

FIRST REGULAR SESSION

[PERFECTED]

HOUSE BILL NO. 954

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSMER.

Read 1st time March 8, 2001, and 1000 copies ordered printed.

Read 2nd time March 12, 2001, and referred to the Committee on Criminal Law, March 12, 2001.

Reported from the Committee on Criminal Law, March 15, 2001, with recommendation that the bill Do Pass by Consent.

Perfectured by Consent March 29, 2001.

TED WEDEL, Chief Clerk

2245L.01P

AN ACT

To repeal sections 302.505, 302.510, 302.520, 302.541 and 302.545, RSMo 2000, and to enact in lieu thereof five new sections relating to license suspension and revocation procedures for persons under twenty-one years of age.

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

Section A. Sections 302.505, 302.510, 302.520, 302.541 and 302.545, RSMo 2000, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 302.505, 302.510,
3 302.520, 302.541 and 302.545, to read as follows:

302.505. 1. The department shall suspend or revoke the license of any person **of any age**
2 upon its determination that the person was arrested upon probable cause to believe such person
3 was driving a motor vehicle while the alcohol concentration in the person's blood, breath, or
4 urine was ten-hundredths of one percent or more by weight, based on the definition of alcohol
5 concentration in section 302.500, or where such person was less than twenty-one years of age
6 when stopped and was stopped upon probable cause to believe such person was driving while
7 intoxicated in violation of section 577.010, RSMo, or driving with excessive blood alcohol
8 content in violation of section 577.012, RSMo, or upon probable cause to believe such person
9 violated a state, county or municipal traffic offense and such person was driving with a blood
10 alcohol content of **at least** two-hundredths of one percent [or more] by weight **but no more than**

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

11 **the prima facie blood alcohol content for intoxication established pursuant to section**
12 **577.037, RSMo.**

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] **pursuant to** this section.

302.510. 1. Except as provided in subsection 3 of this section, a law enforcement officer
2 who arrests any person **of any age** for a violation of any state statute related to driving while
3 intoxicated or for a violation of a county or municipal ordinance prohibiting driving while
4 intoxicated or a county or municipal alcohol related traffic offense, and in which the alcohol
5 concentration in the person's blood, breath, or urine was ten-hundredths of one percent or more
6 by weight or **at least** two-hundredths of one percent [or more] by weight **but no more than the**
7 **prima facie blood alcohol content for intoxication established pursuant to section 577.037,**
8 **RSMo**, for anyone less than twenty-one years of age, shall forward to the department a verified
9 report of all information relevant to the enforcement action, including information which
10 adequately identifies the arrested person, a statement of the officer's grounds for belief that the
11 person violated any state statute related to driving while intoxicated or was less than twenty-one
12 years of age and was driving with **at least** two-hundredths of one percent [or more] by weight
13 of alcohol in the person's blood **but no more than the prima facie blood alcohol content for**
14 **intoxication established pursuant to section 577.037, RSMo**, or a county or municipal
15 ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic
16 offense, a report of the results of any chemical tests which were conducted, and a copy of the
17 citation and complaint filed with the court.

18 2. The report required by this section shall be made on forms supplied by the department
19 or in a manner specified by regulations of the department.

20 3. A county or municipal ordinance prohibiting driving while intoxicated or a county or
21 municipal alcohol related traffic offense may not be the basis for suspension or revocation of a
22 driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement
23 officer, other than an elected peace officer or official, has been certified by the director of the
24 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 **for a person of any age** of ten-hundredths of one percent or more by weight of
4 alcohol in such person's blood or where such person is less than twenty-one years of age and the
5 results show that there is **at least** two-hundredths of one percent [or more] of alcohol in the
6 person's blood **but no more than the prima facie blood alcohol content for intoxication**
7 **established pursuant to section 577.037, RSMo**, the officer, acting on behalf of the department,
8 shall serve the notice of suspension or revocation personally on the arrested person.

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

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

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

302.541. 1. In addition to other fees required by law, any person **of any age** who has had
2 a license to operate a motor vehicle suspended or revoked following a determination, pursuant
3 to section 302.505, or section 577.010, 577.012, 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 of one percent or more by weight or, where
7 such person was at the time of the arrest less than twenty-one years of age and was driving with
8 a blood alcohol content of **at least** two-hundredths of one percent [or more] by weight **but no**
9 **more than the prima facie blood alcohol content for intoxication established pursuant to**
10 **section 577.037, RSMo**, shall pay an additional fee of twenty-five dollars prior to the
11 reinstatement or reissuance of the license.

12 2. Any person less than twenty-one years of age whose driving privilege has been

13 suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540
14 that such person was driving a motor vehicle with **at least** two-hundredths of one percent [or
15 more] blood alcohol content **but no more than the prima facie blood alcohol content for**
16 **intoxication established pursuant to section 577.037, RSMo**, is exempt from filing proof of
17 financial responsibility with the department of revenue in accordance with chapter 303, RSMo,
18 as a prerequisite for reinstatement of driving privileges or obtaining a restricted driving privilege
19 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] **pursuant to** sections
3 302.500 to 302.540, that such person was driving with **at least** two-hundredths of one percent
4 of blood alcohol content **but no more than the prima facie blood alcohol content for**
5 **intoxication established pursuant to section 577.037, RSMo**, shall have all official records
6 and all recordations maintained by the department of revenue of such suspension or revocation
7 expunged two years after the date of such suspension or revocation, or when such person attains
8 the age of twenty-one, whichever date first occurs. Such expungement shall be performed by the
9 department of revenue without need of a court order. No records shall be expunged if the person
10 was found guilty or pled guilty to operating a commercial motor vehicle, as defined in section
11 302.700, with a blood alcohol content of at least four-hundredths of one percent.

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

- 16 (1) Driving while intoxicated pursuant to section 577.010, RSMo; or
17 (2) Driving with excessive blood alcohol content pursuant to section 577.012, RSMo.