

HCS SS SCS SB 37, 322, 78, 351 & 424 -- ALCOHOL-RELATED OFFENSES

SPONSOR: Nodler (Stevenson)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime
Preventions and Public Safety by a vote of 12 to 0.

This substitute changes the laws regarding driving while intoxicated. The crime of aggravated vehicular manslaughter is created, a class B felony. The crime is committed when a person operates a motor vehicle in an intoxicated condition and with criminal negligence:

- (1) Causes the death of any person not a passenger in the vehicle operated by the defendant;
- (2) Causes the death of two or more persons;
- (3) Causes the death of a person less than 15 years of age; or
- (4) Causes the death of any person while the defendant's blood-alcohol content is greater than or equal to .20%.

Currently, "persistent offender," as used in Chapter 577, RSMo, is defined as a person with two or more convictions for intoxication-related offenses during the past 10 years and "prior offender" as a person with a conviction during the past five years. The substitute removes the time requirements.

Two new types of offenders are defined, "aggravated offender" and "chronic offender," for the purposes of applying the enhanced penalties and prison requirements of Section 577.023. An aggravated offender is a person convicted of:

- (1) Three intoxication-related offenses; or
- (2) Two intoxication-related offenses, when one of them is for involuntary manslaughter, murder in the second degree when the underlying felony is an intoxication-related offense, aggravated vehicular manslaughter, assault in the second degree, or assault of a law enforcement officer in the second degree.

A chronic offender is a person convicted of:

- (1) Four or more intoxication-related offenses;
- (2) Involuntary manslaughter, aggravated vehicular manslaughter, assault in the second degree, or assault of a law enforcement officer in the second degree on two separate occasions; or
- (3) Involuntary manslaughter, aggravated vehicular manslaughter, assault in the second degree, or assault of a law enforcement

officer in the second degree, and two other intoxication-related offenses.

The substitute makes driving while intoxicated or driving with an excessive blood-alcohol content a class C felony when the defendant is sentenced as an aggravated offender and a class B felony when sentenced as a chronic offender. Aggravated offenders must serve at least 60 days of imprisonment and chronic offenders at least two years of imprisonment before becoming eligible for probation or parole.

The substitute also removes the requirement that a municipal judge must be a licensed attorney for any intoxication-related convictions in that court to be considered in an offender's sentence enhancement.

FISCAL NOTE: Estimated Effect on General Revenue Fund of More than \$100,000 in FY 2006, FY 2007, and FY 2008. No impact on Other State Funds in FY 2006, FY 2007, and FY 2008.

PROPOSERS: Supporters say that when someone operates a vehicle with a blood-alcohol content of .24 or more and is involved in a collision, it is no "accident." These drivers are just as reckless as someone randomly firing a gun into a crowd. Currently, a person can have a .24 blood-alcohol content and kill a couple of innocent people, and the maximum penalty is a class C felony. Typically, a person sentenced to a class C felony can get out of prison after serving a year and a half. Increasing the penalties for extreme blood-alcohol content and for those offenders with multiple violations will act as a deterrent and help prosecutors make sure the punishment fits the crime.

Testifying for the bill were Senator Nodler; Michael Mann; Amy Mann; Betty Dodson; Mothers Against Drunk Driving; State Highway Patrol; Missouri Youth and Adult Alliance; and Missouri Family Network.

OPPOSERS: There was no opposition voiced to the committee.

Richard Smreker, Senior Legislative Analyst