
43	vehicle . . . . .	4 points
44	[(13)] (14) For a conviction for failure to maintain financial responsibility	
45	pursuant to county or municipal ordinance or pursuant to section	
46	303.025, RSMo . . . . .	4 points

57           2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess  
58 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section  
59 302.020, when the director issues such operator a license or permit pursuant to the provisions  
60 of sections 302.010 to 302.340.

61           3. An additional two points shall be assessed when personal injury or property damage  
62 results from any violation listed in subsection 1 of this section and if found to be warranted and  
63 certified by the reporting court.

64           4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this  
65 section constitutes both a violation of a state law and a violation of a county or municipal  
66 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an  
67 offense arising out of the same occurrence could be construed to be a violation of subdivisions  
68 (8), (9) [and], (10) **and (11)** of subsection 1 of this section, no person shall be tried or convicted  
69 for more than one offense pursuant to subdivisions (8), (9) [and], (10) **and (11)** of subsection 1  
70 of this section for offenses arising out of the same occurrence.

71           5. The director of revenue shall put into effect a system for staying the assessment of  
72 points against an operator. The system shall provide that the satisfactory completion of a  
73 driver-improvement program or, in the case of violations committed while operating a  
74 motorcycle, a motorcycle- rider training course approved by the director of the department of  
75 public safety, by an operator, when so ordered and verified by any court having jurisdiction over  
76 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a  
77 violation committed in a commercial motor vehicle as defined in section 302.700, shall be  
78 accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision  
79 (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the  
80 purposes of this subsection, the driver-improvement program shall meet or exceed the standards  
81 of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a  
violation which occurred during the operation of a motorcycle, the program shall meet the  
standards established by the director of the department of public safety pursuant to sections  
302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider  
training course shall not be accepted in lieu of points more than one time in any thirty-six-month  
period and shall be completed within sixty days of the date of conviction in order to be accepted  
in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions  
of this subsection shall, within fifteen days after completion of the driver- improvement program  
or motorcycle-rider training course by an operator, forward a record of the completion to the  
director, all other provisions of the law to the contrary notwithstanding. The director shall  
establish procedures for record keeping and the administration of this subsection.

302.505. 1. The department shall suspend or revoke the license of any person upon its

2 determination that the person was arrested upon probable cause to believe such person was  
3 driving a motor vehicle while the alcohol concentration in the person's blood, breath, or urine  
4 was [ten-hundredths] **eight-hundredths** of one percent or more by weight, based on the  
5 definition of alcohol concentration in section 302.500, or where such person was less than  
6 twenty-one years of age when stopped and was stopped upon probable cause to believe such  
7 person was driving while intoxicated in violation of section 577.010, RSMo, or driving with  
8 excessive blood alcohol content in violation of section 577.012, RSMo, or upon probable cause  
9 to believe such person violated a state, county or municipal traffic offense **or was stopped at a**  
10 **sobriety checkpoint or roadblock** and such person was driving with a blood alcohol content  
11 of two-hundredths of one percent or more by weight **but less than eight-hundredths of one**  
12 **percent by weight.**

13         2. The department shall make a determination of these facts on the basis of the report of  
14 a law enforcement officer required in section 302.510, and this determination shall be final  
15 unless a hearing is requested and held. If a hearing is held, the department shall review the  
16 matter and make a final determination on the basis of evidence received at the hearing.

17         3. The determination of these facts by the department is independent of the determination  
18 of the same or similar facts in the adjudication of any criminal charges arising out of the same  
19 occurrence. The disposition of those criminal charges shall not affect any suspension or  
20 revocation under this section.

302.510. 1. Except as provided in subsection 3 of this section, a law enforcement officer  
2 who arrests any person for a violation of any state statute related to driving while intoxicated or  
3 for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a  
4 county or municipal alcohol related traffic offense, and in which the alcohol concentration in the  
5 person's blood, breath, or urine was [ten-hundredths] **eight-hundredths** of one percent or more  
6 by weight or two-hundredths of one percent or more by weight **but less than eight-hundredths**  
7 **of one percent by weight** for anyone less than twenty-one years of age, shall forward to the  
8 department a [verified] **certified** report of all information relevant to the enforcement action,  
9 including information which adequately identifies the arrested person, a statement of the officer's  
10 grounds for belief that the person violated any state statute related to driving while intoxicated  
11 or was less than twenty-one years of age and was driving with two-hundredths of one percent or  
12 more by weight **but less than eight-hundredths of one percent by weight** of alcohol in the  
13 person's blood, or a county or municipal ordinance prohibiting driving while intoxicated or a  
14 county or municipal alcohol related traffic offense, a report of the results of any chemical tests  
15 which were conducted, and a copy of the citation and complaint filed with the court.

