

FIRST REGULAR SESSION

HOUSE BILL NO. 972

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES JETTON (Sponsor), WOOD, EMERY, McGHEE, WILSON (119), PAGE, PARSON, WILSON (130), KRAUS, BEHNEN, DAY, SELBY, FRANZ, SCHAD, BROWN (30), WILDBERGER, PHILLIPS, JONES, PEARCE, BIVINS, RICHARD, WASSON, CUNNINGHAM (145), NANCE, WRIGHT-JONES, YAEGER, DUSENBERG, NOLTE, RUESTMAN, CUNNINGHAM (86) AND JOLLY (Co-sponsors).

Read 1st time April 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2161L.02I

AN ACT

To repeal sections 577.001, 577.023, RSMo, and section 302.309 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session and section 302.309 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and to enact in lieu thereof four new sections relating to intoxication-related traffic offenses, with penalty provisions.

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

Section A. Sections 577.001, 577.023, RSMo, and section 302.309 as enacted by house
2 substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 &
3 1043, ninety-second general assembly, second regular session and section 302.309 as enacted
4 by conference committee substitute no. 2 for senate committee substitute for house committee
5 substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, are
6 repealed and four new sections enacted in lieu thereof, to be known as sections 302.309,
7 565.022, 577.001, and 577.023, to read as follows:

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309,
2 the director of revenue shall return the license to the operator immediately upon the termination
3 of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

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.

4 2. Any operator whose license is revoked pursuant to these sections, upon the
5 termination of the period of revocation, shall apply for a new license in the manner prescribed
6 by law.

7 3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear
8 applications and make eligibility determinations granting limited driving privileges. Any
9 application may be made in writing to the director of revenue and the person's reasons for
10 requesting the limited driving privilege shall be made therein.

11 (2) When any court of record having jurisdiction or the director of revenue finds that an
12 operator is required to operate a motor vehicle in connection with any of the following:

- 13 (a) A business, occupation, or employment;
- 14 (b) Seeking medical treatment for such operator;
- 15 (c) Attending school or other institution of higher education;
- 16 (d) Attending alcohol or drug treatment programs; or
- 17 (e) Any other circumstance the court or director finds would create an undue hardship
18 on the operator;

19 the court or director may grant such limited driving privilege as the circumstances of the case
20 justify if the court or director finds undue hardship would result to the individual, and while so
21 operating a motor vehicle within the restrictions and limitations of the limited driving privilege
22 the driver shall not be guilty of operating a motor vehicle without a valid license.

23 (3) An operator may make application to the proper court in the county in which such
24 operator resides or in the county in which is located the operator's principal place of business or
25 employment. Any application for a limited driving privilege made to a circuit court shall name
26 the director as a party defendant and shall be served upon the director prior to the grant of any
27 limited privilege, and shall be accompanied by a copy of the applicant's driving record as
28 certified by the director. Any applicant for a limited driving privilege shall have on file with the
29 department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any
30 application by a person who transports persons or property as classified in section 302.015 may
31 be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if
32 proof of financial responsibility does not accompany the application, or if the applicant does not
33 have on file with the department of revenue proof of financial responsibility, the court or the
34 director has discretion to grant the limited driving privilege to the person solely for the purpose
35 of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and
36 the limited driving privilege must state such restriction. When operating such vehicle under such
37 restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for
38 that vehicle.

39 (4) The court order or the director's grant of the limited driving privilege shall indicate
40 the termination date of the privilege, which shall be not later than the end of the period of
41 suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the
42 director, and a copy shall be given to the driver which shall be carried by the driver whenever
43 such driver operates a motor vehicle. The director of revenue upon granting a limited driving
44 privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall
45 carry a copy of the limited driving privilege while operating a motor vehicle. A conviction
46 which results in the assessment of points pursuant to section 302.302, other than a violation of
47 a municipal stop sign ordinance where no accident is involved, against a driver who is operating
48 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points
49 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the
50 limited driving privilege, the privilege shall not be terminated. The director shall notify by
51 ordinary mail the driver whose privilege is so terminated.

