

FIRST REGULAR SESSION

HOUSE BILL NO. 95

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JOHNSON (47) (Sponsor),
SMITH (14) AND WILDBERGER (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

0423L.011

AN ACT

To repeal sections 302.130, 302.178, 311.310, 311.325, and 577.500, RSMo, and to enact in lieu thereof six new sections relating to alcohol-related problems of minors, with penalty provisions.

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

Section A. Sections 302.130, 302.178, 311.310, 311.325, and 577.500, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections 162.068, 302.130,
3 302.178, 311.310, 311.325, and 577.500, to read as follows:

**162.068. On or before January 1, 2006, each school district in this state shall
2 implement a policy that details the consequences for students of the school district who are
3 found consuming intoxicating beverages on or off of school property. Failure to implement
4 such a policy is a misdemeanor and upon conviction shall be punished by a fine in an
5 amount not to exceed five hundred dollars or by imprisonment in the county jail not to
6 exceed one year or both.**

302.130. 1. **Except as provided in subsection 10 of this section** any person at least
2 fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would
3 otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for
4 and the director shall issue a temporary instruction permit entitling the applicant, while having
5 such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate
6 class upon the highways for a period of twelve months, but any such person, except when
7 operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

8 of motor vehicle being operated who is actually occupying a seat beside the driver for the
9 purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of
10 age, and in the case of any driver under sixteen years of age, the licensed operator occupying the
11 seat beside the driver shall be a grandparent, parent, guardian, a driver training instructor holding
12 a valid driver education endorsement on a teaching certificate issued by the department of
13 elementary and secondary education or a qualified instructor of a private drivers' education
14 program who has a valid driver's license. Beginning January 1, 2001, an applicant for a
15 temporary instruction permit shall successfully complete a vision test and a test of the applicant's
16 ability to understand highway signs which regulate, warn or direct traffic and practical
17 knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning
18 January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal
19 guardian gives written permission by signing the application and in so signing, state they, or their
20 designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of
21 behind-the-wheel driving instruction. The twenty hours of behind-the-wheel driving instruction
22 that is completed pursuant to this subsection may include any time that the holder of an
23 instruction permit has spent operating a motor vehicle in a driver training program taught by a
24 driver training instructor holding a valid driver education endorsement on a teaching certificate
25 issued by the department of elementary and secondary education or by a qualified instructor of
26 a private drivers' education program. If the applicant for a permit is enrolled in a federal
27 residential job training program, the instructor, as defined in subsection 5 of this section, is
28 authorized to sign the application stating that the applicant will receive the behind-the-wheel
29 driving instruction required by this section.

30 2. In the event the parent, grandparent or guardian of the person under sixteen years of
31 age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian
32 from being a qualified licensed operator pursuant to this section, said parent, grandparent or
33 guardian may designate a maximum of two individuals authorized to accompany the applicant
34 for the purpose of giving instruction in driving the motor vehicle. An authorized designee must
35 be a licensed operator for the type of motor vehicle being operated and have attained twenty-one
36 years of age. At least one of the designees must occupy the seat beside the applicant while
37 giving instruction in driving the motor vehicle. The name of the authorized designees must be
38 provided to the department of revenue by the parent, grandparent or guardian at the time of
39 application for the temporary instruction permit. The name of each authorized designee shall be
40 printed on the temporary instruction permit, however, the director may delay the time at which
41 permits are printed bearing such names until the inventories of blank permits and related forms
42 existing on August 28, 1998, are exhausted.

43 3. **Except as provided in subsection 10 of this section** the director, upon proper

44 application on a form prescribed by the director, in his or her discretion, may issue a restricted
45 instruction permit effective for a school year or more restricted period to an applicant who is
46 enrolled in a high school driver training program taught by a driver training instructor holding
47 a valid driver education endorsement on a teaching certificate issued by the state department of
48 elementary and secondary education even though the applicant has not reached the age of sixteen
49 years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant,
50 when the applicant has such permit in his or her immediate possession, to operate a motor
51 vehicle on the highways, but only when a driver training instructor holding a valid driver
52 education endorsement on a teaching certificate issued by the state department of elementary and
53 secondary education is occupying a seat beside the driver.

54 4. The director, in his or her discretion, may issue a temporary driver's permit to an
55 applicant who is otherwise qualified for a license permitting the applicant to operate a motor
56 vehicle while the director is completing the director's investigation and determination of all facts
57 relative to such applicant's rights to receive a license. Such permit must be in the applicant's
58 immediate possession while operating a motor vehicle, and it shall be invalid when the
59 applicant's license has been issued or for good cause has been refused.