16         2. The report required by this section shall be **certified under penalties of perjury or**  
17 **for making a false statement to a public official and** made on forms supplied by the



18 department or in a manner specified by regulations of the department.

19         3. A county or municipal ordinance prohibiting driving while intoxicated or a county or  
20 municipal alcohol related traffic offense may not be the basis for suspension or revocation of a  
21 driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement  
22 officer, other than an elected peace officer or official, has been certified by the director of the  
23 department of public safety pursuant to the provisions of sections 590.100 to 590.180, RSMo.

302.520. 1. Whenever the chemical test results are available to the law enforcement  
2 officer while the arrested person is still in custody, and where the results show an alcohol  
3 concentration of [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol  
4 in such person's blood or where such person is less than twenty-one years of age and the results  
5 show that there is two-hundredths of one percent or more **but less than eight-hundredths of**  
6 **one percent by weight** of alcohol in the person's blood, the officer, acting on behalf of the  
7 department, shall serve the notice of suspension or revocation personally on the arrested person.

8         2. When the law enforcement officer serves the notice of suspension or revocation, the  
9 officer shall take possession of any driver's license issued by this state which is held by the  
10 person. When the officer takes possession of a valid driver's license issued by this state, the  
11 officer, acting on behalf of the department, shall issue a temporary permit which is valid for  
12 fifteen days after its date of issuance and shall also give the person arrested a notice which shall  
13 inform the person of all rights and responsibilities pursuant to sections 302.500 to 302.540. The  
14 notice shall be in such form so that the arrested person may sign the original as evidence of  
15 receipt thereof. The notice shall also contain a detachable form permitting the arrested person  
16 to request a hearing. Signing the hearing request form and mailing such request to the  
17 department shall constitute a formal application for a hearing.

18         3. A copy of the completed notice of suspension or revocation form, a copy of any  
19 completed temporary permit form, a copy of the notice of rights and responsibilities given to the  
20 arrested person, including any request for hearing, and any driver's license taken into possession  
21 pursuant to this section shall be forwarded to the department by the officer along with the report  
22 required in section 302.510.

23         4. The department shall provide forms for notice of suspension or revocation, for notice  
24 of rights and responsibilities, for request for a hearing and for temporary permits to law  
25 enforcement agencies.

302.530. 1. Any person who has received a notice of suspension or revocation may  
2 make a request within fifteen days of receipt of the notice for a review of the department's  
3 determination at a hearing. If the person's driver's license has not been previously surrendered,  
4 it [shall] **may** be surrendered at the time the request for a hearing is made.

5         2. At the time the request for a hearing is made, if it appears from the record that the

6 person is the holder of a valid driver's license issued by this state, and that the driver's license has  
7 been surrendered as required, the department shall issue a temporary permit which shall be valid  
8 until the scheduled date for the hearing. The department may later issue an additional temporary  
9 permit or permits in order to stay the effective date of the suspension or revocation until the final  
10 order is issued following the hearing, as required by section 302.520.

11 3. The hearing may be held by telephone, or if requested by the person, such person's  
12 attorney or representative, in the county where the arrest was made. The hearing shall be  
13 conducted by examiners who are licensed to practice law in the state of Missouri and who are  
14 employed by the department on a part-time or full-time basis as the department may determine.

15 4. The sole issue at the hearing shall be whether by a preponderance of the evidence the  
16 person was driving a vehicle pursuant to the circumstances set out in section 302.505. The  
17 burden of proof shall be on the state to adduce such evidence. If the department finds the  
18 affirmative of this issue, the suspension or revocation order shall be sustained. If the department  
19 finds the negative of the issue, the suspension or revocation order shall be rescinded.