52 (5) Except as provided in subdivision (7) of this subsection, no person is eligible to
53 receive a limited driving privilege who at the time of application for a limited driving privilege
54 [has previously been granted such a privilege within the immediately preceding five years, or
55 whose] **has had his or her** license [has been] suspended or revoked for the following reasons:

56 (a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any
57 similar provision of any federal or state law, or a municipal or county law where the judge in
58 such case was an attorney and the defendant was represented by or waived the right to an
59 attorney in writing, until the person has completed the first thirty days of a suspension or
60 revocation imposed pursuant to this chapter;

61 (b) A conviction of any felony in the commission of which a motor vehicle was used;

62 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
63 (6), (7), (8), (9), (10) or (11) of section 302.060;

64 (d) Because of operating a motor vehicle under the influence of narcotic drugs, a
65 controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as
66 provided in section 577.060, RSMo;

67 (e) Due to a revocation for the first time for failure to submit to a chemical test pursuant
68 to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if
69 such person has not completed the first ninety days of such revocation;

70 (f) Violation more than once of the provisions of section 577.041, RSMo, or a similar
71 implied consent law of any other state; or

72 (g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not
73 completed the first thirty days of such suspension, provided the person is not otherwise ineligible

74 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525
75 if such person has not completed such revocation.

76 (6) No person who possesses a commercial driver's license shall receive a limited driving
77 privilege issued for the purpose of operating a commercial motor vehicle if such person's driving
78 privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall
79 prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial
80 motor vehicle provided that pursuant to the provisions of this section, the applicant is not
81 otherwise ineligible for a limited driving privilege.

82 (7) (a) Provided that pursuant to the provisions of this section, the applicant is not
83 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
84 manner prescribed in this subsection, allow a person who has had such person's license to operate
85 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,
86 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege
87 pursuant to this subsection if such person has served at least three years of such disqualification
88 or revocation. Such person shall present evidence satisfactory to the court or the director that
89 such person has not been convicted of any offense related to alcohol, controlled substances or
90 drugs during the preceding three years and that the person's habits and conduct show that the
91 person no longer poses a threat to the public safety of this state.

92 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
93 ineligible for a limited driving privilege or convicted of involuntary manslaughter while
94 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the
95 manner prescribed in this subsection, allow a person who has had such person's license to operate
96 a motor vehicle revoked where that person cannot obtain a new license for a period of five years
97 because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of
98 section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person
99 has served at least two years of such disqualification or revocation. Such person shall present
100 evidence satisfactory to the court or the director that such person has not been convicted of any
101 offense related to alcohol, controlled substances or drugs during the preceding two years and that
102 the person's habits and conduct show that the person no longer poses a threat to the public safety
103 of this state. Any person who is denied a license permanently in this state because of an
104 alcohol-related conviction subsequent to a restoration of such person's driving privileges
105 pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege
106 pursuant to the provisions of this subdivision.

107 4. Any person who has received notice of denial of a request of limited driving privilege
108 by the director of revenue may make a request for a review of the director's determination in the
109 circuit court of the county in which the person resides or the county in which is located the

110 person's principal place of business or employment within thirty days of the date of mailing of
111 the notice of denial. Such review shall be based upon the records of the department of revenue
112 and other competent evidence and shall be limited to a review of whether the applicant was
113 statutorily entitled to the limited driving privilege.

114 5. The director of revenue shall promulgate rules and regulations necessary to carry out
115 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
116 536.010, RSMo, that is created under the authority delegated in this section shall become
117 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
118 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
119 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
120 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
121 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
122 after August 28, 2001, shall be invalid and void.