60 5. In the event that the applicant for a temporary instruction permit described in
61 subsection 1 of this section is a participant in a federal residential job training program, the
62 permittee may operate a motor vehicle accompanied by a driver training instructor who holds a
63 valid driver education endorsement issued by the department of elementary and secondary
64 education and a valid driver's license.

65 6. A person at least fifteen years of age may operate a motor vehicle as part of a driver
66 training program taught by a driver training instructor holding a valid driver education
67 endorsement on a teaching certificate issued by the department of elementary and secondary
68 education or a qualified instructor of a private drivers' education program.

69 7. Beginning January 1, 2003, the director shall issue with every temporary instruction
70 permit issued pursuant to subsection 1 of this section a sticker or sign bearing the words
71 "PERMIT DRIVER". The design and size of such sticker or sign shall be determined by the
72 director by regulation. Every applicant issued a temporary instruction permit and sticker on or
73 after January 1, 2003, may display or affix the sticker or sign on the rear window of the motor
74 vehicle. Such sticker or sign may be displayed on the rear window of the motor vehicle
75 whenever the holder of the instruction permit operates a motor vehicle during his or her
76 temporary permit licensure period.

77 8. Beginning July 1, 2005, the director shall verify that an applicant for an instruction
78 permit issued under this section is lawfully present in the United States before accepting the
79 application. The director shall not issue an instruction permit for a period that exceeds an

80 applicant's lawful presence in the United States. The director may establish procedures to verify
81 the lawful presence of the applicant and establish the duration of any permit issued under this
82 section.

83 9. The director may adopt rules and regulations necessary to carry out the provisions of
84 this section.

85 **10. Any person who has pled guilty or nolo contendere to, or has been convicted of,**
86 **or has had a finding of fact made in juvenile court that such person has committed a**
87 **violation of section 311.325, RSMo, where such crime or violation occurred prior to such**
88 **person attaining the age of fifteen years, shall not be eligible for a temporary instruction**
89 **permit under this section until such person is at least fifteen and one half years of age.**

302.178. 1. **Except as provided in subsection 9 of this section,** beginning January 1,
2 2001, any person between the ages of sixteen and eighteen years who is qualified to obtain a
3 license pursuant to sections 302.010 to 302.340 may apply for, and the director shall issue, an
4 intermediate driver's license entitling the applicant, while having such license in his or her
5 possession, to operate a motor vehicle of the appropriate class upon the highways of this state
6 in conjunction with the requirements of this section. An intermediate driver's license shall be
7 readily distinguishable from a license issued to those over the age of eighteen. All applicants for
8 an intermediate driver's license shall:

- 9 (1) Successfully complete the examination required by section 302.173;
- 10 (2) Pay the fee required by subsection 3 of this section;
- 11 (3) Have had a temporary instruction permit issued pursuant to subsection 1 of section
12 302.130 for at least a six-month period or a valid license from another state; and
- 13 (4) Have a parent, grandparent, legal guardian, or, if the applicant is a participant in a
14 federal residential job training program, a driving instructor employed by a federal residential
15 job training program, sign the application stating that the applicant has completed at least twenty
16 hours of supervised driving experience under a temporary instruction permit issued pursuant to
17 subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over
18 twenty-one years of age who supervised such driving. For purposes of this section, the term
19 "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen
20 years of age, who:
 - 21 (a) Marries with the consent of the legal custodial parent or legal guardian pursuant to
22 section 451.080, RSMo;
 - 23 (b) Has been declared emancipated by a court of competent jurisdiction;
 - 24 (c) Enters active duty in the armed forces;
 - 25 (d) Has written consent to the emancipation from the custodial parent or legal guardian;

26 or

27 (e) Through employment or other means provides for such person's own food, shelter
28 and other cost-of-living expenses;

29 (5) Have had no alcohol-related enforcement contacts as defined in section 302.525
30 during the preceding twelve months; and

31 (6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to
32 section 302.302, within the preceding six months.

33 2. An intermediate driver's license grants the licensee the same privileges to operate that
34 classification of motor vehicle as a license issued pursuant to section 302.177, except that no
35 person shall operate a motor vehicle on the highways of this state under such an intermediate
36 driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person
37 described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle
38 without being accompanied if the travel is to or from a school or educational program or activity,
39 a regular place of employment or in emergency situations as defined by the director by
40 regulation. Each intermediate driver's license shall be restricted by requiring that the driver and
41 all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction
42 shall not apply to a person operating a motorcycle.

43 3. Notwithstanding the provisions of section 302.177 to the contrary, the fee for an
44 intermediate driver's license shall be five dollars and such license shall be valid for a period of
45 two years.