20 5. The procedure at such hearing shall be conducted in accordance with chapter 536,  
21 RSMo, [not otherwise in conflict] **except when chapter 536, RSMo, conflicts** with sections  
22 302.500 to 302.540. **A report certified pursuant to subsection 2 of section 302.510 shall be**  
23 **admissible as evidence of the facts stated therein and any provision of chapter 536, RSMo,**  
24 **to the contrary shall not apply.**

25 6. The department shall promptly notify, by certified letter, the person of its decision  
26 including the reasons for that decision. Such notification shall include a notice advising the  
27 person that the department's decision shall be final within fifteen days from the date of  
28 certification of the letter unless the person challenges the department's decision within that time  
29 period by filing an appeal in the circuit court in the county where the arrest occurred.

30 7. Unless the person, within fifteen days after being notified by certified letter of the  
31 department's decision, files an appeal for judicial review pursuant to section 302.535, the  
32 decision of the department shall be final.

33 8. The director may adopt any rules and regulations necessary to carry out the provisions  
34 of this section.

302.541. 1. In addition to other fees required by law, any person who has had a license  
2 to operate a motor vehicle suspended or revoked following a determination, pursuant to section  
3 302.505, or section 577.010, 577.012, **577.015**, 577.041 or 577.510, RSMo, or any county or  
4 municipal ordinance, where the judge in such case was an attorney and the defendant was  
5 represented by or waived the right to an attorney, that such person was driving while intoxicated  
6 or with a blood alcohol content of [ten-hundredths] **eight-hundredths** of one percent or more  
7 by weight or, where such person was at the time of the arrest less than twenty-one years of age

8 and was driving with a blood alcohol content of two-hundredths of one percent or more **but less**  
9 **than eight-hundredths of one percent** by weight, shall pay an additional fee of twenty-five  
10 dollars prior to the reinstatement or reissuance of the license.

11 2. Any person less than twenty-one years of age whose driving privilege has been  
12 suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540  
13 that such person was driving a motor vehicle with two-hundredths of one percent or more **but**  
14 **less than eight-hundredths of one percent by weight** blood alcohol content is exempt from  
15 filing proof of financial responsibility with the department of revenue in accordance with chapter  
16 303, RSMo, as a prerequisite for reinstatement of driving privileges or obtaining a restricted  
17 driving privilege as provided by section 302.525.

302.545. 1. Any person who is less than twenty-one years of age and whose driving  
2 privilege has been suspended or revoked, for a first determination under sections 302.500 to  
3 302.540, that such person was driving with two-hundredths of one percent **but less than eight-**  
4 **hundredths of one percent by weight** of blood alcohol content, shall have all official records  
5 and all recordations maintained by the department of revenue of such suspension or revocation  
6 expunged two years after the date of such suspension or revocation, or when such person attains  
7 the age of twenty-one, whichever date first occurs. Such expungement shall be performed by the  
8 department of revenue without need of a court order. No records shall be expunged if the person  
9 was found guilty or pled guilty to operating a commercial motor vehicle, as defined in section  
10 302.700, with a blood alcohol content of at least four-hundredths of one percent.

11 2. The provisions of this section shall not apply to any person whose license is suspended  
12 or revoked for a second or subsequent time pursuant to subsection 1 of this section or who is  
13 convicted of any alcohol-related driving offense before the age of twenty-one including, but not  
14 limited to:

15 (1) Driving while intoxicated pursuant to section 577.010, RSMo; or

16 (2) Driving with excessive blood alcohol content pursuant to section 577.012, RSMo.

577.012. 1. A person commits the crime of "driving with excessive blood alcohol  
2 content" if such person operates a motor vehicle in this state with [ten-hundredths] **eight-**  
3 **hundredths** of one percent or more by weight of alcohol in such person's blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall be based upon  
5 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may  
6 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes  
7 of determining the alcoholic content of a person's blood under this section, the test shall be  
8 conducted in accordance with the provisions of sections 577.020 to 577.041.

9 3. For the first offense, driving with excessive blood alcohol content is a class [C] **B**  
10 misdemeanor.

