

SECOND REGULAR SESSION

HOUSE BILL NO. 1409

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DEEKEN (Sponsor), DAY, RUESTMAN, DUSENBERG,
McGHEE AND LOEHNER (Co-sponsors).

Pre-filed December 12, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

3163L.02I

AN ACT

To repeal sections 302.060, 302.309, and 577.600, RSMo, and to enact in lieu thereof three new sections relating to ignition interlock restricted driver's licenses, with penalty provisions.

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

Section A. Sections 302.060, 302.309, and 577.600, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 302.060, 302.309, and 577.600, to read
3 as follows:

302.060. The director shall not issue any license and shall immediately deny any driving
2 privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

6 (3) To any person whose license has been suspended, during such suspension, or to any
7 person whose license has been revoked, until the expiration of one year after such license was
8 revoked;

9 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

10 (5) To any person who has previously been adjudged to be incapacitated and who at the
11 time of application has not been restored to partial capacity;

12 (6) To any person who, when required by this law to take an examination, has failed to
13 pass such examination;

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.

14 (7) To any person who has an unsatisfied judgment against such person, as defined in
15 chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such
16 person, as defined in section [303.120] **303.020**, RSMo, has been established;

17 (8) To any person whose application shows that the person has been convicted within
18 one year prior to such application of violating the laws of this state relating to failure to stop after
19 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
20 consent;

21 (9) To any person who has been convicted more than twice of violating state law, or a
22 county or municipal ordinance where the defendant was represented by or waived the right to an
23 attorney in writing, relating to driving while intoxicated; except that[,] :

24 (a) After the expiration of ten years from the date of conviction of the last offense of
25 violating such law or ordinance relating to driving while intoxicated, a person who was so
26 convicted may petition the circuit court of the county in which such last conviction was rendered
27 and the court shall review the person's habits and conduct since such conviction. If the court
28 finds that the petitioner has not been convicted of any offense related to alcohol, controlled
29 substances, or drugs during the preceding ten years and that the petitioner's habits and conduct
30 show such petitioner to no longer pose a threat to the public safety of this state, the court may
31 order the director to issue a license to the petitioner if the petitioner is otherwise qualified
32 pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license
33 pursuant to the provisions of this subdivision through court action more than one time;

34 (b) **After the successful completion of a DUI Treatment and Monitoring Court**
35 **program operated in accordance with the National Association of Drug Court**
36 **Professional's Ten Guiding Principles, or after the driver maintains sobriety as**
37 **demonstrated through continuous alcohol monitoring or twice daily breath testing, an**
38 **ignition interlock restricted license, as defined in section 577.600, RSMo, shall be issued for**
39 **twelve months. During the twelve-month period, all vehicles driven by the person must be**
40 **equipped with an ignition interlock device. If, during the twelve-month period the ignition**
41 **interlock device has not prevented operation of the vehicle due to excessive breath alcohol**
42 **concentration and the interlock records show no attempts to tamper with or circumvent**
43 **the ignition interlock device as defined in section 577.612, RSMo, a license may be**
44 **reinstated. If there have been attempts to operate the vehicle with excessive breath alcohol**
45 **concentration, the ignition interlock restricted license will be continued until twelve**
46 **consecutive months without attempts to operate the vehicle with excessive breath alcohol**
47 **concentration have been achieved.**

48 (10) To any person who has been convicted twice within a five-year period of violating
49 state law, or a county or municipal ordinance where the defendant was represented by or waived

50 the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the
51 crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition.
52 The director shall not issue a license to such person for five years from the date such person was
53 convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated
54 condition or for driving while intoxicated for the second time. Any person who has been denied
55 a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the
56 person's license issued, upon application, unless the two convictions occurred within a five-year
57 period, in which case, no license shall be issued to the person for five years from the date of the
58 second conviction;

59 (11) To any person who is otherwise disqualified pursuant to the provisions of sections
60 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

61 (12) To any person who is under the age of eighteen years, if such person's parents or
62 legal guardians file a certified document with the department of revenue stating that the director
63 shall not issue such person a driver's license. Each document filed by the person's parents or
64 legal guardians shall be made upon a form furnished by the director and shall include identifying
65 information of the person for whom the parents or legal guardians are denying the driver's
66 license. The document shall also contain identifying information of the person's parents or legal
67 guardians. The document shall be certified by the parents or legal guardians to be true and
68 correct. This provision shall not apply to any person who is legally emancipated. The parents
69 or legal guardians may later file an additional document with the department of revenue which
70 reinstates the person's ability to receive a driver's license.

