

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR

# HOUSE BILL NO. 1423

## 94TH GENERAL ASSEMBLY

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 7, 2008, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3315S.04C

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### AN ACT

To repeal sections 302.010, 302.060, 302.304, 302.309, 302.525, 478.466, 577.023, 577.041, 577.600, 577.602, and 577.612, RSMo, and to enact in lieu thereof eleven new sections relating to intoxication-related offenses, with penalty provisions, an effective date for certain sections and an emergency clause for a certain section.

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*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302.010, 302.060, 302.304, 302.309, 302.525, 478.466, 577.023, 577.041, 577.600, 577.602, and 577.612, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 302.010, 302.060, 302.304, 302.309, 302.525, 478.466, 577.023, 577.041, 577.600, 577.602, and 577.612, to read as follows:

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

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

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

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

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

12 the conviction shall be the date determining the beginning of any license  
13 suspension or revocation pursuant to section 302.304;

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

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

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

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

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

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

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

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

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

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

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

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

46 (16) "Owner", a person who holds the legal title of a vehicle or in the event  
47 a vehicle is the subject of an agreement for the conditional sale or lease thereof

48 with the right of purchase upon performance of the conditions stated in the  
49 agreement and with an immediate right of possession vested in the conditional  
50 vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession,  
51 then such conditional vendee or lessee or mortgagor shall be deemed the owner  
52 for the purpose of sections 302.010 to 302.540;

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

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

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

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

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

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

80 (21) "School bus operator", an operator who operates a school bus as  
81 defined in subdivision (20) of this section in the transportation of any  
82 schoolchildren and who receives compensation for such service. The term "school  
83 bus operator" shall not include any person who transports schoolchildren as an

84 incident to employment with a school or school district, such as a teacher, coach,  
85 administrator, secretary, school nurse, or janitor unless such person is under  
86 contract with or employed by a school or school district as a school bus operator;

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

92 (23) "Substance abuse traffic offender program", a program certified by the  
93 division of alcohol and drug abuse of the department of mental health to provide  
94 education or rehabilitation services pursuant to a professional assessment  
95 screening to identify the individual needs of the person who has been referred to  
96 the program as the result of an alcohol- or drug-related traffic offense. Successful  
97 completion of such a program includes participation in any education or  
98 rehabilitation program required to meet the needs identified in the assessment  
99 screening. The assignment recommendations based upon such assessment shall  
100 be subject to judicial review as provided in subsection [13] 14 of section 302.304  
101 and subsections 1 and 5 of section 302.540;

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

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

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

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

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

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

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

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

17           (7) To any person who has an unsatisfied judgment against such person,  
18 as defined in chapter 303, RSMo, until such judgment has been satisfied or the  
19 financial responsibility of such person, as defined in [section 303.120] **chapter**  
20 **303**, RSMo, has been established;

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

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

40           (10) To any person who has been convicted twice within a five-year period  
41 of violating state law, or a county or municipal ordinance where the defendant  
42 was represented by or waived the right to an attorney in writing, of driving while  
43 intoxicated, or who has been convicted of the crime of involuntary manslaughter  
44 while operating a motor vehicle in an intoxicated condition. The director shall  
45 not issue a license to such person for five years from the date such person was  
46 convicted for involuntary manslaughter while operating a motor vehicle in an  
47 intoxicated condition or for driving while intoxicated for the second time. Any  
48 person who has been denied a license for two convictions of driving while  
49 intoxicated prior to July 27, 1989, shall have the person's license issued, upon  
50 application, unless the two convictions occurred within a five-year period, in

51 which case, no license shall be issued to the person for five years from the date  
52 of the second conviction;

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

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

68 **2. Any person whose license is reinstated under the provisions**  
69 **of subdivisions (9) and (10) of subsection 1 of this section shall be**  
70 **required to file proof with the director of revenue that any motor**  
71 **vehicle operated by the person is equipped with a functioning, certified**  
72 **ignition interlock device as a required condition of reinstatement. The**  
73 **ignition interlock device shall further be required to be maintained on**  
74 **all motor vehicles operated by the person for a period of not less than**  
75 **six months immediately following the date of reinstatement. If the**  
76 **person fails to maintain such proof with the director, the license shall**  
77 **be suspended for the remainder of the six-month period or until proof**  
78 **as required by this section is filed with the director. Upon the**  
79 **completion of the six-month period, the license shall be shown as**  
80 **reinstated, if the person is otherwise eligible.**

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

4 2. In an action to suspend or revoke a license or driving privilege under  
5 this section points shall be accumulated on the date of conviction. No case file  
6 of any conviction for a driving violation for which points may be assessed

7 pursuant to section 302.302 may be closed until such time as a copy of the record  
8 of such conviction is forwarded to the department of revenue.

