

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE BILL NO. 1423
94TH GENERAL ASSEMBLY

Reported from the Committee on Transportation March 11, 2008 with recommendation that House Committee Substitute No. 2 for House Bill No. 1423 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3315L.03C

AN ACT

To repeal sections 302.010, 302.060, 302.304, 302.309, 302.525, 577.041, 577.600, 577.602, and 577.612, RSMo, and to enact in lieu thereof nine new sections relating to ignition interlock devices, with penalty provisions and an effective date.

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

Section A. Sections 302.010, 302.060, 302.304, 302.309, 302.525, 577.041, 577.600, 2 577.602, and 577.612, RSMo, are repealed and nine new sections enacted in lieu thereof, to be 3 known as sections 302.010, 302.060, 302.304, 302.309, 302.525, 577.041, 577.600, 577.602, 4 and 577.612, to read as follows:

302.010. Except where otherwise provided, when used in this chapter, the following 2 words and phrases mean:

3 (1) "Circuit court", each circuit court in the state;

4 (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying 5 freight and merchandise, or more than fifteen passengers;

6 (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to 7 secure a defendant's appearance in court, which forfeiture has not been vacated, shall be 8 equivalent to a conviction, except that when any conviction as a result of which points are 9 assessed pursuant to section 302.302 is appealed, the term "conviction" means the original 10 judgment of conviction for the purpose of determining the assessment of points, and the date of

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.

11 final judgment affirming the conviction shall be the date determining the beginning of any
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Director", the director of revenue acting directly or through the director's authorized
14 officers and agents;

15 (5) "Farm tractor", every motor vehicle designed and used primarily as a farm implement
16 for drawing plows, mowing machines and other implements of husbandry;

17 (6) "Highway", any public thoroughfare for vehicles, including state roads, county roads
18 and public streets, avenues, boulevards, parkways, or alleys in any municipality;

19 (7) "Incompetent to drive a motor vehicle", a person who has become physically
20 incapable of meeting the prescribed requirements of an examination for an operator's license, or
21 who has been adjudged by a probate division of the circuit court in a capacity hearing of being
22 incapacitated;

23 (8) "License", a license issued by a state to a person which authorizes a person to operate
24 a motor vehicle;

25 (9) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks
26 except motorized bicycles, as defined in section 307.180, RSMo;

27 (10) "Motorcycle", a motor vehicle operated on two wheels; however, this definition
28 shall not include motorized bicycles as defined in section 301.010, RSMo;

29 (11) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle
30 operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

31 (12) "Moving violation", that character of traffic violation where at the time of violation
32 the motor vehicle involved is in motion, except that the term does not include the driving of a
33 motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170
34 to 304.240, RSMo, inclusive, relating to sizes and weights of vehicles;

35 (13) "Municipal court", every division of the circuit court having original jurisdiction
36 to try persons for violations of city ordinances;

37 (14) "Nonresident", every person who is not a resident of this state;

38 (15) "Operator", every person who is in actual physical control of a motor vehicle upon
39 a highway;

40 (16) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is
41 the subject of an agreement for the conditional sale or lease thereof with the right of purchase
42 upon performance of the conditions stated in the agreement and with an immediate right of
43 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle
44 is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed
45 the owner for the purpose of sections 302.010 to 302.540;

46 (17) "Record" includes, but is not limited to, papers, documents, facsimile information,
47 microphotographic process, electronically generated or electronically recorded information,
48 digitized images, deposited or filed with the department of revenue;

49 (18) "Residence address", "residence", or "resident address" shall be the location at
50 which a person has been physically present, and that the person regards as home. A residence
51 address is a person's true, fixed, principal, and permanent home, to which a person intends to
52 return and remain, even though currently residing elsewhere;

53 (19) "Restricted driving privilege", a driving privilege issued by the director of revenue
54 following a suspension of driving privileges for the limited purpose of driving in connection with
55 the driver's business, occupation, employment, formal program of secondary, postsecondary or
56 higher education, or for an alcohol education or treatment program **or certified ignition**
57 **interlock provider**;

