

SECOND REGULAR SESSION

# HOUSE BILL NO. 2042

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BRINGER.

Read 1st time March 27, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5626L.01I

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### AN ACT

To repeal section 577.020, RSMo, and to enact in lieu thereof one new section relating to alcohol breath tests.

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

Section A. Section 577.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.020, to read as follows:

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

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

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

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

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.

16 such officer has reasonable grounds to believe, after making such stop, that such person has a  
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.

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

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

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

40 4. The state department of health and senior services shall approve satisfactory  
41 techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of  
42 sections 577.020 to 577.041 and shall establish standards to ascertain the qualifications and  
43 competence of individuals to conduct analyses and to issue permits which shall be subject to  
44 termination or revocation by the state department of health and senior services.

45 5. The person tested may have a physician, or a qualified technician, chemist, registered  
46 nurse, or other qualified person at the choosing and expense of the person to be tested, administer  
47 a test in addition to any administered at the direction of a law enforcement officer. The failure  
48 or inability to obtain an additional test by a person shall not preclude the admission of evidence  
49 relating to the test taken at the direction of a law enforcement officer.

50 6. Upon the request of the person who is tested, full information concerning the test shall  
51 be made available to such person. **Full information is limited to the following:**

- 52           **(1) The type of test administered and the procedures followed;**  
53           **(2) The time of the collection of the blood or breath sample analyzed;**  
54           **(3) The numerical results of the test indicating the alcohol content of the blood and**  
55 **breath;**  
56           **(4) The type and status of any permit which was held by the person who performed**  
57 **the test;**  
58           **(5) If the test was administered by means of a breath testing instrument, the date**  
59 **of performance of the most recent required maintenance of such instrument.**  
60  
61 **Full information does not include manuals, schematics, or software of the instrument used**  
62 **to test the person or any other material that is not in the actual possession of the state.**  
63 **Additionally, full information does not include information in the possession of the**  
64 **manufacturer of the test instrument.**  
65           7. Any person given a chemical test of the person's breath pursuant to subsection 1 of  
66 this section or a field sobriety test may be videotaped during any such test at the direction of the  
67 law enforcement officer. Any such video recording made during the chemical test pursuant to  
68 this subsection or a field sobriety test shall be admissible as evidence at either any trial of such  
69 person for either a violation of any state law or county or municipal ordinance, or any license  
70 revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

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