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

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

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

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

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

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

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

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

40 7. The director shall revoke the license and driving privilege of any person  
41 when the person's driving record shows such person has accumulated twelve  
42 points in twelve months or eighteen points in twenty-four months or twenty-four

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

58       8. If, prior to conviction for an offense that would require suspension or  
59 revocation of a person's license under the provisions of this section, the person's  
60 total points accumulated are reduced, pursuant to the provisions of section  
61 302.306, below the number of points required for suspension or revocation  
62 pursuant to the provisions of this section, then the person's license shall not be  
63 suspended or revoked until the necessary points are again obtained and  
64 accumulated.

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

68       10. Upon the issuance of a reinstatement or termination notice after a  
69 suspension or revocation of any person's license and driving privilege under the  
70 provisions of sections 302.010 to 302.540, the accumulated point value shall be  
71 reduced to four points, except that the points of any person serving as a member  
72 of the armed forces of the United States outside the limits of the United States  
73 during a period of suspension or revocation shall be reduced to zero upon the date  
74 of the reinstatement or termination of notice. It shall be the responsibility of  
75 such member of the armed forces to submit copies of official orders to the director  
76 of revenue to substantiate such overseas service. Any other provision of sections  
77 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four  
78 points remaining on the record upon reinstatement or termination shall be the

79 date of the reinstatement or termination notice.

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

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

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

93           14. No person who has had a license to operate a motor vehicle suspended  
94 or revoked as a result of an assessment of points for a violation under subdivision  
95 (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated  
96 until such person has participated in and successfully completed a substance  
97 abuse traffic offender program defined in section 302.010, or a program  
98 determined to be comparable by the department of mental health. Assignment  
99 recommendations, based upon the needs assessment as described in subdivision  
100 (22) of section 302.010, shall be delivered in writing to the person with written  
101 notice that the person is entitled to have such assignment recommendations  
102 reviewed by the court if the person objects to the recommendations. The person  
103 may file a motion in the associate division of the circuit court of the county in  
104 which such assignment was given, on a printed form provided by the state courts  
105 administrator, to have the court hear and determine such motion pursuant to the  
106 provisions of chapter 517, RSMo. The motion shall name the person or entity  
107 making the needs assessment as the respondent and a copy of the motion shall  
108 be served upon the respondent in any manner allowed by law. Upon hearing the  
109 motion, the court may modify or waive any assignment recommendation that the  
110 court determines to be unwarranted based upon a review of the needs assessment,  
111 the person's driving record, the circumstances surrounding the offense, and the  
112 likelihood of the person committing a like offense in the future, except that the  
113 court may modify but may not waive the assignment to an education or  
114 rehabilitation program of a person determined to be a prior or persistent offender

115 as defined in section 577.023, RSMo, or of a person determined to have operated  
116 a motor vehicle with fifteen-hundredths of one percent or more by weight in such  
117 person's blood. Compliance with the court determination of the motion shall  
118 satisfy the provisions of this section for the purpose of reinstating such person's  
119 license to operate a motor vehicle. The respondent's personal appearance at any  
120 hearing conducted pursuant to this subsection shall not be necessary unless  
121 directed by the court.

122       15. The fees for the program authorized in subsection 14 of this section,  
123 or a portion thereof to be determined by the department of mental health, shall  
124 be paid by the person enrolled in the program. Any person who is enrolled in the  
125 program shall pay, in addition to any fee charged for the program, a supplemental  
126 fee in an amount to be determined by the department of mental health for the  
127 purposes of funding the substance abuse traffic offender program defined in  
128 section 302.010 and section 577.001, RSMo, or a program determined to be  
129 comparable by the department of mental health. The administrator of the  
130 program shall remit to the division of alcohol and drug abuse of the department  
131 of mental health on or before the fifteenth day of each month the supplemental  
132 fee for all persons enrolled in the program, less two percent for administrative  
133 costs. Interest shall be charged on any unpaid balance of the supplemental fees  
134 due the division of alcohol and drug abuse pursuant to this section and shall  
135 accrue at a rate not to exceed the annual rate established pursuant to the  
136 provisions of section 32.065, RSMo, plus three percentage points. The  
137 supplemental fees and any interest received by the department of mental health  
138 pursuant to this section shall be deposited in the mental health earnings fund  
139 which is created in section 630.053, RSMo.