577.017. 1. No person shall **possess an open or unsealed bottle, can or other receptacle that contains an alcoholic beverage or** consume [any] an alcoholic beverage while [operating a moving] **in the passenger area of any motor vehicle [upon the highways] located on a highway**, as defined in section 301.010, RSMo, **or the right-of-way of a highway.**

2. **This section shall not apply to possession of an unsealed but closed receptacle stored behind the last upright seat of a motor vehicle that is not equipped with a trunk.**

3. **This section shall apply to the driver but shall not apply to any other person in the passenger area of a motor vehicle designed, maintained or used primarily for the transportation of persons for compensation or in the living quarters of a house coach or house trailer.**

4. **As used in this section, the term "passenger area" shall mean the area of a motor vehicle designed to seat the driver and passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment.**

5. **As used in this section, the term "alcoholic beverage" means: beer, ale, porter, stout, sake, and other similar beverages fermented wholly or in part from malt or any substitute thereof and containing one-half of one percent or more of alcohol by volume; wine containing one-half of one percent or more of alcohol by volume; or distilled spirits, including ethyl alcohol, ethanol, or spirits of wine in any beverage form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.**

6. Any person found guilty of violating the provisions of this section is guilty of an infraction.

[3.] 7. Any infraction [under] **pursuant to** this section shall not reflect on any records with the department of revenue.

577.021. [A member of the state highway patrol] **Any state, county, or municipal law enforcement officer who has the power of arrest for violations of section 577.010 or 577.012 and who is certified pursuant to chapter 590, RSMo,** may, prior to arrest, administer a chemical test to any person suspected of operating a motor vehicle in violation of section 577.010 or 577.012. A test administered pursuant to this section shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 577.020 shall not apply to a test administered prior to arrest pursuant to this section.

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4)

5 of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second  
6 degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under  
7 the influence of alcohol or drugs in violation of state law or a county or municipal ordinance,  
8 where the judge in such case was an attorney and the defendant was represented by or waived  
9 the right to an attorney in writing;

10 (2) A "persistent offender" is one of the following:

11 (a) A person who has pleaded guilty to or has been found guilty of two or more  
12 intoxication-related traffic offenses, where such two or more offenses occurred within ten years  
13 of the occurrence of the intoxication-related traffic offense for which the person is charged;

14 (b) A person who has pleaded guilty to or has been found guilty of involuntary  
15 manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree  
16 pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law  
17 enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section  
18 565.082, RSMo; and

19 (3) A "prior offender" is a person who has pleaded guilty to or has been found guilty of  
20 one intoxication-related traffic offense, where such prior offense occurred within five years of  
21 the occurrence of the intoxication-related traffic offense for which the person is charged.

22 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010  
23 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A  
24 misdemeanor.

25 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010  
26 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D  
27 felony.

28 4. No court shall suspend the imposition of sentence as to a prior or persistent offender  
29 under this section nor sentence such person to pay a fine in lieu of a term of imprisonment,  
30 section 557.011, RSMo, to the contrary notwithstanding[, nor shall such person be eligible for  
31 parole or probation until he has served a minimum of forty-eight consecutive hours'  
32 imprisonment, unless as a condition of such parole or probation such person performs at least  
33 ten days of community service under the supervision of the court in those jurisdictions which  
34 have a recognized program for community service]. **No prior offender shall be eligible for  
35 parole or probation until he or she has served a minimum of five days imprisonment,  
36 unless as a condition of such parole or probation such person performs at least thirty days  
37 of community service under the supervision of the court in those jurisdictions which have  
38 a recognized program for community service. No persistent offender shall be eligible for  
39 parole or probation until he or she has served a minimum of ten days imprisonment, unless  
40 as a condition of such parole or probation such person performs at least sixty days of**

41 **community service under the supervision of the court in those jurisdictions which have a**  
42 **recognized program for community service.**

43 5. The court shall find the defendant to be a prior offender or persistent offender, if:

44 (1) The indictment or information, original or amended, or the information in lieu of an  
45 indictment pleads all essential facts warranting a finding that the defendant is a prior offender  
46 or persistent offender; and

47 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding  
48 beyond a reasonable doubt the defendant is a prior offender or persistent offender; and

49 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt  
50 by the court that the defendant is a prior offender or persistent offender.

51 6. In a jury trial, the facts shall be pleaded, established and found prior to submission to  
52 the jury outside of its hearing.

53 7. In a trial without a jury or upon a plea of guilty, the court may defer the proof in  
54 findings of such facts to a later time, but prior to sentencing.

55 8. The defendant shall be accorded full rights of confrontation and cross-examination,  
56 with the opportunity to present evidence, at such hearings.

57 9. The defendant may waive proof of the facts alleged.

58 10. Nothing in this section shall prevent the use of presentence investigations or  
59 commitments.