2 [302.309. 1. Whenever any license is suspended pursuant to sections
3 302.302 to 302.309, the director of revenue shall return the license to the operator
4 immediately upon the termination of the period of suspension and upon
5 compliance with the requirements of chapter 303, RSMo.

6 2. Any operator whose license is revoked pursuant to these sections, upon
7 the termination of the period of revocation, shall apply for a new license in the
8 manner prescribed by law.

9 3. (1) All circuit courts or the director of revenue shall have jurisdiction
10 to hear applications and make eligibility determinations granting limited driving
11 privileges. Any application may be made in writing to the director of revenue
12 and the person's reasons for requesting the limited driving privilege shall be made
13 therein.

14 (2) When any court of record having jurisdiction or the director of
15 revenue finds that an operator is required to operate a motor vehicle in connection
16 with any of the following:

17 (a) A business, occupation, or employment;
18 (b) Seeking medical treatment for such operator;
19 (c) Attending school or other institution of higher education;
20 (d) Attending alcohol or drug treatment programs; or
21 (e) Any other circumstance the court or director finds would create an
22 undue hardship on the operator;
23 the court or director may grant such limited driving privilege as the circumstances
24 of the case justify if the court or director finds undue hardship would result to the
25 individual, and while so operating a motor vehicle within the restrictions and
26 limitations of the limited driving privilege the driver shall not be guilty of
operating a motor vehicle without a valid license.

27 (3) An operator may make application to the proper court in the county
28 in which such operator resides or in the county in which is located the operator's

29 principal place of business or employment. Any application for a limited driving
30 privilege made to a circuit court shall name the director as a party defendant and
31 shall be served upon the director prior to the grant of any limited privilege, and
32 shall be accompanied by a copy of the applicant's driving record as certified by
33 the director. Any applicant for a limited driving privilege shall have on file with
34 the department of revenue proof of financial responsibility as required by chapter
35 303, RSMo. Any application by a person who transports persons or property as
36 classified in section 302.015 may be accompanied by proof of financial
37 responsibility as required by chapter 303, RSMo, but if proof of financial
38 responsibility does not accompany the application, or if the applicant does not
39 have on file with the department of revenue proof of financial responsibility, the
40 court or the director has discretion to grant the limited driving privilege to the
41 person solely for the purpose of operating a vehicle whose owner has complied
42 with chapter 303, RSMo, for that vehicle, and the limited driving privilege must
43 state such restriction. When operating such vehicle under such restriction the
44 person shall carry proof that the owner has complied with chapter 303, RSMo,
45 for that vehicle.

46 (4) The court order or the director's grant of the limited driving privilege
47 shall indicate the termination date of the privilege, which shall be not later than
48 the end of the period of suspension or revocation. A copy of any court order shall
49 be sent by the clerk of the court to the director, and a copy shall be given to the
50 driver which shall be carried by the driver whenever such driver operates a motor
51 vehicle. The director of revenue upon granting a limited driving privilege shall
52 give a copy of the limited driving privilege to the applicant. The applicant shall
53 carry a copy of the limited driving privilege while operating a motor vehicle. A
54 conviction which results in the assessment of points pursuant to section 302.302,
55 other than a violation of a municipal stop sign ordinance where no accident is
56 involved, against a driver who is operating a vehicle pursuant to a limited driving
57 privilege terminates the privilege, as of the date the points are assessed to the
58 person's driving record. If the date of arrest is prior to the issuance of the limited
59 driving privilege, the privilege shall not be terminated. The director shall notify
60 by ordinary mail the driver whose privilege is so terminated.