140       16. Any administrator who fails to remit to the division of alcohol and  
141 drug abuse of the department of mental health the supplemental fees and interest  
142 for all persons enrolled in the program pursuant to this section shall be subject  
143 to a penalty equal to the amount of interest accrued on the supplemental fees due  
144 the division pursuant to this section. If the supplemental fees, interest, and  
145 penalties are not remitted to the division of alcohol and drug abuse of the  
146 department of mental health within six months of the due date, the attorney  
147 general of the state of Missouri shall initiate appropriate action of the collection  
148 of said fees and interest accrued. The court shall assess attorney fees and court  
149 costs against any delinquent program.

150       **17. Any person who has had a license to operate a motor vehicle**

151 **suspended or revoked as a result of an assessment of points for a**  
152 **violation under subdivision (9) of subsection 1 of section 302.302 shall**  
153 **be required to file proof with the director of revenue that any motor**  
154 **vehicle operated by the person is equipped with a functioning, certified**  
155 **ignition interlock device as a required condition of reinstatement of**  
156 **the license. The ignition interlock device shall further be required to**  
157 **be maintained on all motor vehicles operated by the person for a period**  
158 **of not less than six months immediately following the date of**  
159 **reinstatement. If the person fails to maintain such proof with the**  
160 **director, the license shall be resuspended or revoked and the person**  
161 **shall be guilty of a class A misdemeanor.**

302.309. 1. Whenever any license is suspended pursuant to sections  
2 302.302 to 302.309, the director of revenue shall return the license to the operator  
3 immediately upon the termination of the period of suspension and upon  
4 compliance with the requirements of chapter 303, RSMo.

5 2. Any operator whose license is revoked pursuant to these sections, upon  
6 the termination of the period of revocation, shall apply for a new license in the  
7 manner prescribed by law.

8 3. (1) All circuit courts or the director of revenue shall have jurisdiction  
9 to hear applications and make eligibility determinations granting limited driving  
10 privileges. Any application may be made in writing to the director of revenue and  
11 the person's reasons for requesting the limited driving privilege shall be made  
12 therein.

13 (2) When any court of record having jurisdiction or the director of revenue  
14 finds that an operator is required to operate a motor vehicle in connection with  
15 any of the following:

16 (a) A business, occupation, or employment;

17 (b) Seeking medical treatment for such operator;

18 (c) Attending school or other institution of higher education;

19 (d) Attending alcohol or drug treatment programs; [or]

20 (e) **Seeking the required services of a certified ignition interlock**  
21 **device provider; or**

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

24 the court or director may grant such limited driving privilege as the  
25 circumstances of the case justify if the court or director finds undue hardship

26 would result to the individual, and while so operating a motor vehicle within the  
27 restrictions and limitations of the limited driving privilege the driver shall not  
28 be guilty of operating a motor vehicle without a valid license.

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

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

57 (5) The court order or the director's grant of the limited **or restricted**  
58 driving privilege shall indicate the termination date of the privilege, which shall  
59 be not later than the end of the period of suspension or revocation. A copy of any  
60 court order shall be sent by the clerk of the court to the director, and a copy shall  
61 be given to the driver which shall be carried by the driver whenever such driver

62 operates a motor vehicle. The director of revenue upon granting a limited driving  
63 privilege shall give a copy of the limited driving privilege to the applicant. The  
64 applicant shall carry a copy of the limited driving privilege while operating a  
65 motor vehicle. A conviction which results in the assessment of points pursuant  
66 to section 302.302, other than a violation of a municipal stop sign ordinance  
67 where no accident is involved, against a driver who is operating a vehicle  
68 pursuant to a limited driving privilege terminates the privilege, as of the date the  
69 points are assessed to the person's driving record. If the date of arrest is prior  
70 to the issuance of the limited driving privilege, the privilege shall not be  
71 terminated. **Failure of the driver to maintain proof of financial**  
72 **responsibility, as required by chapter 303, or to maintain proof of**  
73 **installation of a functioning, certified ignition interlock device, as**  
74 **applicable, shall terminate the privilege.** The director shall notify by  
75 ordinary mail the driver whose privilege is so terminated.