58 (20) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle,
59 either publicly or privately owned, used to transport students to and from school, or to transport
60 pupils properly chaperoned to and from any place within the state for educational purposes. The
61 term "school bus" shall not include a bus operated by a public utility, municipal corporation or
62 common carrier authorized to conduct local or interstate transportation of passengers when such
63 bus is not traveling a specific school bus route but is:

64 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or

65 (b) Furnishing charter service for the transportation of persons enrolled as students on
66 field trips or other special trips or in connection with other special events;

67 (21) "School bus operator", an operator who operates a school bus as defined in
68 subdivision (20) of this section in the transportation of any schoolchildren and who receives
69 compensation for such service. The term "school bus operator" shall not include any person who
70 transports schoolchildren as an incident to employment with a school or school district, such as
71 a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under
72 contract with or employed by a school or school district as a school bus operator;

73 (22) "Signature", any method determined by the director of revenue for the signing,
74 subscribing or verifying of a record, report, application, driver's license, or other related
75 document that shall have the same validity and consequences as the actual signing by the person
76 providing the record, report, application, driver's license or related document;

77 (23) "Substance abuse traffic offender program", a program certified by the division of
78 alcohol and drug abuse of the department of mental health to provide education or rehabilitation
79 services pursuant to a professional assessment screening to identify the individual needs of the
80 person who has been referred to the program as the result of an alcohol- or drug-related traffic
81 offense. Successful completion of such a program includes participation in any education or

82 rehabilitation program required to meet the needs identified in the assessment screening. The
83 assignment recommendations based upon such assessment shall be subject to judicial review as
84 provided in subsection [13] **14** of section 302.304 and subsections 1 and 5 of section 302.540;

85 (24) "Vehicle", any mechanical device on wheels, designed primarily for use, or used
86 on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power,
87 or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs
88 operated by handicapped persons.

302.060. **1.** The director shall not issue any license and shall immediately deny any
2 driving 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;

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] **chapter 303**, 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, after the expiration of ten
24 years from the date of conviction of the last offense of violating such law or ordinance relating
25 to driving while intoxicated, a person who was so convicted may petition the circuit court of the
26 county in which such last conviction was rendered and the court shall review the person's habits
27 and conduct since such conviction. If the court finds that the petitioner has not been convicted
28 of any offense related to alcohol, controlled substances or drugs during the preceding ten years
29 and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the

30 public safety of this state, the court may order the director to issue a license to the petitioner if
31 the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540.
32 No person may obtain a license pursuant to the provisions of this subdivision through court
33 action more than one time;

34 (10) To any person who has been convicted twice within a five-year period of violating
35 state law, or a county or municipal ordinance where the defendant was represented by or waived
36 the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the
37 crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition.
38 The director shall not issue a license to such person for five years from the date such person was
39 convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated
40 condition or for driving while intoxicated for the second time. Any person who has been denied
41 a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the
42 person's license issued, upon application, unless the two convictions occurred within a five-year
43 period, in which case, no license shall be issued to the person for five years from the date of the
44 second conviction;

45 (11) To any person who is otherwise disqualified pursuant to the provisions of sections
46 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

47 (12) To any person who is under the age of eighteen years, if such person's parents or
48 legal guardians file a certified document with the department of revenue stating that the director
49 shall not issue such person a driver's license. Each document filed by the person's parents or
50 legal guardians shall be made upon a form furnished by the director and shall include identifying
51 information of the person for whom the parents or legal guardians are denying the driver's
52 license. The document shall also contain identifying information of the person's parents or legal
53 guardians. The document shall be certified by the parents or legal guardians to be true and
54 correct. This provision shall not apply to any person who is legally emancipated. The parents
55 or legal guardians may later file an additional document with the department of revenue which
56 reinstates the person's ability to receive a driver's license.

57 **2. Any person whose license is reinstated under the provisions of subdivisions (9)**
58 **and (10) of subsection 1 of this section shall be required to file proof with the director of**
59 **revenue that any motor vehicle operated by the person is equipped with a functioning,**
60 **certified ignition interlock device as a required condition of reinstatement. The ignition**
61 **interlock device shall further be required to be maintained on all motor vehicles operated**
62 **by the person for a period of not less than six months immediately following the date of**
63 **reinstatement. If the person fails to maintain such proof with the director, the license shall**
64 **be suspended for the remainder of the six-month period or until proof as required by this**

65 **section is filed with the director. Upon the completion of the six-month period, the license**
66 **shall be shown as reinstated, if the person is otherwise eligible.**

302.304. 1. The director shall notify by ordinary mail any operator of the point value
2 charged against the operator's record when the record shows four or more points have been
3 accumulated in a twelve-month period.