60 11. At the sentencing hearing both the state and the defendant shall be permitted to  
61 present additional information bearing on the issue of sentence.

62 12. The pleas or findings of guilty shall be prior to the date of commission of the present  
63 offense.

64 13. The court shall not instruct the jury as to the range of punishment or allow the jury,  
65 upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of  
66 prior offenders or persistent offenders.

67 14. Evidence of prior convictions shall be heard and determined by the trial court out of  
68 the hearing of the jury prior to the submission of the case to the jury, and shall include but not  
69 be limited to evidence of convictions received by a search of the records of the Missouri uniform  
70 law enforcement system maintained by the Missouri state highway patrol. After hearing the  
71 evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or  
72 county ordinance in a county or municipal court for driving while intoxicated or a conviction or  
73 a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended  
74 execution of sentence, probation or parole or any combination thereof in a state court shall be  
75 treated as a prior conviction.

577.037. 1. Upon the trial of any person for violation of any of the provisions of section

2 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of  
3 any criminal action or violations of county or municipal ordinances or in any license suspension  
4 or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts  
5 alleged to have been committed by any person while driving a motor vehicle while in an  
6 intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged  
7 as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in  
8 evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the  
9 admissibility or introduction of such evidence if otherwise admissible. If there was  
10 [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in the person's  
11 blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen  
12 was taken.

13 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per  
14 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

15 3. The foregoing provisions of this section shall not be construed as limiting the  
16 introduction of any other competent evidence bearing upon the question whether the person was  
17 intoxicated.

18 4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise  
19 to the presumption or to have the effect provided for in subsection 1 of this section, shall have  
20 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and  
21 standards approved by the state department of health.

22 5. Any charge alleging a violation of section 577.010 or 577.012 or any county or  
23 municipal ordinance prohibiting driving while intoxicated or driving under the influence of  
24 alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood,  
25 saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated  
26 thereunder by the state department of health demonstrate that there was less than  
27 [ten-hundredths] **eight-hundredths** of one percent of alcohol in the defendant's blood unless one  
28 or more of the following considerations cause the court to find a dismissal unwarranted:

29 (1) There is evidence that the chemical analysis is unreliable as evidence of the  
30 defendant's intoxication at the time of the alleged violation due to the lapse of time between the  
31 alleged violation and the obtaining of the specimen;

32 (2) There is evidence that the defendant was under the influence of a controlled  
33 substance, or drug, or a combination of either or both with or without alcohol; or

34 (3) There is substantial evidence of intoxication from physical observations of witnesses  
35 or admissions of the defendant.

577.041. 1. If a person under arrest, or who has been stopped pursuant to [subdivision  
2 (2) or (3)] **subdivisions (1) to (4)** of subsection 1 of section 577.020, refuses upon the request

3 of the officer to submit to any test allowed pursuant to section 577.020, then none shall be given  
4 and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or  
5 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the  
6 reasons of the officer for requesting the person to submit to a test and also shall inform the  
7 person that evidence of refusal to take the test may be used against such person and that the  
8 person's license shall be immediately revoked upon refusal to take the test. If a person when  
9 requested to submit to any test allowed pursuant to section 577.020 requests to speak to an  
10 attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney.  
11 If upon the completion of the twenty-minute period the person continues to refuse to submit to  
12 any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of  
13 revenue, serve the notice of license revocation personally upon the person and shall take  
14 possession of any license to operate a motor vehicle issued by this state which is held by that  
15 person. The officer shall issue a temporary permit, on behalf of the director of revenue, which  
16 is valid for fifteen days and shall also give the person a notice of such person's right to file a  
17 petition for review to contest the license revocation.

18 2. The officer shall make a [sworn] **certified** report to the director of revenue **in a**  
19 **format prescribed by the director**, which shall include the following:

20 (1) That the officer has:

21 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle  
22 while in an intoxicated or drugged condition; or

23 (b) Reasonable grounds to believe that the person stopped, being under the age of  
24 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths  
25 of one percent or more by weight; or

26 (c) Reasonable grounds to believe that the person stopped, being under the age of  
27 twenty-one years, was committing a violation of the traffic laws of the state, or political  
28 subdivision of the state, and such officer has reasonable grounds to believe, after making such  
29 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

30 (2) That the person refused to submit to a chemical test;

31 (3) Whether the officer secured the license to operate a motor vehicle of the person;

32 (4) Whether the officer issued a fifteen-day temporary permit;

33 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice  
34 of the right to file a petition for review, which notices and permit may be combined in one  
35 document; and

36 (6) Any license to operate a motor vehicle which the officer has taken into possession.