46 4. Any intermediate driver's licensee accumulating six or more points in a twelve-month
47 period may be required to participate in and successfully complete a driver-improvement
48 program approved by the director of the department of public safety. The driver-improvement
49 program ordered by the director of revenue shall not be used in lieu of point assessment.

50 5. (1) An intermediate driver's licensee who has, for the preceding twelve-month period,
51 had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic
52 convictions for which points are assessed, upon reaching the age of eighteen years may apply for
53 and receive without further examination, other than a vision test as prescribed by section
54 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person
55 shall pay the required fee for such license as prescribed in section 302.177.

56 (2) If an intermediate driver's license expires on a Saturday, Sunday, or legal holiday,
57 such license shall remain valid for the five business days immediately following the expiration
58 date. In no case shall a licensee whose intermediate driver's license expires on a Saturday,
59 Sunday, or legal holiday be guilty of an offense of driving with an expired or invalid driver's
60 license if such offense occurred within five business days immediately following an expiration
61 date that occurs on a Saturday, Sunday, or legal holiday.

62 (3) The director of revenue shall deny an application for a full driver's license until the

63 person has had no traffic convictions for which points are assessed for a period of twelve months
64 prior to the date of application for license or until the person is eligible to apply for a six-year
65 driver's license as provided for in section 302.177, provided the applicant is otherwise eligible
66 for full driving privileges. An intermediate driver's license shall expire when the licensee is
67 eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

68 6. No person upon reaching the age of eighteen years whose intermediate driver's license
69 and driving privilege is denied, suspended, canceled or revoked in this state or any other state,
70 for any reason may apply for a full driver's license until such license or driving privilege is fully
71 reinstated. Any such person whose intermediate driver's license has been revoked pursuant to
72 the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the
73 revocation from the director, pass the complete driver examination, apply for a new license, and
74 pay the proper fee before again operating a motor vehicle upon the highways of this state.

75 7. A person shall be exempt from the intermediate licensing requirements if the person
76 has reached the age of eighteen years and meets all other licensing requirements.

77 8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
78 is created under the authority delegated in this section shall become effective only if it complies
79 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
80 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers
81 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
82 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
83 grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be
84 invalid and void.

85 **9. Any person who has pled guilty or nolo contendere to, or has been convicted of,**
86 **or has had a finding of fact made in juvenile court that such person has committed a**
87 **violation of section 311.325, RSMo, where such crime or violation occurred when such**
88 **person was at least fifteen years of age but less than sixteen years of age, shall not be**
89 **eligible for an intermediate driver's license under this section until he or she is at least**
90 **sixteen and one-half years of age.**

311.310. 1. Any licensee under this chapter, or his **or her** employee, who shall sell,
2 vend, give away or otherwise supply any intoxicating liquor in any quantity whatsoever to any
3 person under the age of twenty-one years, or to any person intoxicated or appearing to be in a
4 state of intoxication, or to a habitual drunkard, and any person whomsoever except his **or her**
5 parent or guardian who shall procure for, sell, give away or otherwise supply intoxicating liquor
6 to any person under the age of twenty-one years, or to any intoxicated person or any person
7 appearing to be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of a
8 misdemeanor, except that this section shall not apply to the supplying of intoxicating liquor to

9 a person under the age of twenty-one years for medical purposes only, or to the administering
10 of such intoxicating liquor to any person by a duly licensed physician. No person shall be denied
11 a license or renewal of a license issued under this chapter solely due to a conviction for unlawful
12 sale or supply to a minor when serving in the capacity as an employee of a licensed
13 establishment.

14 **2. Any owner, occupant, or other person or legal entity with a lawful right to the**
15 **use and enjoyment of any property, except for a parent or guardian, who knowingly allows**
16 **any person under the age of twenty-one years to consume intoxicating liquor on such**
17 **property, or knowingly fails to stop any person under the age of twenty-one years from**
18 **consuming intoxicating liquor on such property shall be deemed guilty of a misdemeanor.**

311.325. 1. Any person under the age of twenty-one years, who purchases or attempts
2 to purchase, or has in his **or her** possession, any intoxicating liquor as defined in section 311.020
3 **or who is visibly intoxicated or has a detectable blood alcohol content** is guilty of a
4 misdemeanor. For purposes of prosecution under this section or any other provision of this
5 chapter involving an alleged illegal sale or transfer of intoxicating liquor to a person under
6 twenty-one years of age, a manufacturer-sealed container describing that there is intoxicating
7 liquor therein need not be opened or the contents therein tested to verify that there is intoxicating
8 liquor in such container. The alleged violator may allege that there was not intoxicating liquor
9 in such container, but the burden of proof of such allegation is on such person, as it shall be
10 presumed that such a sealed container describing that there is intoxicating liquor therein contains
11 intoxicating liquor.