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.

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

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

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

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

51 limited driving privilege, the privilege shall not be terminated. The director shall notify by
52 ordinary mail the driver whose privilege is so terminated.

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

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

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

63 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
64 (6), (7), (8), (9), (10) or (11) of section 302.060;

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

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

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

73 (g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not
74 completed the first thirty days of such suspension, provided the person is not otherwise ineligible
75 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525
76 if such person has not completed such revocation.

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

83 (7) (a) Provided that pursuant to the provisions of this section, the applicant is not
84 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
85 manner prescribed in this subsection, allow a person who has had such person's license to operate
86 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,

87 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege
88 pursuant to this subsection if such person has [served at least three years of such disqualification
89 or revocation. Such person shall present evidence satisfactory to the court or the director that
90 such person has not been convicted of any offense related to alcohol, controlled substances or
91 drugs during the preceding three years and that the person's habits and conduct show that the
92 person no longer poses a threat to the public safety of this state] , **successfully completed a DUI
93 Treatment and Monitoring Court program operated in accordance with the National
94 Association of Drug Court Professional's Ten Guiding Principles, as defined in paragraph
95 (b) of subdivision (9) of section 302.060, or the driver maintains sobriety as demonstrated
96 through continuous alcohol monitoring or twice daily alcohol testing and has had twelve
97 months of an ignition interlock restricted license where the device has not prevented
98 operation of the vehicle due to excessive breath alcohol concentration and the interlock
99 records show no attempts to tamper with or circumvent the ignition interlock device as
100 defined in section 577.612, RSMo.**

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

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

123 5. The director of revenue shall promulgate rules and regulations necessary to carry out
124 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
125 536.010, RSMo, that is created under the authority delegated in this section shall become
126 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
127 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
128 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
129 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
130 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
131 after August 28, 2001, shall be invalid and void.

 577.600. 1. In addition to any other provisions of law, a court may require that any
2 person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as
3 defined in section 577.023, and a court shall require that any person who is found guilty of or
4 pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section
5 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a functioning,
6 certified ignition interlock device for a period of not less than one month from the date of
7 reinstatement of the person's driver's license. In addition, any court authorized to grant a limited
8 driving privilege under section 302.309, RSMo, to any person who is found guilty of or pleads
9 guilty to a second or subsequent intoxication-related traffic offense shall require the use of an
10 ignition interlock device on all vehicles operated by the person as a required condition of the
11 limited driving privilege. Any person required to use an ignition interlock device shall comply
12 with the court order, subject to the penalties provided by this section. **The person will be issued**
13 **a restricted license that specifies that the person is required to have an ignition interlock**
14 **device on all vehicles driven by that person. This license shall be known as an ignition**
15 **interlock restricted license. No ignition interlock license restriction may be removed until**
16 **the person completes a consecutive period of interlock usage equal to or greater than the**
17 **length of the original ignition interlock sanction period where the device has not prevented**
18 **operation of the vehicle due to excessive breath alcohol concentration and the interlock**
19 **records show no attempts to tamper with or circumvent the ignition interlock device, as**
20 **defined in section 577.612, RSMo.**

21 2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to
22 have had that person's driving privilege restricted as provided in subsection 1 of this section,
23 unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person
24 whose driving privilege is restricted as provided in subsection 1 of this section shall notify any
25 other person who rents, leases or loans a motor vehicle to that person of the driving restriction
26 imposed pursuant to this section.

27 3. Any person convicted of a violation of this section shall be guilty of a class A
28 misdemeanor.

✓