76       [(5)] (6) Except as provided in subdivision [(7)] (8) of this subsection, no  
77 person is eligible to receive a limited driving privilege who at the time of  
78 application for a limited driving privilege has previously been granted such a  
79 privilege within the immediately preceding five years, or whose license has been  
80 suspended or revoked for the following reasons:

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

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

89       (c) Ineligibility for a license because of the provisions of subdivision (1),  
90 (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

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

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

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

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

105           ~~[(6)]~~ **(7)** No person who possesses a commercial driver's license shall  
106   receive a limited driving privilege issued for the purpose of operating a  
107   commercial motor vehicle if such person's driving privilege is suspended, revoked,  
108   canceled, denied, or disqualified. Nothing in this section shall prohibit the  
109   issuance of a limited driving privilege for the purpose of operating a  
110   noncommercial motor vehicle provided that pursuant to the provisions of this  
111   section, the applicant is not otherwise ineligible for a limited driving privilege.

112           ~~[(7)]~~ **(8)** (a) Provided that pursuant to the provisions of this section, the  
113   applicant is not otherwise ineligible for a limited driving privilege, a circuit court  
114   or the director may, in the manner prescribed in this subsection, allow a person  
115   who has had such person's license to operate a motor vehicle revoked where that  
116   person cannot obtain a new license for a period of ten years, as prescribed in  
117   subdivision (9) of section 302.060, to apply for a limited driving privilege  
118   pursuant to this subsection if such person has served at least three years of such  
119   disqualification or revocation. Such person shall present evidence satisfactory to  
120   the court or the director that such person has not been convicted of any offense  
121   related to alcohol, controlled substances or drugs during the preceding three  
122   years and that the person's habits and conduct show that the person no longer  
123   poses a threat to the public safety of this state.

124           (b) Provided that pursuant to the provisions of this section, the applicant  
125   is not otherwise ineligible for a limited driving privilege or convicted of  
126   involuntary manslaughter while operating a motor vehicle in an intoxicated  
127   condition, a circuit court or the director may, in the manner prescribed in this  
128   subsection, allow a person who has had such person's license to operate a motor  
129   vehicle revoked where that person cannot obtain a new license for a period of five  
130   years because of two convictions of driving while intoxicated, as prescribed in  
131   subdivision (10) of section 302.060, to apply for a limited driving privilege  
132   pursuant to this subsection if such person has served at least two years of such  
133   disqualification or revocation. Such person shall present evidence satisfactory to

134 the court or the director that such person has not been convicted of any offense  
135 related to alcohol, controlled substances or drugs during the preceding two years  
136 and that the person's habits and conduct show that the person no longer poses a  
137 threat to the public safety of this state. Any person who is denied a license  
138 permanently in this state because of an alcohol-related conviction subsequent to  
139 a restoration of such person's driving privileges pursuant to subdivision (9) of  
140 section 302.060 shall not be eligible for limited driving privilege pursuant to the  
141 provisions of this subdivision.

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

150 5. The director of revenue shall promulgate rules and regulations  
151 necessary to carry out the provisions of this section. Any rule or portion of a rule,  
152 as that term is defined in section 536.010, RSMo, that is created under the  
153 authority delegated in this section shall become effective only if it complies with  
154 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
155 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable  
156 and if any of the powers vested with the general assembly pursuant to chapter  
157 536, RSMo, to review, to delay the effective date or to disapprove and annul a  
158 rule are subsequently held unconstitutional, then the grant of rulemaking  
159 authority and any rule proposed or adopted after August 28, 2001, shall be  
160 invalid and void.

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

10 the suspension or revocation during the period of delay.