61 (5) Except as provided in subdivision (6) of this subsection, no person
62 is eligible to receive a limited driving privilege who at the time of application for
63 a limited driving privilege has previously been granted such a privilege within the
64 immediately preceding five years, or whose license has been suspended or
65 revoked for the following reasons:

66 (a) A conviction of violating the provisions of section 577.010 or
67 577.012, RSMo, or any similar provision of any federal or state law, or a
68 municipal or county law where the judge in such case was an attorney and the
69 defendant was represented by or waived the right to an attorney in writing, until
70 the person has completed the first thirty days of a suspension or revocation
71 imposed pursuant to this chapter;

72 (b) A conviction of any felony in the commission of which a motor
73 vehicle was used;

74 (c) Ineligibility for a license because of the provisions of subdivision (1),
75 (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

76 (d) Because of operating a motor vehicle under the influence of narcotic
77 drugs, a controlled substance as defined in chapter 195, RSMo, or having left the
78 scene of an accident as provided in section 577.060, RSMo;

79 (e) Due to a revocation for the first time for failure to submit to a
80 chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit
81 to a chemical test in any other state, if such person has not completed the first
82 ninety days of such revocation;

83 (f) Violation more than once of the provisions of section 577.041, RSMo,
84 or a similar implied consent law of any other state;

85 (g) Disqualification of a commercial driver's license pursuant to sections
86 302.700 to 302.780, however, nothing in this subsection shall prevent a person
87 holding a commercial driver's license who is suspended or revoked as a result of
88 an action occurring while not driving a commercial motor vehicle or driving for
89 pay, but while driving in an individual capacity as an operator of a personal
90 vehicle from applying for a limited driving privilege to operate a commercial
91 vehicle, if otherwise eligible for such limited privilege; or

92 (h) Due to a suspension pursuant to subsection 2 of section 302.525 and
93 who has not completed the first thirty days of such suspension, provided the
94 person is not otherwise ineligible for a limited driving privilege; or due to a
95 revocation pursuant to subsection 2 of section 302.525 if such person has not
96 completed such revocation.

97 (6) (a) Provided that pursuant to the provisions of this section, the
98 applicant is not otherwise ineligible for a limited driving privilege, a circuit court
99 or the director may, in the manner prescribed in this subsection, allow a person
100 who has had such person's license to operate a motor vehicle revoked where that
101 person cannot obtain a new license for a period of ten years, as prescribed in
102 subdivision (9) of section 302.060, to apply for a limited driving privilege
103 pursuant to this subsection if such person has served at least three years of such
104 disqualification or revocation. Such person shall present evidence satisfactory
105 to the court or the director that such person has not been convicted of any offense
106 related to alcohol, controlled substances or drugs during the preceding three years
107 and that the person's habits and conduct show that the person no longer poses a
108 threat to the public safety of this state.

109 (b) Provided that pursuant to the provisions of this section, the applicant
110 is not otherwise ineligible for a limited driving privilege or convicted of
111 involuntary manslaughter while operating a motor vehicle in an intoxicated
112 condition, a circuit court or the director may, in the manner prescribed in this
113 subsection, allow a person who has had such person's license to operate a motor
114 vehicle revoked where that person cannot obtain a new license for a period of

115 five years because of two convictions of driving while intoxicated, as prescribed
116 in subdivision (10) of section 302.060, to apply for a limited driving privilege
117 pursuant to this subsection if such person has served at least two years of such
118 disqualification or revocation. Such person shall present evidence satisfactory
119 to the court or the director that such person has not been convicted of any offense
120 related to alcohol, controlled substances or drugs during the preceding two years
121 and that the person's habits and conduct show that the person no longer poses a
122 threat to the public safety of this state. Any person who is denied a license
123 permanently in this state because of an alcohol-related conviction subsequent to
124 a restoration of such person's driving privileges pursuant to subdivision (9) of
125 section 302.060 shall not be eligible for limited driving privilege pursuant to the
126 provisions of this subdivision.

127 4. Any person who has received notice of denial of a request of limited
128 driving privilege by the director of revenue may make a request for a review of
129 the director's determination in the circuit court of the county in which the person
130 resides or the county in which is located the person's principal place of business
131 or employment within thirty days of the date of mailing of the notice of denial.
132 Such review shall be based upon the records of the department of revenue and
133 other competent evidence and shall be limited to a review of whether the
134 applicant was statutorily entitled to the limited driving privilege.

