

SECOND REGULAR SESSION

HOUSE BILL NO. 2252

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ST. ONGE.

Read 1st time February 21, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4080L.01I

AN ACT

To repeal sections 302.545, 302.700, 302.775, and 311.326, RSMo, and to enact in lieu thereof four new sections relating to commercial driver's licenses, with penalty provisions.

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

Section A. Sections 302.545, 302.700, 302.775, and 311.326, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 302.545, 302.700, 302.775,
3 and 311.326, to read as follows:

302.545. 1. Any person who is less than twenty-one years of age and whose driving
2 privilege has been suspended or revoked, for a first determination under sections 302.500 to
3 302.540, that such person was driving with two-hundredths of one percent of blood alcohol
4 content, shall have all official records and all recordations maintained by the department of
5 revenue of such suspension or revocation expunged two years after the date of such suspension
6 or revocation, or when such person attains the age of twenty-one, whichever date first occurs.
7 Such expungement shall be performed by the department of revenue without need of a court
8 order. No records shall be expunged if the person was found guilty or pled guilty to operating
9 a commercial motor vehicle, as defined in section 302.700, with a blood alcohol content of at
10 least four-hundredths of one percent, **or if the person held a commercial driver's license at**
11 **the time of the offense.**

12 2. The provisions of this section shall not apply to any person whose license is suspended
13 or revoked for a second or subsequent time pursuant to subsection 1 of this section or who is

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 convicted of any alcohol-related driving offense before the age of twenty-one including, but not
15 limited to:

16 (1) Driving while intoxicated pursuant to section 577.010, RSMo; or

17 (2) Driving with excessive blood alcohol content pursuant to section 577.012, RSMo.
302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial
2 Driver's License Act".

3 2. When used in sections 302.700 to 302.780, the following words and phrases mean:

4 (1) "Alcohol", any substance containing any form of alcohol, including, but not limited
5 to, ethanol, methanol, propanol and isopropanol;

6 (2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters
7 of blood or the number of grams of alcohol per two hundred ten liters of breath or the number
8 of grams of alcohol per sixty-seven milliliters of urine;

9 (3) "Commercial driver's instruction permit", a permit issued pursuant to section
10 302.720;

11 (4) "Commercial driver's license", a license issued by this state to an individual which
12 authorizes the individual to operate a commercial motor vehicle;

13 (5) "Commercial driver's license information system", the information system established
14 pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub. Law 99-570)
15 to serve as a clearinghouse for locating information related to the licensing and identification of
16 commercial motor vehicle drivers;

17 (6) "Commercial motor vehicle", a motor vehicle designed or used to transport
18 passengers or property:

19 (a) If the vehicle has a gross combination weight rating of twenty-six thousand one or
20 more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand
21 one pounds or more;

22 (b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more
23 pounds or such lesser rating as determined by federal regulation;

24 (c) If the vehicle is designed to transport sixteen or more passengers, including the
25 driver; or

26 (d) If the vehicle is transporting hazardous materials and is required to be placarded
27 under the Hazardous Materials Transportation Act (46 U.S.C. 1801 et seq.);

28 (7) "Controlled substance", any substance so classified under Section 102(6) of the
29 Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules
30 I through V of 21 CFR part 1308, as they may be revised from time to time;

31 (8) "Conviction", an unvacated adjudication of guilt, including pleas of guilt and nolo
32 contendere, or a determination that a person has violated or failed to comply with the law in a

33 court of original jurisdiction or an authorized administrative proceeding, an unvacated forfeiture
34 of bail or collateral deposited to secure the person's appearance in court, the payment of a fine
35 or court cost, or violation of a condition of release without bail, regardless of whether the penalty
36 is rebated, suspended or prorated;

37 (9) "Director", the director of revenue or his authorized representative;

38 (10) "Disqualification", any of the following three actions:

39 (a) The suspension, revocation, or cancellation of a commercial driver's license;

40 (b) Any withdrawal of a person's privileges to drive a commercial motor vehicle by a
41 state as the result of a violation of federal, state, county, municipal, or local law relating to motor
42 vehicle traffic control or violations committed through the operation of motor vehicles, other
43 than parking, vehicle weight, or vehicle defect violations;

44 (c) A determination by the Federal Motor Carrier Safety Administration that a person
45 is not qualified to operate a commercial motor vehicle under 49 CFR Part 383.52 or Part 391;