37 3. Upon receipt of the officer's report, the director shall revoke the license of the person  
38 refusing to take the test for a period of one year; or if the person is a nonresident, such person's



39 operating permit or privilege shall be revoked for one year; or if the person is a resident without  
40 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the  
41 person the issuance of a license or permit for a period of one year.

42 4. If a person's license has been revoked because of the person's refusal to submit to a  
43 chemical test, such person may petition for a hearing before a circuit or associate circuit court  
44 in the county in which the arrest or stop occurred. The person may request such court to issue  
45 an order staying the revocation until such time as the petition for review can be heard. If the  
46 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the  
47 director of revenue and shall send a copy of such order to the director. Such order shall serve  
48 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain  
49 possession of the person's license to operate a motor vehicle until termination of any revocation  
50 pursuant to this section. Upon the person's request the clerk of the court shall notify the  
51 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the  
52 director of revenue. At the hearing the court shall determine only:

53 (1) Whether or not the person was arrested or stopped;

54 (2) Whether or not the officer had:

55 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in  
56 an intoxicated or drugged condition; or

57 (b) Reasonable grounds to believe that the person stopped, being under the age of  
58 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths  
59 of one percent or more by weight; or

60 (c) Reasonable grounds to believe that the person stopped, being under the age of  
61 twenty-one years, was committing a violation of the traffic laws of the state, or political  
62 subdivision of the state, and such officer had reasonable grounds to believe, after making such  
63 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

64 (3) Whether or not the person refused to submit to the test.

65 5. If the court determines any issue not to be in the affirmative, the court shall order the  
66 director to reinstate the license or permit to drive.

67 6. Requests for review as provided in this section shall go to the head of the docket of  
68 the court wherein filed.

69 7. No person who has had a license to operate a motor vehicle suspended or revoked  
70 pursuant to the provisions of this section shall have that license reinstated until such person has  
71 participated in and successfully completed a substance abuse traffic offender program defined  
72 in section 577.001, except the department or the court may waive such requirement upon  
73 completion of a comparable program or upon good cause shown or the court may waive such  
74 requirement upon good cause shown. The court in making this determination shall consider the

75 person's driving record, the circumstances surrounding the offense and the likelihood of the  
76 person committing a like offense in the future. Assignment recommendations, based upon the  
77 needs assessment as described in subdivision (21) of section 302.010, RSMo, shall be delivered  
78 in writing to the person with written notice that the person is entitled to have such assignment  
79 recommendations reviewed by the court if the person objects to the recommendations. The  
80 person may file a motion in the associate division of the circuit court, on a printed form provided  
81 by the state courts administrator, to have the court hear and determine such motion pursuant to  
82 the provisions of chapter 517, RSMo, after reviewing such assessment. The motion shall name  
83 the person or entity making the needs assessment as the respondent and a copy of the motion  
84 shall be served upon the respondent in any manner allowed by law. Such assessment and  
85 compliance with the court determination of the motion shall satisfy the provisions of this section  
86 for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's  
87 personal appearance at any hearing conducted pursuant to this subsection shall not be necessary  
88 unless directed by the court.

89       8. The fees for the substance abuse traffic offender program, or a portion thereof to be  
90 determined by the division of alcohol and drug abuse of the department of mental health, shall  
91 be paid by the person enrolled in the program. Any person who is enrolled in the program shall  
92 pay, in addition to any fee charged for the program, a supplemental fee of sixty dollars. The  
93 administrator of the program shall remit to the division of alcohol and drug abuse of the  
94 department of mental health the supplemental fee for all persons enrolled in the program, less  
95 two percent for administrative costs. The supplemental fees received by the department of  
96 mental health pursuant to this section shall be deposited in the mental health earnings fund which  
97 is created in section 630.053, RSMo.

      577.049. 1. Upon a plea of guilty or a finding of guilty for an offense of violating the  
2 provisions of section 577.010 or 577.012 or violations of county or municipal ordinances  
3 involving alcohol or drug related traffic offenses, the court shall order the person to participate  
4 in and successfully complete a substance abuse traffic offender program defined in section  
5 577.001.

