

FIRST REGULAR SESSION

HOUSE BILL NO. 862

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1st time March 30, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2134L.011

AN ACT

To repeal section 302.302 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 302.302 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 section 304.022, RSMo, and to enact in lieu thereof two new sections relating to the failure to yield to an emergency vehicle, with a penalty provision.

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

Section A. Section 302.302 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 302.302 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for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and section 304.022, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 302.302 and 304.022, to read as follows:

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

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points

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.

7	(except any violation of municipal stop sign ordinance where no accident is	
8	involved	1 point)
9	(2) Speeding	
10	In violation of a state law	3 points
11	In violation of a county or municipal ordinance	2 points
12	(3) Leaving the scene of an accident in violation of section 577.060,	
13	RSMo	12 points
14	In violation of any county or municipal ordinance	6 points
15	(4) Careless and imprudent driving in violation of subsection 4 of section 304.016,	
16	RSMo	4 points
17	In violation of a county or municipal ordinance	2 points
18	(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection	
19	1 of section 302.020:	
20	(a) For the first conviction	2 points
21	(b) For the second conviction	4 points
22	(c) For the third conviction	6 points
23	(6) Operating with a suspended or revoked license prior to restoration of operating	
24	privileges	12 points
25	(7) Obtaining a license by misrepresentation	12 points
26	(8) For the first conviction of driving while in an intoxicated condition or under the	
27	influence of controlled substances or drugs	8 points
28	(9) For the second or subsequent conviction of any of the following offenses however	
29	combined: driving while in an intoxicated condition, driving under the influence of controlled	
30	substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent	
31	or more by weight	12 points
32	(10) For the first conviction for driving with blood alcohol content eight-hundredths of	
33	one percent or more by weight	
34	In violation of state law	8 points
35	In violation of a county or municipal ordinance or federal law or regulation	8 points
36	(11) Any felony involving the use of a motor vehicle	12 points
37	(12) Knowingly permitting unlicensed operator to operate a motor vehicle	4 points
38	(13) For a conviction for failure to maintain financial responsibility pursuant to county	
39	or municipal ordinance or pursuant to section 303.025, RSMo	4 points
40	(14) Failing to yield the right-of-way to an emergency vehicle pursuant to section	
41	304.022, RSMo	4 points

(15) Failing to yield the right-of-way to an emergency vehicle by eluding the police pursuant to section 304.022, RSMo 8 points

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

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

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

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700 or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards 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

78 motorcycle-rider training course by an operator, forward a record of the completion to the
 79 director, all other provisions of the law to the contrary notwithstanding. The director shall
 80 establish procedures for record keeping and the administration of this subsection.

[302.302. 1. The director of revenue shall put into effect a point system
 2 for the suspension and revocation of licenses. Points shall be assessed only after
 3 a conviction or forfeiture of collateral. The initial point value is as follows:
 4 (1) Any moving violation of a state law or county or municipal or federal
 5 traffic ordinance or regulation not listed in this section, other than a violation of
 6 vehicle equipment provisions or a court-ordered supervision as provided in
 7 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 In violation of a state law 3 points
 11 In violation of a county or municipal ordinance 2 points
 12 (3) Leaving the scene of an accident in violation of section
 13 577.060, RSMo 12 points
 14 In violation of any county or municipal ordinance 6 points
 15 (4) Careless and imprudent driving in violation of subsection 4 of section
 16 304.016, RSMo 4 points
 17 In violation of a county or municipal ordinance 2 points
 18 (5) Operating without a valid license in violation of subdivision (1) or (2)
 19 of subsection 1 of section 302.020:
 20 (a) For the first conviction 2 points
 21 (b) For the second conviction 4 points
 22 (c) For the third conviction 6 points
 23 (6) Operating with a suspended or revoked license prior to restoration of
 24 operating privileges 12 points
 25 (7) Obtaining a license by misrepresentation 12 points
 26 (8) For the first conviction of driving while in an intoxicated condition
 27 or under the influence of controlled substances or drugs 8 points
 28 (9) For the second or subsequent conviction of any of the following
 29 offenses however combined: driving while in an intoxicated condition, driving
 30 under the influence of controlled substances or drugs or driving with a blood
 31 alcohol content of eight-hundredths of one percent or more by weight 12 points
 32 (10) For the first conviction for driving with blood alcohol content
 33 eight-hundredths of one percent or more by weight In violation of state law . 8 points
 34 In violation of a county or municipal ordinance or federal law or regulation 8 points
 35 (11) Any felony involving the use of a motor vehicle 12 points
 36 (12) Knowingly permitting unlicensed operator to operate a motor
 37 vehicle 4 points

(13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo 4 points

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

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

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

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards 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.]