135 5. The director of revenue shall promulgate rules and regulations
136 necessary to carry out the provisions of this section. Any rule or portion of a rule,
137 as that term is defined in section 536.010, RSMo, that is created under the
138 authority delegated in this section shall become effective only if it complies with
139 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
140 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
141 and if any of the powers vested with the general assembly pursuant to chapter
142 536, RSMo, to review, to delay the effective date or to disapprove and annul a
143 rule are subsequently held unconstitutional, then the grant of rulemaking
144 authority and any rule proposed or adopted after August 28, 2001, shall be invalid
145 and void.]

146

**565.022. 1. A person commits the crime of aggravated vehicular manslaughter if
2 he or she, while in an intoxicated condition, operates a motor vehicle in this state, and when
3 so operating with criminal negligence:**

4 **(1) Causes the death of any person not a passenger in the vehicle operated by the
5 defendant; or**

6 **(2) Causes the death of two or more persons; or**

7 **(3) Causes the death of a person less than fifteen years of age; or**

8 **(4) Causes the death of any person while the defendant's blood alcohol is greater
9 than or equal to two-tenths percent of alcohol by weight in the defendant's blood.**

10 **2. Aggravated vehicular manslaughter is a class B felony.**

577.001. 1. **As used in this chapter, the term "court" means any circuit, associate circuit, or municipal court, including traffic court, but not any juvenile court or drug court.**

2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means physically driving or operating a motor vehicle.

[2.] 3. As used in this chapter, a person is in an "intoxicated condition" when he is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

[3.] 4. As used in this chapter, the term "law enforcement officer" or "arresting officer" includes the definition of law enforcement officer in subdivision (17) of section 556.061, RSMo, and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri.

[4.] 5. As used in this chapter, "substance abuse traffic offender program" means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol or drug related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 7 of section 577.041.

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

(1) **An "aggravated offender" is a person who has pleaded to or been found guilty of three or more intoxication-related traffic offenses or a person who has pleaded to or has been found guilty of involuntary manslaughter under subdivision (2) of subsection 1 of section 565.024, RSMo, aggravated vehicular manslaughter under section 565.022, RSMo, assault in the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree under subdivision (3) of subsection 1 of section 565.082, RSMo, and in addition, one other intoxicated-related traffic offense;**

(2) **A "chronic offender" is:**

(a) **A person who has pleaded guilty to or has been found guilty of four or more intoxication-related traffic offenses;**

(b) **A person who has pleaded guilty to or been found guilty of, on two or more separate occasions, involuntary manslaughter under subdivision (2) of subsection 1 of section 565.024, RSMo, aggravated vehicular manslaughter under section 565.022, RSMo, assault second degree under subdivision (4) of subsection 1 of section 565.060, RSMo,**

17 **assault of a law enforcement officer in the second degree under subdivision (3) of**
18 **subsection 1 of section 565.082, RSMo;**

19 (c) **A person who has pleaded guilty to or been found guilty of involuntary**
20 **manslaughter under subdivision (2) of subsection 1 of section 565.024, RSMo, aggravated**
21 **vehicular manslaughter under section 565.022, RSMo, assault second degree under**
22 **subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement**
23 **officer in the second degree under subdivision (3) of subsection 1 of section 565.082, RSMo,**
24 **and in addition, two or more intoxication-related traffic offenses;**

25 (3) **An "intoxication-related traffic offense" is driving while intoxicated, driving with**
26 **excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of**
27 **subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4)**
28 **of subsection 1 of section 565.060, RSMo, aggravated vehicular manslaughter under section**
29 **565.022, assault of a law enforcement officer in the second degree pursuant to subdivision (3)**
30 **of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in**
31 **violation of state law or a county or municipal ordinance, where the judge in such case was an**
32 **attorney and the defendant was represented by or waived the right to an attorney in writing;**