4 2. In an action to suspend or revoke a license or driving privilege under this section
5 points shall be accumulated on the date of conviction. No case file of any conviction for a
6 driving violation for which points may be assessed pursuant to section 302.302 may be closed
7 until such time as a copy of the record of such conviction is forwarded to the department of
8 revenue.

9 3. The director shall suspend the license and driving privileges of any person whose
10 driving record shows the driver has accumulated eight points in eighteen months.

11 4. The license and driving privilege of any person whose license and driving privilege
12 have been suspended under the provisions of sections 302.010 to 302.540 except those persons
13 whose license and driving privilege have been suspended under the provisions of subdivision (8)
14 of subsection 1 of section 302.302 or has accumulated sufficient points together with a
15 conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of
16 financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,
17 and is otherwise eligible, shall be reinstated as follows:

18 (1) In the case of an initial suspension, thirty days after the effective date of the
19 suspension;

20 (2) In the case of a second suspension, sixty days after the effective date of the
21 suspension;

22 (3) In the case of the third and subsequent suspensions, ninety days after the effective
23 date of the suspension.

24

25 Unless proof of financial responsibility is filed with the department of revenue, a suspension
26 shall continue in effect for two years from its effective date.

27 5. The period of suspension of the driver's license and driving privilege of any person
28 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has
29 accumulated sufficient points together with a conviction under subdivision (10) of subsection
30 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving
31 privilege as defined in section 302.010. Upon completion of such period of restricted driving
32 privilege, upon compliance with other requirements of law and upon filing of proof of financial
33 responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license
34 and driving privilege shall be reinstated.

35 6. If the person fails to maintain proof of financial responsibility in accordance with
36 chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

37 7. The director shall revoke the license and driving privilege of any person when the
38 person's driving record shows such person has accumulated twelve points in twelve months or
39 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation
40 period of any person whose license and driving privilege have been revoked under the provisions
41 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the
42 department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall
43 be terminated by a notice from the director of revenue after one year from the effective date of
44 the revocation. Unless proof of financial responsibility is filed with the department of revenue,
45 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for
46 a period of two years from its effective date. If the person fails to maintain proof of financial
47 responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege
48 shall be rerevoked. Any person whose license and driving privilege have been revoked under
49 the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of
50 the revocation from the director, pass the complete driver examination and apply for a new
51 license before again operating a motor vehicle upon the highways of this state.

52 8. If, prior to conviction for an offense that would require suspension or revocation of
53 a person's license under the provisions of this section, the person's total points accumulated are
54 reduced, pursuant to the provisions of section 302.306, below the number of points required for
55 suspension or revocation pursuant to the provisions of this section, then the person's license shall
56 not be suspended or revoked until the necessary points are again obtained and accumulated.

57 9. If any person shall neglect or refuse to surrender the person's license, as provided
58 herein, the director shall direct the state highway patrol or any peace or police officer to secure
59 possession thereof and return it to the director.

60 10. Upon the issuance of a reinstatement or termination notice after a suspension or
61 revocation of any person's license and driving privilege under the provisions of sections 302.010
62 to 302.540, the accumulated point value shall be reduced to four points, except that the points
63 of any person serving as a member of the armed forces of the United States outside the limits of
64 the United States during a period of suspension or revocation shall be reduced to zero upon the
65 date of the reinstatement or termination of notice. It shall be the responsibility of such member
66 of the armed forces to submit copies of official orders to the director of revenue to substantiate
67 such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary
68 notwithstanding, the effective date of the four points remaining on the record upon reinstatement
69 or termination shall be the date of the reinstatement or termination notice.

70 11. No credit toward reduction of points shall be given during periods of suspension or
71 revocation or any period of driving under a limited driving privilege granted by a court or the
72 director of revenue.

73 12. Any person or nonresident whose license or privilege to operate a motor vehicle in
74 this state has been suspended or revoked under this or any other law shall, before having the
75 license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee
76 of twenty dollars which shall be in addition to all other fees provided by law.