6       2. **No person who has pled guilty to or been found guilty of an offense of violating**  
7 **the provisions of section 577.010 or 577.012 or violations of county or municipal ordinances**  
8 **involving alcohol or drug-related traffic offenses shall receive a final discharge from**  
9 **probation or parole by any court or board of probation and parole until such person has**  
10 **successfully completed a substance abuse traffic offender program defined in section**  
11 **577.001.**

12       3. The fees for the substance abuse traffic offender program, or [a] any portion [thereof]  
13 **of either program**, to be determined by the division of alcohol and drug abuse of the department

14 of mental health, shall be paid by the person enrolling in the program. Any person who attends  
15 the program shall pay, in addition to any fee charged for the program, a supplemental fee of sixty  
16 dollars. The administrator of the program shall remit to the division of alcohol and drug abuse  
17 of the department of mental health the supplemental fees for all persons enrolled in the program,  
18 less two percent for administrative costs. The supplemental fees received by the department of  
19 mental health pursuant to this section shall be deposited in the mental health earnings fund which  
20 is created in section 630.053, RSMo.

577.054. 1. After a period of not less than ten years, an individual who has pleaded  
2 guilty or has been convicted for a first alcohol-related driving offense which is a misdemeanor  
3 or a county or city ordinance violation and which is not a conviction for driving a commercial  
4 motor vehicle while under the influence of alcohol and who since such date has not been  
5 convicted of any other alcohol-related driving offense may apply to the court in which he pled  
6 guilty or was sentenced for an order to expunge from all official records all recordations of his  
7 arrest, plea, trial or conviction. If the court determines, after hearing, that such person has not  
8 been convicted of any alcohol-related driving offense in the ten years prior to the date of the  
9 application for expungement, and has no other alcohol-related enforcement contacts as defined  
10 in section 302.525, RSMo, during that ten-year period, the court [shall] **may** enter an order of  
11 expungement. The effect of such order shall be to restore such person to the status he occupied  
12 prior to such arrest, plea or conviction and as if such event had never taken place. No person as  
13 to whom such order has been entered shall be held thereafter under any provision of any law to  
14 be guilty of perjury or otherwise giving a false statement by reason of his failure to recite or  
15 acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made  
16 of him for any purpose whatsoever and no such inquiry shall be made for information relating  
17 to an expungement under this section. A person shall only be entitled to one expungement  
18 pursuant to this section. Nothing contained in this section shall prevent the director from  
19 maintaining such records as to ensure that an individual receives only one expungement pursuant  
20 to this section for the purpose of informing the proper authorities of the contents of any record  
21 maintained pursuant to this section.

22 **2. No court shall expunge any alcohol conviction pursuant to subsection 1 of this**  
23 **section if the person applying for the expungement has any criminal, civil or administrative**  
24 **proceeding involving an alcohol-related traffic offense, including but not limited to offenses**  
25 **found in this chapter or chapter 302, RSMo, or a similar county or municipal ordinance,**  
26 **pending at the time of application for expungement. The court shall hold in abeyance its**  
27 **expungement order pending the outcome of such proceedings. If any of the proceedings**  
28 **result in a finding against the individual, the court shall deny the expungement.**

577.600. 1. [Beginning January 1, 1996,] In addition to any other provisions of law, a

2 court may require that any person who is found guilty of or pleads guilty to a first  
3 intoxication-related traffic offense, as defined in section 577.023, and a court shall require that  
4 any person who is found guilty of or pleads guilty to a second **or subsequent** intoxication-related  
5 traffic offense, as defined in section 577.023, [who was granted probation,] shall not operate [a]  
6 **or own any** motor vehicle [during the period of probation] unless that vehicle is equipped with  
7 a functioning, certified ignition interlock device as provided in sections 577.600 to 577.614 **for**  
8 **a period of not less than one month from the date of reinstatement of the person's driver's**  
9 **license.** In addition, any court authorized to grant a limited driving privilege [under] **pursuant**  
10 **to** section 302.309, RSMo, [may] **to any person who is found guilty of or pleads guilty to a**  
11 **second or subsequent intoxication-related traffic offense, shall** require the use of an ignition  
12 interlock device **on all vehicles owned or operated by the person** as a **required** condition of  
13 the limited driving privilege. Any person required to use an ignition interlock device shall  
14 comply with the court order, subject to the penalties provided by sections 577.600 to 577.614.