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

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

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

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

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

42 4. Where a license is suspended or revoked under this section and the  
43 person is also convicted on charges arising out of the same occurrence for a  
44 violation of section 577.010 or 577.012, RSMo, or for a violation of any county or  
45 municipal ordinance prohibiting driving while intoxicated or alcohol-related

46 traffic offense, both the suspension or revocation under this section and any other  
47 suspension or revocation arising from such convictions shall be imposed, but the  
48 period of suspension or revocation under sections 302.500 to 302.540 shall be  
49 credited against any other suspension or revocation arising from such convictions,  
50 and the total period of suspension or revocation shall not exceed the longer of the  
51 two suspension or revocation periods.

52       **5. Any person who has had a license to operate a motor vehicle**  
53 **revoked under this section or suspended under this section with one or**  
54 **more prior alcohol-related enforcement contacts showing on their**  
55 **driver record shall be required to file proof with the director of**  
56 **revenue that any motor vehicle operated by that person is equipped**  
57 **with a functioning, certified ignition interlock device as a required**  
58 **condition of reinstatement. The ignition interlock device shall further**  
59 **be required to be maintained on all motor vehicles operated by the**  
60 **person for a period of not less than six months immediately following**  
61 **the date of reinstatement. If the person fails to maintain such proof**  
62 **with the director, the license shall be resuspended or revoked, as**  
63 **applicable.**

478.466. 1. In the sixteenth judicial circuit consisting of the county of  
2 Jackson, a majority of the court en banc may appoint one person, who shall  
3 possess the same qualifications as an associate circuit judge, to act as drug court  
4 commissioner. The commissioner shall be appointed for a term of four years. The  
5 compensation of the commissioner shall be the same as that of an associate  
6 circuit judge and[, subject to appropriation from the county legislature of the  
7 county wherein such circuit is wholly located, reimbursed from proceeds from the  
8 county antidrug sales tax adopted pursuant to section 67.547, RSMo. The county  
9 wherein such circuit is wholly located shall pay to and reimburse the state for the  
10 actual costs of the salary and benefits of the drug commissioner appointed  
11 pursuant to this section] **shall be paid out of the same source as the**  
12 **compensation of all other drug court commissioners in the state.** The  
13 retirement benefits of such commissioner shall be the same as those of an  
14 associate circuit judge, payable in the same manner and from the same source as  
15 those of an associate circuit judge. Subject to approval or rejection by a circuit  
16 judge, the commissioner shall have all the powers and duties of a circuit judge.  
17 A circuit judge shall by order of record reject or confirm any order, judgment and  
18 decree of the commissioner within the time the judge could set aside such order,

19 judgment or decree had the same been made by him. If so confirmed, the order,  
20 judgment or decree shall have the same effect as if made by the judge on the date  
21 of its confirmation.

22           2. The court administrator of the sixteenth judicial circuit shall charge  
23 and collect a surcharge of thirty dollars in all proceedings assigned to the drug  
24 commissioner for disposition, provided that the surcharge shall not be charged in  
25 any proceeding when costs are waived or are to be paid by the state, county or  
26 municipality. Moneys obtained from such surcharge shall be collected and  
27 disbursed in the manner provided by sections 488.010 to 488.020, RSMo, and  
28 payable to the drug commissioner for operation of the drug court.

          577.023. 1. For purposes of this section, unless the context clearly  
2 indicates otherwise:

3           (1) An "aggravated offender" is a person who:

4           (a) Has pleaded guilty to or has been found guilty of three or more  
5 intoxication-related traffic offenses; or

6           (b) Has pleaded guilty to or has been found guilty of one or more  
7 intoxication-related traffic offense and, in addition, any of the following:  
8 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section  
9 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where  
10 the underlying felony is an intoxication-related traffic offense; or assault in the  
11 second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or  
12 assault of a law enforcement officer in the second degree under subdivision (4) of  
13 subsection 1 of section 565.082, RSMo;

14           (2) A "chronic offender" is:

15           (a) A person who has pleaded guilty to or has been found guilty of four or  
16 more intoxication-related traffic offenses; or

17           (b) A person who has pleaded guilty to or has been found guilty of, on two  
18 or more separate occasions, any combination of the following: involuntary  
19 manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024,  
20 RSMo; murder in the second degree under section 565.021, RSMo, where the  
21 underlying felony is an intoxication-related traffic offense; assault in the second  
22 degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault  
23 of a law enforcement officer in the second degree under subdivision (4) of  
24 subsection 1 of section 565.082, RSMo; or