77 13. Notwithstanding any other provision of law to the contrary, if after two years from
78 the effective date of any suspension or revocation issued under this chapter, the person or
79 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such
80 license or privilege to operate a motor vehicle in this state.

81 14. No person who has had a license to operate a motor vehicle suspended or revoked
82 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of
83 subsection 1 of section 302.302 shall have that license reinstated until such person has
84 participated in and successfully completed a substance abuse traffic offender program defined
85 in section 302.010, or a program determined to be comparable by the department of mental
86 health. Assignment recommendations, based upon the needs assessment as described in
87 subdivision (22) of section 302.010, shall be delivered in writing to the person with written
88 notice that the person is entitled to have such assignment recommendations reviewed by the court
89 if the person objects to the recommendations. The person may file a motion in the associate
90 division of the circuit court of the county in which such assignment was given, on a printed form
91 provided by the state courts administrator, to have the court hear and determine such motion
92 pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity
93 making the needs assessment as the respondent and a copy of the motion shall be served upon
94 the respondent in any manner allowed by law. Upon hearing the motion, the court may modify
95 or waive any assignment recommendation that the court determines to be unwarranted based
96 upon a review of the needs assessment, the person's driving record, the circumstances
97 surrounding the offense, and the likelihood of the person committing a like offense in the future,
98 except that the court may modify but may not waive the assignment to an education or
99 rehabilitation program of a person determined to be a prior or persistent offender as defined in
100 section 577.023, RSMo, or of a person determined to have operated a motor vehicle with
101 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with
102 the court determination of the motion shall satisfy the provisions of this section for the purpose
103 of reinstating such person's license to operate a motor vehicle. The respondent's personal
104 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
105 directed by the court.

106 15. The fees for the program authorized in subsection 14 of this section, or a portion
107 thereof to be determined by the department of mental health, shall be paid by the person enrolled
108 in the program. Any person who is enrolled in the program shall pay, in addition to any fee
109 charged for the program, a supplemental fee in an amount to be determined by the department
110 of mental health for the purposes of funding the substance abuse traffic offender program defined
111 in section 302.010 and section 577.001, RSMo, or a program determined to be comparable by
112 the department of mental health. The administrator of the program shall remit to the division of
113 alcohol and drug abuse of the department of mental health on or before the fifteenth day of each
114 month the supplemental fee for all persons enrolled in the program, less two percent for
115 administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees
116 due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not
117 to exceed the annual rate established pursuant to the provisions of section 32.065, RSMo, plus
118 three percentage points. The supplemental fees and any interest received by the department of
119 mental health pursuant to this section shall be deposited in the mental health earnings fund which
120 is created in section 630.053, RSMo.

121 16. Any administrator who fails to remit to the division of alcohol and drug abuse of the
122 department of mental health the supplemental fees and interest for all persons enrolled in the
123 program pursuant to this section shall be subject to a penalty equal to the amount of interest
124 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
125 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
126 department of mental health within six months of the due date, the attorney general of the state
127 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
128 The court shall assess attorney fees and court costs against any delinquent program.

129 **17. Any person who has had a license to operate a motor vehicle suspended or**
130 **revoked as a result of an assessment of points for a violation under subdivision (9) of**
131 **subsection 1 of section 302.302 shall be required to file proof with the director of revenue**
132 **that any motor vehicle operated by the person is equipped with a functioning, certified**
133 **ignition interlock device as a required condition of reinstatement of the license. The**
134 **ignition interlock device shall further be required to be maintained on all motor vehicles**
135 **operated by the person for a period of not less than six months immediately following the**
136 **date of reinstatement. If the person fails to maintain such proof with the director, the**
137 **license shall be resuspended or revoked and the person shall be guilty of a class A**
138 **misdemeanor.**

 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) **Seeking the required services of a certified ignition interlock device provider;**

18 **or**

19 (f) Any other circumstance the court or director finds would create an undue hardship
20 on the operator;

21

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

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

40 restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for
41 that vehicle.