46 (11) "Drive", to drive, operate or be in physical control of a commercial motor vehicle;

47 (12) "Driver", any person who drives, operates, or is in physical control of a motor
48 vehicle, or who is required to hold a commercial driver's license;

49 (13) "Driving under the influence of alcohol", the commission of any one or more of the
50 following acts:

51 (a) Driving a commercial motor vehicle with the alcohol concentration of four
52 one-hundredths of a percent or more as prescribed by the secretary or such other alcohol
53 concentration as may be later determined by the secretary by regulation;

54 (b) Driving a commercial or noncommercial motor vehicle while intoxicated in violation
55 of any federal or state law, or in violation of a county or municipal ordinance;

56 (c) Driving a commercial or noncommercial motor vehicle with excessive blood alcohol
57 content in violation of any federal or state law, or in violation of a county or municipal
58 ordinance;

59 (d) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section
60 302.750, any federal or state law, or a county or municipal ordinance; or

61 (e) Having any state, county or municipal alcohol-related enforcement contact, as defined
62 in subsection 3 of section 302.525; provided that any suspension or revocation pursuant to
63 section 302.505, committed in a noncommercial motor vehicle by an individual twenty-one years
64 of age or older shall have been committed by the person with an alcohol concentration of at least
65 eight-hundredths of one percent or more, or in the case of an individual who is less than
66 twenty-one years of age, shall have been committed by the person with an alcohol concentration
67 of at least two-hundredths of one percent or more, and if committed in a commercial motor
68 vehicle, a concentration of four-hundredths of one percent or more;

69 (14) "Driving under the influence of a controlled substance", the commission of any one
70 or more of the following acts in a commercial or noncommercial motor vehicle:

71 (a) Driving a commercial or noncommercial motor vehicle while under the influence of
72 any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C.
73 802(6)), including any substance listed in schedules I through V of 21 CFR Part 1308, as they
74 may be revised from time to time;

75 (b) Driving a commercial or noncommercial motor vehicle while in a drugged condition
76 in violation of any federal or state law or in violation of a county or municipal ordinance; or

77 (c) Refusing to submit to a chemical test in violation of section 577.041, RSMo, section
78 302.750, any federal or state law, or a county or municipal ordinance;

79 (15) "Employer", any person, including the United States, a state, or a political
80 subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to
81 operate such a vehicle;

82 (16) "Farm vehicle", a commercial motor vehicle controlled and operated by a farmer
83 used exclusively for the transportation of agricultural products, farm machinery, farm supplies,
84 or a combination of these, **to or from the farm**, within one hundred fifty miles of the farm, other
85 than one which requires placarding for hazardous materials as defined in this section, or used in
86 the operation of a common or contract motor carrier, except that a farm vehicle shall not be a
87 commercial motor vehicle when the total combined gross weight rating does not exceed
88 twenty-six thousand one pounds when transporting fertilizers as defined in subdivision (21) of
89 this subsection;

90 (17) "Fatality", the death of a person as a result of a motor vehicle accident;

91 (18) "Felony", any offense under state or federal law that is punishable by death or
92 imprisonment for a term exceeding one year;

93 (19) "Gross combination weight rating" or "GCWR", the value specified by the
94 manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a
95 value specified by the manufacturer, GCWR will be determined by adding the GVWR of the
96 power unit and the total weight of the towed unit and any load thereon;

97 (20) "Gross vehicle weight rating" or "GVWR", the value specified by the manufacturer
98 as the loaded weight of a single vehicle;

99 (21) "Hazardous materials", [hazardous materials as specified in Section 103 of the
100 Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.). Fertilizers, including but not
101 limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel
102 or special fuel, shall not be considered hazardous materials when transported by a farm vehicle
103 provided all other provisions of this definition are followed] **any material that has been**
104 **designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under**

105 **subpart F of 49 C.F.R Part 172 or any quantity of a material listed as a select agent or toxin**
106 **in 42 C.F.R Part 73;**

107 (22) "Imminent hazard", the existence of a condition that presents a substantial
108 likelihood that death, serious illness, severe personal injury, or a substantial endangerment to
109 health, property, or the environment may occur before the reasonably foreseeable completion
110 date of a formal proceeding begins to lessen the risk of that death, illness, injury, or
111 endangerment;

112 (23) "Issuance", the initial licensure, license transfers, license renewals, and license
113 upgrades;