15 2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to  
16 have had [his] **such person's** driving privilege restricted as provided in subsection 1 of this  
17 section, unless the vehicle is equipped with a functioning, certified ignition interlock device.  
18 Any person whose driving privilege is restricted as provided in subsection 1 of this section shall  
19 notify any other person who rents, leases or loans a motor vehicle to [him] **such person** of the  
20 driving restriction imposed [under] **pursuant to** this section.

21 3. Any person convicted of a violation of this section shall be guilty of a class A  
22 misdemeanor.

577.602. 1. [No court shall require the use of an ignition interlock device until it has  
2 made an affirmative finding that such a requirement will not impose any undue hardship by  
3 reason of the cost of the device or by reason of the difficulties associated with any necessary  
4 installation, testing, calibration, servicing or removal of the device. No court shall be required  
5 to require a person who is found guilty of or pleads guilty to a second intoxication-related traffic  
6 offense, as defined in section 577.023, to use an ignition interlock device as a condition of a  
7 limited driving privilege if such a device cannot be installed within fifty miles of the county seat  
8 of such person's county of residence; however, the court in such case may, in its discretion,  
9 require the use of such a device.

10 2.] If a court imposes a fine and requires the use of an ignition interlock device for the  
11 same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

12 [3. If the court requires the use of an ignition interlock device, it shall order the  
13 installation of the device on any vehicle which the probationer operates during the period of  
14 probation or limited driving privilege.

15 4.] 2. If the court imposes the use of an ignition interlock device on [a] **any person**

16 [having full or limited driving privileges], the court shall require the person to provide proof of  
17 compliance with the order to the court or the probation officer within thirty days of this court's  
18 order or sooner, as required by the court. If the person fails to provide proof of installation  
19 within that period, absent a finding by the court of good cause for that failure which is entered  
20 in the court record, the court shall revoke or terminate the person's [probation or limited] driving  
21 privilege.

22 [5.] 3. Nothing in sections 577.600 to 577.614 shall be construed to authorize a person  
23 to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the  
24 person has obtained a limited driving privilege or restricted driving privilege under other  
25 provisions of law.

26 [6.] 4. The person whose driving privilege is restricted pursuant to section 577.600 shall  
27 report to the court or the probation officer at least once annually, or more frequently as the court  
28 may order, on the operation of each ignition interlock device in the person's vehicle or vehicles.  
29 Such person shall be responsible for the cost and maintenance of the ignition interlock device.  
30 If such device is broken, destroyed or stolen, such person shall also be liable for the cost of  
31 replacement of the device.

32 [7.] 5. The court may require a person whose driving privilege is restricted under section  
33 577.600 to report to any officer appointed by the court in lieu of a probation officer.

34 [8.] 6. The court shall require periodic calibration checks that are needed for the proper  
35 operation of the ignition interlock device.

577.604. The court shall require the use of a certified ignition interlock device [during  
2 the period of probation] if the person is permitted to operate a motor vehicle, whether the  
3 privilege to operate a motor vehicle is restricted or not, as determined by the court.

**577.700. 1. The court may, as an alternative to the provisions of this section, either**  
2 **impound or immobilize all of the vehicles owned or operated by any person who pleads**  
3 **guilty to or is found guilty of a second or subsequent intoxication-related traffic offense.**  
4 **The definition of impoundment and immobilization shall be the same as the definition in**  
5 **United States Code, Title 23, Section 154, Part 1275.3. The period of impoundment or**  
6 **immobilization shall be for a period of not less than one month and shall only be**  
7 **implemented during the period of driver's license suspension.**

8 **2. If the court determines that imposition of impoundment and immobilization of**  
9 **all of the vehicles owned or operated by an offender would cause undue hardship to a**  
10 **family member or co-owner of the motor vehicle because the individual is completely**  
11 **dependent on the motor vehicle for the necessities of life, the court is authorized to suspend**  
12 **imposition of the impoundment or immobilization order. Such an exception may be issued**  
13 **for the following reasons:**

- 14           **(1) To allow the family member or co-owner to travel to or from a place of**  
15 **employment;**
- 16           **(2) To allow the family member or co-owner to travel to or from places to obtain**  
17 **the basic necessities of life; and**
- 18           **(3) Any exceptional circumstances relating specifically to the offender's motor**  
19 **vehicle.**