12 2. For purposes of determining violations of any provision of this chapter, or of any rule
13 or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container
14 describing that there is intoxicating liquor therein need not be opened or the contents therein
15 tested to verify that there is intoxicating liquor in such container. The alleged violator may allege
16 that there was not intoxicating liquor in such container, but the burden of proof of such allegation
17 is on such person, as it shall be presumed that such a sealed container describing that there is
18 intoxicating liquor therein contains intoxicating liquor.

577.500. 1. A court of competent jurisdiction shall, upon a plea of guilty, conviction or
2 finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was
3 committed by a juvenile, enter an order suspending or revoking the driving privileges of any
4 person determined to have committed one of the following offenses and who, at the time said
5 offense was committed, was under twenty-one years of age:

6 (1) Any alcohol related traffic offense in violation of state law or a county or, beginning
7 July 1, 1992, municipal ordinance, where the judge in such case was an attorney and the
8 defendant was represented by or waived the right to an attorney in writing;

9 (2) Any offense in violation of state law or, beginning July 1, 1992, a county or
10 municipal ordinance, where the judge in such case was an attorney and the defendant was
11 represented by or waived the right to an attorney in writing, involving the possession or use of
12 alcohol, committed while operating a motor vehicle;

13 (3) Any offense involving the possession or use of a controlled substance as defined in
14 chapter 195, RSMo, in violation of the state law or, beginning July 1, 1992, a county or
15 municipal ordinance, where the judge in such case was an attorney and the defendant was
16 represented by or waived the right to an attorney in writing;

17 (4) Any offense involving the alteration, modification or misrepresentation of a license
18 to operate a motor vehicle in violation of section 311.328, RSMo;

19 (5) Any offense in violation of state law or, beginning July 1, 1992, a county or
20 municipal ordinance, where the judge in such case was an attorney and the defendant was
21 represented by or waived the right to an attorney in writing, involving the possession or use of
22 alcohol for a second time; except that a determination of guilt or its equivalent shall have been
23 made for the first offense and both offenses shall have been committed by the person when the
24 person was under eighteen years of age.

25 **2. A court of competent jurisdiction shall, upon a plea of guilty or nolo contendere,**
26 **conviction or finding of guilt, or, if the court is a juvenile court, upon a finding of fact that**
27 **the offense was committed by a juvenile, enter an order suspending or revoking the driving**
28 **privileges of any person determined to have committed a crime or violation of section**
29 **311.325, RSMo, and who, at the time said crime or violation was committed, was more than**
30 **fifteen years of age and under twenty-one years of age.**

31 **3.** The court shall require the surrender to it of any license to operate a motor vehicle,
32 **temporary instruction permit, intermediate driver's license or any other driving privilege**
33 then held by any person against whom a court has entered an order suspending or revoking
34 driving privileges under [subsection] **subsections 1 and 2** of this section.

35 [3.] **4.** The court, if other than a juvenile court, shall forward to the director of revenue
36 the order of suspension or revocation of driving privileges and any licenses, **temporary**
37 **instruction permits, intermediate driver's licenses, or any other driving privilege** acquired
38 under subsection [2] **3** of this section.

39 [4.] **5.** (1) The court, if a juvenile court, shall forward to the director of revenue the order
40 of suspension or revocation of driving privileges and any licenses, **temporary instruction**
41 **permits, intermediate driver's licenses, or any other driving privilege** acquired under
42 subsection [2] **3** of this section for any person sixteen years of age or older, the provision of
43 chapter 211, RSMo, to the contrary notwithstanding.

44 (2) The court, if a juvenile court, shall hold the order of suspension or revocation of

45 driving privileges for any person less than sixteen years of age until thirty days before the
46 person's sixteenth birthday, at which time the juvenile court shall forward to the director of
47 revenue the order of suspension or revocation of driving privileges, the provision of chapter 211,
48 RSMo, to the contrary notwithstanding.

49 [5.] **6.** The period of suspension for a first offense under **subsection 1 of** this section
50 shall be ninety days. Any second or subsequent offense under **subsection 1 of** this section shall
51 result in revocation of the offender's driving privileges for one year. **The period of suspension**
52 **for a first offense under subsection 2 of this section shall be thirty days. The period of**
53 **suspension for a second offense under subsection 2 of this section shall be ninety days. Any**
54 **third or subsequent offense under subsection 2 of this section shall result in revocation of**
55 **the offender's driving privileges for one year.**