25           (c) A person who has pleaded guilty to or has been found guilty of two or  
26 more intoxication-related traffic offenses and, in addition, any of the following:

27 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section  
28 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where  
29 the underlying felony is an intoxication-related traffic offense; assault in the  
30 second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or  
31 assault of a law enforcement officer in the second degree under subdivision (4) of  
32 subsection 1 of section 565.082, RSMo;

33 (3) An "intoxication-related traffic offense" is driving while intoxicated,  
34 driving with excessive blood alcohol content, involuntary manslaughter pursuant  
35 to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the  
36 second degree under section 565.021, RSMo, where the underlying felony is an  
37 intoxication-related traffic offense, assault in the second degree pursuant to  
38 subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law  
39 enforcement officer in the second degree pursuant to subdivision (4) of subsection  
40 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in  
41 violation of state law or a county or municipal ordinance[, where the defendant  
42 was represented by or waived the right to an attorney in writing];

43 (4) A "persistent offender" is one of the following:

44 (a) A person who has pleaded guilty to or has been found guilty of two or  
45 more intoxication-related traffic offenses;

46 (b) A person who has pleaded guilty to or has been found guilty of  
47 involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of  
48 section 565.024, RSMo, assault in the second degree pursuant to subdivision (4)  
49 of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in  
50 the second degree pursuant to subdivision (4) of subsection 1 of section 565.082,  
51 RSMo; and

52 (5) A "prior offender" is a person who has pleaded guilty to or has been  
53 found guilty of one intoxication-related traffic offense, where such prior offense  
54 occurred within five years of the occurrence of the intoxication-related traffic  
55 offense for which the person is charged.

56 2. Any person who pleads guilty to or is found guilty of a violation of  
57 section 577.010 or 577.012 who is alleged and proved to be a prior offender shall  
58 be guilty of a class A misdemeanor.

59 3. Any person who pleads guilty to or is found guilty of a violation of  
60 section 577.010 or 577.012 who is alleged and proved to be a persistent offender  
61 shall be guilty of a class D felony.

62 4. Any person who pleads guilty to or is found guilty of a violation of

63 section 577.010 or section 577.012 who is alleged and proved to be an aggravated  
64 offender shall be guilty of a class C felony.

65 5. Any person who pleads guilty to or is found guilty of a violation of  
66 section 577.010 or section 577.012 who is alleged and proved to be a chronic  
67 offender shall be guilty of a class B felony.

68 6. No state, county, or municipal court shall suspend the imposition of  
69 sentence as to a prior offender, persistent offender, aggravated offender, or  
70 chronic offender under this section nor sentence such person to pay a fine in lieu  
71 of a term of imprisonment, section 557.011, RSMo, to the contrary  
72 notwithstanding. No prior offender shall be eligible for parole or probation until  
73 he or she has served a minimum of five days imprisonment, unless as a condition  
74 of such parole or probation such person performs at least thirty days of  
75 community service under the supervision of the court in those jurisdictions which  
76 have a recognized program for community service. No persistent offender shall  
77 be eligible for parole or probation until he or she has served a minimum of ten  
78 days imprisonment, unless as a condition of such parole or probation such person  
79 performs at least sixty days of community service under the supervision of the  
80 court. No aggravated offender shall be eligible for parole or probation until he  
81 or she has served a minimum of sixty days imprisonment. No chronic offender  
82 shall be eligible for parole or probation until he or she has served a minimum of  
83 two years imprisonment.

84 7. The state, county, or municipal court shall find the defendant to be a  
85 prior offender, persistent offender, aggravated offender, or chronic offender if:

86 (1) The indictment or information, original or amended, or the information  
87 in lieu of an indictment pleads all essential facts warranting a finding that the  
88 defendant is a prior offender or persistent offender; and

89 (2) Evidence is introduced that establishes sufficient facts pleaded to  
90 warrant a finding beyond a reasonable doubt the defendant is a prior offender,  
91 persistent offender, aggravated offender, or chronic offender; and

92 (3) The court makes findings of fact that warrant a finding beyond a  
93 reasonable doubt by the court that the defendant is a prior offender, persistent  
94 offender, aggravated offender, or chronic offender.

95 8. In a jury trial, the facts shall be pleaded, established and found prior  
96 to submission to the jury outside of its hearing.