42 (4) **No limited driving privilege shall be issued to any person otherwise eligible**
43 **under the provisions of paragraph (a) of subdivision (6) of subsection 3 of this section on**
44 **a license revocation resulting from a conviction under subdivision (9) of subsection 1 of**
45 **section 302.302; or a license denial under paragraph (a) or (b) of subdivision (8) of**
46 **subsection 3 of this section; until the applicant has filed proof with the department of**
47 **revenue that any motor vehicle operated by the person is equipped with a functioning,**
48 **certified ignition interlock device as a required condition of limited driving privilege.**

49 (5) The court order or the director's grant of the limited **or restricted** driving privilege
50 shall indicate the termination date of the privilege, which shall be not later than the end of the
51 period of suspension or revocation. A copy of any court order shall be sent by the clerk of the
52 court to the director, and a copy shall be given to the driver which shall be carried by the driver
53 whenever such driver operates a motor vehicle. The director of revenue upon granting a limited
54 driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant
55 shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction
56 which results in the assessment of points pursuant to section 302.302, other than a violation of
57 a municipal stop sign ordinance where no accident is involved, against a driver who is operating
58 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points
59 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the
60 limited driving privilege, the privilege shall not be terminated. **Failure of the driver to**
61 **maintain proof of financial responsibility, as required by chapter 303, or to maintain proof**
62 **of installation of a functioning, certified ignition interlock device, as applicable, shall**
63 **terminate the privilege.** The director shall notify by ordinary mail the driver whose privilege
64 is so terminated.

65 [(5)] (6) Except as provided in subdivision [(7)] (8) of this subsection, no person is
66 eligible to receive a limited driving privilege who at the time of application for a limited driving
67 privilege has previously been granted such a privilege within the immediately preceding five
68 years, or whose license has been suspended or revoked for the following reasons:

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

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

75 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
76 (6), (7), (8), (9), (10) or (11) of section 302.060;

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

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

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

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

89 [(6)] (7) No person who possesses a commercial driver's license shall receive a limited
90 driving privilege issued for the purpose of operating a commercial motor vehicle if such person's
91 driving privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this
92 section shall prohibit the issuance of a limited driving privilege for the purpose of operating a
93 noncommercial motor vehicle provided that pursuant to the provisions of this section, the
94 applicant is not otherwise ineligible for a limited driving privilege.

95 [(7)] (8) (a) Provided that pursuant to the provisions of this section, the applicant is not
96 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
97 manner prescribed in this subsection, allow a person who has had such person's license to operate
98 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,
99 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege
100 pursuant to this subsection if such person has served at least three years of such disqualification
101 or revocation. Such person shall present evidence satisfactory to the court or the director that
102 such person has not been convicted of any offense related to alcohol, controlled substances or
103 drugs during the preceding three years and that the person's habits and conduct show that the
104 person no longer poses a threat to the public safety of this state.

105 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
106 ineligible for a limited driving privilege or convicted of involuntary manslaughter while
107 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the
108 manner prescribed in this subsection, allow a person who has had such person's license to operate
109 a motor vehicle revoked where that person cannot obtain a new license for a period of five years
110 because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of

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

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

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

302.525. 1. The license suspension or revocation shall become effective fifteen days
2 after the subject person has received the notice of suspension or revocation as provided in section
3 302.520, or is deemed to have received the notice of suspension or revocation by mail as
4 provided in section 302.515. If a request for a hearing is received by or postmarked to the
5 department within that fifteen-day period, the effective date of the suspension or revocation shall
6 be stayed until a final order is issued following the hearing; provided, that any delay in the
7 hearing which is caused or requested by the subject person or counsel representing that person
8 without good cause shown shall not result in a stay of the suspension or revocation during the
9 period of delay.

10 2. The period of license suspension or revocation under this section shall be as follows:

11 (1) If the person's driving record shows no prior alcohol-related enforcement contacts
12 during the immediately preceding five years, the period of suspension shall be thirty days after
13 the effective date of suspension, followed by a sixty-day period of restricted driving privilege as
14 defined in section 302.010 and issued by the director of revenue. The restricted driving privilege
15 shall not be issued until he or she has filed proof of financial responsibility with the department
16 of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall
17 restricted driving privileges be issued pursuant to this section or section 302.535 until the person
18 has completed the first thirty days of a suspension under this section;

