

FIRST REGULAR SESSION

HOUSE BILL NO. 351

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SELBY.

Read 1st time January 26, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1240L.011

AN ACT

To repeal sections 577.020 and 577.021, RSMo, and to enact in lieu thereof two new sections relating to driving while intoxicated.

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

Section A. Sections 577.020 and 577.021, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 577.020 and 577.021, to read as follows:

577.020. 1. Any person who operates a motor vehicle upon the public highways of this
2 state shall be deemed to have given consent to, subject to the provisions of sections 577.020 to
3 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of
4 determining the alcohol or drug content of the person's blood pursuant to the following
5 circumstances:

6 (1) If the person is arrested for any offense arising out of acts which the arresting officer
7 had reasonable grounds to believe were committed while the person was driving a motor vehicle
8 while in an intoxicated or drugged condition; or

9 (2) If the person is under the age of twenty-one, has been stopped by a law enforcement
10 officer, and the law enforcement officer has reasonable grounds to believe that such person was
11 driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more
12 by weight; or

13 (3) If the person is under the age of twenty-one, has been stopped by a law enforcement
14 officer, and the law enforcement officer has reasonable grounds to believe that such person has
15 committed a violation of the traffic laws of the state, or any political subdivision of the state, and
16 such officer has reasonable grounds to believe, after making such stop, that such person has a

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.

17 blood alcohol content of two-hundredths of one percent or greater;

18 (4) If the person is under the age of twenty-one, has been stopped at a sobriety
19 checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that
20 such person has a blood alcohol content of two-hundredths of one percent or greater;

21 (5) If the person, while operating a motor vehicle, has been involved in a motor vehicle
22 collision which resulted in a fatality or a readily apparent serious physical injury as defined in
23 section 565.002, RSMo, and has been arrested as evidenced by the issuance of a uniform traffic
24 ticket for the violation of any state law or county or municipal ordinance with the exception of
25 equipment violations contained in chapter 306, RSMo, or similar provisions contained in county
26 or municipal ordinances; [or]

27 (6) If the person, while operating a motor vehicle, has been involved in a motor vehicle
28 collision which resulted in a fatality; **or**

29 **(7) If the person has been convicted of or pled guilty to an intoxication-related**
30 **traffic offense, as defined in section 577.023, and while operating a motor vehicle, has been**
31 **involved in a motor vehicle collision.**

32

33 The test shall be administered at the direction of the law enforcement officer whenever the
34 person has been arrested or stopped for any reason.

35 2. The implied consent to submit to the chemical tests listed in subsection 1 of this
36 section shall be limited to not more than two such tests arising from the same arrest, incident or
37 charge.

38 3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid
39 pursuant to the provisions of sections 577.020 to 577.041 shall be performed according to
40 methods approved by the state department of health and senior services by licensed medical
41 personnel or by a person possessing a valid permit issued by the state department of health and
42 senior services for this purpose.

43 4. The state department of health and senior services shall approve satisfactory
44 techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of
45 sections 577.020 to 577.041 and shall establish standards to ascertain the qualifications and
46 competence of individuals to conduct analyses and to issue permits which shall be subject to
47 termination or revocation by the state department of health and senior services. 5. The person
48 tested may have a physician, or a qualified technician, chemist, registered nurse, or other
49 qualified person at the choosing and expense of the person to be tested, administer a test in
50 addition to any administered at the direction of a law enforcement officer. The failure or
51 inability to obtain an additional test by a person shall not preclude the admission of evidence
52 relating to the test taken at the direction of a law enforcement officer.

53 6. Upon the request of the person who is tested, full information concerning the test shall
54 be made available to such person.

55 7. Any person given a chemical test of the person's breath pursuant to subsection 1 of
56 this section or a field sobriety test may be videotaped during any such test at the direction of the
57 law enforcement officer. Any such video recording made during the chemical test pursuant to
58 this subsection or a field sobriety test shall be admissible as evidence at either any trial of such
59 person for either a violation of any state law or county or municipal ordinance, or any license
60 revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

 577.021. **1.** Any state, county or municipal law enforcement officer who has the power
2 of arrest for violations of section 577.010 or 577.012 and who is certified pursuant to chapter
3 590, RSMo, may, prior to arrest, administer a chemical test to any person suspected of operating
4 a motor vehicle in violation of section 577.010 or 577.012. A test administered pursuant to this
5 section shall be admissible as evidence of probable cause to arrest and as exculpatory evidence,
6 but shall not be admissible as evidence of blood alcohol content. The provisions of section
7 577.020 shall not apply to a test administered prior to arrest pursuant to this section.

8 **2. Any person who, while operating a motor vehicle, has been involved in a motor**
9 **vehicle collision which resulted in a fatality or a readily apparent serious physical injury**
10 **as defined in section 565.002, RSMo, and has been convicted of or pled guilty to an**
11 **intoxication-related traffic offense, as defined in section 577.023, shall be given a chemical**
12 **test or tests of the person's breath, blood, saliva, or urine for the purpose of determining**
13 **the alcohol or drug content of the person's blood.**