97 9. In a trial without a jury or upon a plea of guilty, the court may defer  
98 the proof in findings of such facts to a later time, but prior to sentencing.

99           10. The defendant shall be accorded full rights of confrontation and  
100 cross-examination, with the opportunity to present evidence, at such hearings.

101           11. The defendant may waive proof of the facts alleged.

102           12. Nothing in this section shall prevent the use of presentence  
103 investigations or commitments.

104           13. At the sentencing hearing both the state, county, or municipality and  
105 the defendant shall be permitted to present additional information bearing on the  
106 issue of sentence.

107           14. The pleas or findings of guilty shall be prior to the date of commission  
108 of the present offense.

109           15. The court shall not instruct the jury as to the range of punishment or  
110 allow the jury, upon a finding of guilty, to assess and declare the punishment as  
111 part of its verdict in cases of prior offenders, persistent offenders, aggravated  
112 offenders, or chronic offenders.

113           16. Evidence of **a prior [convictions] plea of guilty or finding of guilty**  
114 **in an intoxication-related traffic offense** shall be heard and determined by  
115 the trial court out of the hearing of the jury prior to the submission of the case  
116 to the jury, and shall include but not be limited to evidence of convictions  
117 received by a search of the records of the Missouri uniform law enforcement  
118 system maintained by the Missouri state highway patrol. After hearing the  
119 evidence, the court shall enter its findings thereon. **[A conviction of a violation**  
120 **of a municipal or county ordinance in a county or municipal court for driving**  
121 **while intoxicated or a conviction or] A plea of guilty or a finding of guilty followed**  
122 **by a fine, incarceration, a suspended imposition of sentence, suspended**  
123 **execution of sentence, probation or parole or any combination thereof in any**  
124 **intoxication-related traffic offense in a state, county, or municipal court,**  
125 **or any combination thereof, shall be treated as a prior [conviction] plea of**  
126 **guilty or finding of guilty for purposes of this section.**

577.041. 1. If a person under arrest, or who has been stopped pursuant  
2 to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the  
3 request of the officer to submit to any test allowed pursuant to section 577.020,  
4 then none shall be given and evidence of the refusal shall be admissible in a  
5 proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or section  
6 577.010 or 577.012. The request of the officer shall include the reasons of the  
7 officer for requesting the person to submit to a test and also shall inform the  
8 person that evidence of refusal to take the test may be used against such person

9 and that the person's license shall be immediately revoked upon refusal to take  
10 the test. If a person when requested to submit to any test allowed pursuant to  
11 section 577.020 requests to speak to an attorney, the person shall be granted  
12 twenty minutes in which to attempt to contact an attorney. If upon the  
13 completion of the twenty-minute period the person continues to refuse to submit  
14 to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf  
15 of the director of revenue, serve the notice of license revocation personally upon  
16 the person and shall take possession of any license to operate a motor vehicle  
17 issued by this state which is held by that person. The officer shall issue a  
18 temporary permit, on behalf of the director of revenue, which is valid for fifteen  
19 days and shall also give the person a notice of such person's right to file a  
20 petition for review to contest the license revocation.

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

24 (1) That the officer has:

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

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

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

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

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

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

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

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

44 3. Upon receipt of the officer's report, the director shall revoke the license

45 of the person refusing to take the test for a period of one year; or if the person is  
46 a nonresident, such person's operating permit or privilege shall be revoked for one  
47 year; or if the person is a resident without a license or permit to operate a motor  
48 vehicle in this state, an order shall be issued denying the person the issuance of  
49 a license or permit for a period of one year.

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

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

65 (2) Whether or not the officer had:

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

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

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

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

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

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

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

109           8. The fees for the substance abuse traffic offender program, or a portion  
110 thereof to be determined by the division of alcohol and drug abuse of the  
111 department of mental health, shall be paid by the person enrolled in the  
112 program. Any person who is enrolled in the program shall pay, in addition to any  
113 fee charged for the program, a supplemental fee to be determined by the  
114 department of mental health for the purposes of funding the substance abuse  
115 traffic offender program defined in section 302.010, RSMo, and section  
116 577.001. The administrator of the program shall remit to the division of alcohol

117 and drug abuse of the department of mental health on or before the fifteenth day  
118 of each month the supplemental fee for all persons enrolled in the program, less  
119 two percent for administrative costs. Interest shall be charged on any unpaid  
120 balance of the supplemental fees due the division of alcohol and drug abuse  
121 pursuant to this section and shall accrue at a rate not to exceed the annual rates  
122 established pursuant to the provisions of section 32.065, RSMo, plus three  
123 percentage points. The supplemental fees and any interest received by the  
124 department of mental health pursuant to this section shall be deposited in the  
125 mental health earnings fund which is created in section 630.053, RSMo.