19 (2) The period of revocation shall be one year if the person's driving record shows one
20 or more prior alcohol-related enforcement contacts during the immediately preceding five years;

21 **(3) In no case shall restricted driving privileges be issued under this section to any**
22 **person whose driving record shows one or more prior alcohol-related enforcement contacts**
23 **until the person has completed the first thirty days of a suspension under this section and**
24 **has filed proof with the department of revenue that any motor vehicle operated by the**
25 **person is equipped with a functioning, certified ignition interlock device as a required**
26 **condition of the restricted driving privilege. If the person fails to maintain such proof the**
27 **restricted driving privilege shall be terminated.**

28 3. For purposes of this section, "alcohol-related enforcement contacts" shall include any
29 suspension or revocation under sections 302.500 to 302.540, any suspension or revocation
30 entered in this or any other state for a refusal to submit to chemical testing under an implied
31 consent law, and any conviction in this or any other state for a violation which involves driving
32 **while intoxicated, driving while under the influence of drugs or alcohol, or driving** a vehicle
33 while having an unlawful alcohol concentration.

34 4. Where a license is suspended or revoked under this section and the person is also
35 convicted on charges arising out of the same occurrence for a violation of section 577.010 or
36 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving
37 while intoxicated or alcohol-related traffic offense, both the suspension or revocation under this
38 section and any other suspension or revocation arising from such convictions shall be imposed,
39 but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited
40 against any other suspension or revocation arising from such convictions, and the total period
41 of suspension or revocation shall not exceed the longer of the two suspension or revocation
42 periods.

43 **5. Any person who has had a license to operate a motor vehicle revoked under this**
44 **section or suspended under this section with one or more prior alcohol-related enforcement**
45 **contacts showing on their driver record shall be required to file proof with the director of**
46 **revenue that any motor vehicle operated by that person is equipped with a functioning,**

47 **certified ignition interlock device as a required condition of reinstatement. The ignition**
48 **interlock device shall further be required to be maintained on all motor vehicles operated**
49 **by the person for a period of not less than six months immediately following the date of**
50 **reinstatement. If the person fails to maintain such proof with the director, the license shall**
51 **be resuspended or revoked, as applicable.**

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision
2 (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to
3 any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal
4 shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or
5 section 577.010 or 577.012. The request of the officer shall include the reasons of the officer
6 for requesting the person to submit to a test and also shall inform the person that evidence of
7 refusal to take the test may be used against such person and that the person's license shall be
8 immediately revoked upon refusal to take the test. If a person when requested to submit to any
9 test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be
10 granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the
11 twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a
12 refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of
13 license revocation personally upon the person and shall take possession of any license to operate
14 a motor vehicle issued by this state which is held by that person. The officer shall issue a
15 temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall
16 also give the person a notice of such person's right to file a petition for review to contest the
17 license revocation.

18 2. The officer shall make a certified report under penalties of perjury for making a false
19 statement to a public official. The report shall be forwarded to the director of revenue and shall
20 include the following:

21 (1) That the officer has:

22 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle
23 while in an intoxicated or drugged condition; or

24 (b) Reasonable grounds to believe that the person stopped, being under the age of
25 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
26 of one percent or more by weight; or

27 (c) Reasonable grounds to believe that the person stopped, being under the age of
28 twenty-one years, was committing a violation of the traffic laws of the state, or political
29 subdivision of the state, and such officer has reasonable grounds to believe, after making such
30 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

31 (2) That the person refused to submit to a chemical test;

32 (3) Whether the officer secured the license to operate a motor vehicle of the person;

33 (4) Whether the officer issued a fifteen-day temporary permit;

34 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice
35 of the right to file a petition for review, which notices and permit may be combined in one
36 document; and

37 (6) Any license to operate a motor vehicle which the officer has taken into possession.

38 3. Upon receipt of the officer's report, the director shall revoke the license of the person
39 refusing to take the test for a period of one year; or if the person is a nonresident, such person's
40 operating permit or privilege shall be revoked for one year; or if the person is a resident without
41 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the
42 person the issuance of a license or permit for a period of one year.