33 [(2)] (4) **A "persistent offender" is one of the following:**

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

37 (b) **A person who has pleaded guilty to or has been found guilty of involuntary**
38 **manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree**
39 **pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law**
40 **enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section**
41 **565.082, RSMo; and**

42 [(3)] (5) **A "prior offender" is a person who has pleaded guilty to or has been found**
43 **guilty of one intoxication-related traffic offense, where such prior offense occurred within five**
44 **years of the occurrence of the intoxication-related traffic offense for which the person is charged.**

45 2. **Any person who pleads guilty to or is found guilty of a violation of section 577.010**
46 **or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A**
47 **misdemeanor.**

48 3. **Any person who pleads guilty to or is found guilty of a violation of section 577.010**
49 **or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D**
50 **felony.**

51 4. **Any person who pleads guilty to or is found guilty of violation of section 577.010**
52 **or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty**
53 **of a class C felony.**

54 5. **Any person who pleads guilty to or is found guilty of violation of section 577.010**
55 **or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a**
56 **class B felony.**

57 6. No court shall suspend the imposition of sentence as to a prior or persistent offender
58 under this section nor sentence such person to pay a fine in lieu of a term of imprisonment,
59 section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for
60 parole or probation until he has served a minimum of five days imprisonment, unless as a
61 condition of such parole or probation such person performs at least thirty days of community
62 service under the supervision of the court in those jurisdictions which have a recognized program
63 for community service. No persistent offender shall be eligible for parole or probation until he
64 or she has served a minimum of ten days imprisonment, unless as a condition of such parole or
65 probation such person performs at least sixty days of community service under the supervision
66 of the court. **No aggravated offender shall be eligible for parole or probation until he or she**
67 **has served a minimum of sixty days imprisonment. No chronic offender shall be eligible**
68 **for parole or probation until he or she has served a minimum of two years imprisonment.**

69 [5.] 7. The court shall find the defendant to be a prior offender [or], persistent offender,
70 **aggravated offender, or chronic offender** if:

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

74 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
75 beyond a reasonable doubt the defendant is a prior offender [or], persistent offender, **aggravated**
76 **offender, or chronic offender**; and

77 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
78 by the court that the defendant is a prior offender [or], persistent offender, **aggravated offender,**
79 **or chronic offender.**

80 [6.] 8. In a jury trial, the facts shall be pleaded, established and found prior to submission
81 to the jury outside of its hearing.

82 [7.] 9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in
83 findings of such facts to a later time, but prior to sentencing.

84 [8.] 10. The defendant shall be accorded full rights of confrontation and
85 cross-examination, with the opportunity to present evidence, at such hearings.

86 [9.] 11. The defendant may waive proof of the facts alleged.

87 [10.] **12.** Nothing in this section shall prevent the use of presentence investigations or
88 commitments.

89 [11.] **13.** At the sentencing hearing both the state and the defendant shall be permitted
90 to present additional information bearing on the issue of sentence.

91 [12.] **14.** The pleas or findings of guilty shall be prior to the date of commission of the
92 present offense.

93 [13.] **15.** The court shall not instruct the jury as to the range of punishment or allow the
94 jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases
95 of prior offenders [or], persistent offenders, **aggravated offenders, or chronic offenders.**

96 [14.] **16.** Evidence of prior convictions shall be heard and determined by the trial court
97 out of the hearing of the jury prior to the submission of the case to the jury, and shall include but
98 not be limited to evidence of convictions received by a search of the records of the Missouri
99 uniform law enforcement system maintained by the Missouri state highway patrol. After hearing
100 the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal
101 or county ordinance in a county or municipal court for driving while intoxicated or a conviction
102 or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence,
103 suspended execution of sentence, probation or parole or any combination thereof in a state court
104 shall be treated as a prior conviction.