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

136       **10. Any person who has had a license to operate a motor vehicle**  
137 **revoked more than once for violation of the provisions of this section**  
138 **shall be required to file proof with the director of revenue that any**  
139 **motor vehicle operated by the person is equipped with a functioning,**  
140 **certified ignition interlock device as a required condition of license**  
141 **reinstatement. Such ignition interlock device shall further be required**  
142 **to be maintained on all motor vehicles operated by the person for a**  
143 **period of not less than six months immediately following the date of**  
144 **reinstatement. If the person fails to maintain such proof with the**  
145 **director as required by this section, the license shall be rerevoked and**  
146 **the person shall be guilty of a class A misdemeanor.**

147       **11. The revocation period of any person whose license and**  
148 **driving privilege has been revoked under this section and who has filed**  
149 **proof of financial responsibility with the department of revenue in**  
150 **accordance with chapter 303, RSMo, and is otherwise eligible, shall be**  
151 **terminated by a notice from the director of revenue after one year from**  
152 **the effective date of the revocation. Unless proof of financial**

153 responsibility is filed with the department of revenue, the revocation  
154 shall remain in effect for a period of two years from its effective date.  
155 If the person fails to maintain proof of financial responsibility in  
156 accordance with chapter 303, RSMo, the person's license and driving  
157 privilege shall be rerevoked and the person shall be guilty of a class A  
158 misdemeanor.

577.600. 1. In addition to any other provisions of law, a court may require  
2 that any person who is found guilty of or pleads guilty to a first  
3 intoxication-related traffic offense, as defined in section 577.023, and a court shall  
4 require that any person who is found guilty of or pleads guilty to a second or  
5 subsequent intoxication-related traffic offense, as defined in section 577.023, shall  
6 not operate any motor vehicle unless that vehicle is equipped with a functioning,  
7 certified ignition interlock device for a period of not less than [one month] **six**  
8 **months** from the date of reinstatement of the person's driver's license. In  
9 addition, any court authorized to grant a limited driving privilege under section  
10 302.309, RSMo, to any person who is found guilty of or pleads guilty to a second  
11 or subsequent intoxication-related traffic offense shall require the use of an  
12 ignition interlock device on all vehicles operated by the person as a required  
13 condition of the limited driving privilege. **These requirements shall be in**  
14 **addition to any other provisions of this chapter or chapter 302, RSMo,**  
15 **requiring installation and maintenance of an ignition interlock**  
16 **device.** Any person required to use an ignition interlock device, **either under**  
17 **the provisions of this chapter or chapter 302, RSMo,** shall comply with  
18 [the court order,] **such requirement** subject to the penalties provided by this  
19 section.

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

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

3 the cost of the ignition interlock device.

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

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

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

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

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

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

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

6           2. It is unlawful to blow into an ignition interlock device or to start a  
7 motor vehicle equipped with the device for the purpose of providing an operable

8 motor vehicle to a person whose driving privilege is restricted pursuant to  
9 **[section 577.600] the provisions of this chapter or chapter 302, RSMo.**

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

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

Section B. The repeal and reenactment of sections 302.010, 302.060,  
2 302.304, 302.309, 302.525, 577.041, 577.600, 577.602, and 577.612, of this act  
3 shall become effective on July 1, 2009.

Section C. Because immediate action is necessary to rectify a recent  
2 Supreme Court ruling which held that a defendant's prior guilty plea and  
3 suspended imposition of sentence in municipal court could not be used to enhance  
4 the punishment for the defendant's new intoxication-related traffic offense,  
5 section 577.023 of this act is deemed necessary for the immediate preservation of  
6 the public health, welfare, peace, and safety, and is hereby declared to be an  
7 emergency act within the meaning of the constitution, and section 577.023 of this  
8 act shall be in full force and effect upon its passage and approval.

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