43 4. If a person's license has been revoked because of the person's refusal to submit to a
44 chemical test, such person may petition for a hearing before a circuit or associate circuit court
45 in the county in which the arrest or stop occurred. The person may request such court to issue
46 an order staying the revocation until such time as the petition for review can be heard. If the
47 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the
48 director of revenue and shall send a copy of such order to the director. Such order shall serve
49 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain
50 possession of the person's license to operate a motor vehicle until termination of any revocation
51 pursuant to this section. Upon the person's request the clerk of the court shall notify the
52 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the
53 director of revenue. At the hearing the court shall determine only:

54 (1) Whether or not the person was arrested or stopped;

55 (2) Whether or not the officer had:

56 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in
57 an intoxicated or drugged condition; or

58 (b) Reasonable grounds to believe that the person stopped, being under the age of
59 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
60 of one percent or more by weight; or

61 (c) Reasonable grounds to believe that the person stopped, being under the age of
62 twenty-one years, was committing a violation of the traffic laws of the state, or political
63 subdivision of the state, and such officer had reasonable grounds to believe, after making such
64 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

65 (3) Whether or not the person refused to submit to the test.

66 5. If the court determines any issue not to be in the affirmative, the court shall order the
67 director to reinstate the license or permit to drive.

68 6. Requests for review as provided in this section shall go to the head of the docket of
69 the court wherein filed.

70 7. No person who has had a license to operate a motor vehicle suspended or revoked
71 pursuant to the provisions of this section shall have that license reinstated until such person has
72 participated in and successfully completed a substance abuse traffic offender program defined
73 in section 577.001, or a program determined to be comparable by the department of mental
74 health or the court. Assignment recommendations, based upon the needs assessment as
75 described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the
76 person with written notice that the person is entitled to have such assignment recommendations
77 reviewed by the court if the person objects to the recommendations. The person may file a
78 motion in the associate division of the circuit court of the county in which such assignment was
79 given, on a printed form provided by the state courts administrator, to have the court hear and
80 determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name
81 the person or entity making the needs assessment as the respondent and a copy of the motion
82 shall be served upon the respondent in any manner allowed by law. Upon hearing the motion,
83 the court may modify or waive any assignment recommendation that the court determines to be
84 unwarranted based upon a review of the needs assessment, the person's driving record, the
85 circumstances surrounding the offense, and the likelihood of the person committing a like
86 offense in the future, except that the court may modify but may not waive the assignment to an
87 education or rehabilitation program of a person determined to be a prior or persistent offender
88 as defined in section 577.023, or of a person determined to have operated a motor vehicle with
89 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with
90 the court determination of the motion shall satisfy the provisions of this section for the purpose
91 of reinstating such person's license to operate a motor vehicle. The respondent's personal
92 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
93 directed by the court.

94 8. The fees for the substance abuse traffic offender program, or a portion thereof to be
95 determined by the division of alcohol and drug abuse of the department of mental health, shall
96 be paid by the person enrolled in the program. Any person who is enrolled in the program shall
97 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
98 department of mental health for the purposes of funding the substance abuse traffic offender
99 program defined in section 302.010, RSMo, and section 577.001. The administrator of the
100 program shall remit to the division of alcohol and drug abuse of the department of mental health
101 on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the
102 program, less two percent for administrative costs. Interest shall be charged on any unpaid
103 balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this

104 section and shall accrue at a rate not to exceed the annual rates established pursuant to the
105 provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and
106 any interest received by the department of mental health pursuant to this section shall be
107 deposited in the mental health earnings fund which is created in section 630.053, RSMo.

108 9. Any administrator who fails to remit to the division of alcohol and drug abuse of the
109 department of mental health the supplemental fees and interest for all persons enrolled in the
110 program pursuant to this section shall be subject to a penalty equal to the amount of interest
111 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
112 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
113 department of mental health within six months of the due date, the attorney general of the state
114 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
115 The court shall assess attorney fees and court costs against any delinquent program.