304.022. 1. Upon the immediate approach of an emergency vehicle giving audible signal
2 by siren or while having at least one lighted lamp exhibiting red light visible under normal
3 atmospheric conditions from a distance of five hundred feet to the front of such vehicle or a
4 flashing blue light authorized by section 307.175, RSMo, the driver of every other vehicle shall
5 yield the right-of-way and shall immediately drive to a position parallel to, and as far as possible
6 to the right of, the traveled portion of the highway and thereupon stop and remain in such
7 position until such emergency vehicle has passed, except when otherwise directed by a police
8 or traffic officer.

9 2. Upon approaching a stationary emergency vehicle displaying lighted red or red and
10 blue lights, the driver of every motor vehicle shall:

11 (1) Proceed with caution and yield the right-of-way, if possible with due regard to safety
12 and traffic conditions, by making a lane change into a lane not adjacent to that of the stationary
13 vehicle, if on a roadway having at least four lanes with not less than two lanes proceeding in the
14 same direction as the approaching vehicle; or

15 (2) Proceed with due caution and reduce the speed of the vehicle, maintaining a safe
16 speed for road conditions, if changing lanes would be unsafe or impossible.

17 3. The motorman of every streetcar shall immediately stop such car clear of any
18 intersection and keep it in such position until the emergency vehicle has passed, except as
19 otherwise directed by a police or traffic officer.

20 4. An "emergency vehicle" is a vehicle of any of the following types:

21 (1) A vehicle operated by the state highway patrol, the state water patrol or a state park
22 ranger, those vehicles operated by enforcement personnel of the state highways and
23 transportation commission, police or fire department, sheriff, constable or deputy sheriff, federal
24 law enforcement officer authorized to carry firearms and to make arrests for violations of the
25 laws of the United States, traffic officer or coroner or by a privately owned emergency vehicle
26 company;

27 (2) A vehicle operated as an ambulance or operated commercially for the purpose of
28 transporting emergency medical supplies or organs;

29 (3) Any vehicle qualifying as an emergency vehicle pursuant to section 307.175, RSMo;

30 (4) Any wrecker, or tow truck or a vehicle owned and operated by a public utility or
31 public service corporation while performing emergency service;

32 (5) Any vehicle transporting equipment designed to extricate human beings from the
33 wreckage of a motor vehicle;

34 (6) Any vehicle designated to perform emergency functions for a civil defense or
35 emergency management agency established pursuant to the provisions of chapter 44, RSMo;

36 (7) Any vehicle operated by an authorized employee of the department of corrections
37 who, as part of the employee's official duties, is responding to a riot, disturbance, hostage
38 incident, escape or other critical situation where there is the threat of serious physical injury or
39 death, responding to mutual aid call from another criminal justice agency, or in accompanying
40 an ambulance which is transporting an offender to a medical facility;

41 (8) Any vehicle designated to perform hazardous substance emergency functions
42 established pursuant to the provisions of sections 260.500 to 260.550, RSMo.

43 5. (1) The driver of any vehicle referred to in subsection 4 of this section shall not sound
44 the siren thereon or have the front red lights or blue lights on except when such vehicle is
45 responding to an emergency call or when in pursuit of an actual or suspected law violator, or
46 when responding to, but not upon returning from, a fire.

47 (2) The driver of an emergency vehicle may:

48 (a) Park or stand irrespective of the provisions of sections 304.014 to 304.026;

49 (b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be
50 necessary for safe operation;

51 (c) Exceed the prima facie speed limit so long as the driver does not endanger life or
52 property;

53 (d) Disregard regulations governing direction of movement or turning in specified
54 directions.

55 (3) The exemptions granted to an emergency vehicle pursuant to subdivision (2) of this
56 subsection shall apply only when the driver of any such vehicle while in motion sounds audible
57 signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle
58 is equipped with at least one lighted lamp displaying a red light or blue light visible under normal
59 atmospheric conditions from a distance of five hundred feet to the front of such vehicle.

60 6. No person shall purchase an emergency light as described in this section without
61 furnishing the seller of such light an affidavit stating that the light will be used exclusively for
62 emergency vehicle purposes.

63 7. Violation of this section shall be deemed a class C misdemeanor **and shall result in**
64 **points assessed in accordance with subsection 14 or 15 of section 302.302, RSMo.**