116 **10. Any person who has had a license to operate a motor vehicle revoked more than**
117 **once for violation of the provisions of this section shall be required to file proof with the**
118 **director of revenue that any motor vehicle operated by the person is equipped with a**
119 **functioning, certified ignition interlock device as a required condition of license**
120 **reinstatement. Such ignition interlock device shall further be required to be maintained**
121 **on all motor vehicles operated by the person for a period of not less than six months**
122 **immediately following the date of reinstatement. If the person fails to maintain such proof**
123 **with the director as required by this section, the license shall be rerevoked and the person**
124 **shall be guilty of a class A misdemeanor.**

125 **11. The revocation period of any person whose license and driving privilege has**
126 **been revoked under this section and who has filed proof of financial responsibility with the**
127 **department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible,**
128 **shall be terminated by a notice from the director of revenue after one year from the**
129 **effective date of the revocation. Unless proof of financial responsibility is filed with the**
130 **department of revenue, the revocation shall remain in effect for a period of two years from**
131 **its effective date. If the person fails to maintain proof of financial responsibility in**
132 **accordance with chapter 303, RSMo, the person's license and driving privilege shall be**
133 **rerevoked and the person shall be guilty of a class A misdemeanor.**

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] **six months** from the

7 date of reinstatement of the person's driver's license. In addition, any court authorized to grant
8 a limited driving privilege under section 302.309, RSMo, to any person who is found guilty of
9 or pleads guilty to a second or subsequent intoxication-related traffic offense shall require the
10 use of an ignition interlock device on all vehicles operated by the person as a required condition
11 of the limited driving privilege. **These requirements shall be in addition to any other**
12 **provisions of this chapter or chapter 302, RSMo, requiring installation and maintenance**
13 **of an ignition interlock device.** Any person required to use an ignition interlock device, **either**
14 **under the provisions of this chapter or chapter 302, RSMo,** shall comply with [the court
15 order,] **such requirement** subject to the penalties provided by this section.

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

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

577.602. 1. If a court imposes a fine and requires the use of an ignition interlock device
2 for the same offense, the amount of the fine may be reduced by the cost of the ignition interlock
3 device.

4 2. If the court requires the use of an ignition interlock device, it shall order the
5 installation of the device on any vehicle which the offender operates during the period of
6 probation or limited driving privilege.

7 3. If the court imposes the use of an ignition interlock device on a person having full or
8 limited driving privileges, the court shall require the person to provide proof of compliance with
9 the order to the court or the probation officer within thirty days of this court's order or sooner,
10 as required by the court, **in addition to any proof required to be filed with the director of**
11 **revenue under the provisions of this chapter or chapter 302, RSMo.** If the person fails to
12 provide proof of installation within that period, absent a finding by the court of good cause for
13 that failure which is entered in the court record, the court shall revoke or terminate the person's
14 probation or limited driving privilege.

15 4. Nothing in sections 577.600 to 577.614 shall be construed to authorize a person to
16 operate a motor vehicle whose driving privileges have been suspended or revoked, unless the
17 person has obtained a limited driving privilege or restricted driving privilege under other
18 provisions of law.

19 5. The person whose driving privilege is restricted pursuant to section 577.600 shall
20 report to the court or the probation officer at least once annually, or more frequently as the court
21 may order, on the operation of each ignition interlock device in the person's vehicle or vehicles.
22 Such person shall be responsible for the cost and maintenance of the ignition interlock device.
23 If such device is broken, destroyed or stolen, such person shall also be liable for the cost of
24 replacement of the device.

25 6. The court may require a person whose driving privilege is restricted under section
26 577.600 to report to any officer appointed by the court in lieu of a probation officer.

27 7. The court shall require periodic calibration checks that are needed for the proper
28 operation of the ignition interlock device.

 577.612. 1. It is unlawful for any person whose driving privilege is restricted pursuant
2 to [section 577.600] **the provisions of this chapter or chapter 302, RSMo**, to request or solicit
3 any other person to blow into an ignition interlock device or to start a motor vehicle equipped
4 with the device for the purpose of providing the person so restricted with an operable motor
5 vehicle.

6 2. It is unlawful to blow into an ignition interlock device or to start a motor vehicle
7 equipped with the device for the purpose of providing an operable motor vehicle to a person
8 whose driving privilege is restricted pursuant to [section 577.600] **the provisions of this chapter**
9 **or chapter 302, RSMo**.

10 3. It is unlawful to tamper with, or circumvent the operation of, an ignition interlock
11 device.

12 4. Any person who violates any provision of this section is guilty of a class A
13 misdemeanor.

 Section B. The repeal and reenactment of section A of this act shall become effective on
2 July 1, 2009.

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