114 (24) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks;

115 (25) "Noncommercial motor vehicle", a motor vehicle or combination of motor vehicles
116 not defined by the term "commercial motor vehicle" in this section;

117 (26) "Out of service", a temporary prohibition against the operation of a commercial
118 motor vehicle by a particular driver, or the operation of a particular commercial motor vehicle,
119 or the operation of a particular motor carrier;

120 (27) "Out-of-service order", a declaration by the Federal Highway Administration, or any
121 authorized enforcement officer of a federal, state, Commonwealth of Puerto Rico, Canadian,
122 Mexican or any local jurisdiction, that a driver, or a commercial motor vehicle, or a motor carrier
123 operation, is out of service;

124 (28) "School bus", a commercial motor vehicle used to transport preprimary, primary,
125 or secondary school students from home to school, from school to home, or to and from
126 school-sponsored events. School bus does not include a bus used as a common carrier as defined
127 by the Secretary;

128 (29) "Secretary", the Secretary of Transportation of the United States;

129 (30) "Serious traffic violation", driving a commercial motor vehicle in such a manner
130 that the driver receives a conviction for the following offenses or driving a noncommercial motor
131 vehicle when the driver receives a conviction for the following offenses and the conviction
132 results in the suspension or revocation of the driver's license or noncommercial motor vehicle
133 driving privilege:

134 (a) Excessive speeding, as defined by the Secretary by regulation;

135 (b) Careless, reckless or imprudent driving which includes, but shall not be limited to,
136 any violation of section 304.016, RSMo, any violation of section 304.010, RSMo, or any other
137 violation of federal or state law, or any county or municipal ordinance while driving a
138 commercial motor vehicle in a willful or wanton disregard for the safety of persons or property,
139 or improper or erratic traffic lane changes, or following the vehicle ahead too closely, but shall
140 not include careless and imprudent driving by excessive speed;

141 (c) A violation of any federal or state law or county or municipal ordinance regulating
142 the operation of motor vehicles arising out of an accident or collision which resulted in death to
143 any person, other than a parking violation;

144 (d) Driving a commercial motor vehicle without obtaining a commercial driver's license
145 in violation of any federal or state or county or municipal ordinance;

146 (e) Driving a commercial motor vehicle without a commercial driver's license in the
147 driver's possession in violation of any federal or state or county or municipal ordinance. Any
148 individual who provides proof to the court which has jurisdiction over the issued citation that the
149 individual held a valid commercial driver's license on the date that the citation was issued shall
150 not be guilty of this offense;

151 (f) Driving a commercial motor vehicle without the proper commercial driver's license
152 class or endorsement for the specific vehicle group being operated or for the passengers or type
153 of cargo being transported in violation of any federal or state law or county or municipal
154 ordinance; or

155 (g) Any other violation of a federal or state law or county or municipal ordinance
156 regulating the operation of motor vehicles, other than a parking violation, as prescribed by the
157 secretary by regulation;

158 (31) "State", a state, territory or possession of the United States, the District of
159 Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada;

160 (32) "United States", the fifty states and the District of Columbia.

302.775. The provisions of sections 302.700 to 302.780 shall not apply to:

2 (1) Any person driving a farm vehicle as defined in section 302.700, **which is controlled**
3 **and operated by a farmer, including operation by employees or family members; used to**
4 **transport agricultural products, farm machinery, or farm supplies to or from a farm; not**
5 **used in the operations of a common or contract motor carrier; and used within one**
6 **hundred fifty miles of the farmer's farm;**

7 (2) Any active duty military personnel, members of the reserves and national guard on
8 active duty, including personnel on full-time national guard duty, personnel on part-time training
9 and national guard military technicians, while driving [military] vehicles for military purposes;

10 (3) Any person who drives emergency or fire equipment necessary to the preservation
11 of life or property or the execution of emergency governmental functions under emergency
12 conditions;

13 (4) Any person qualified to operate the equipment under subdivision (3) of this section
14 when operating such equipment in other functions such as parades, special events, repair, service
15 or other authorized movements;

16 (5) Any person driving or pulling a recreational vehicle, as defined in sections 301.010
17 and 700.010, RSMo, for personal use; and

18 (6) Any other class of persons exempted by rule or regulation of the director, which rule
19 or regulation is in compliance with the Commercial Motor Vehicle Safety Act of 1986 and any
20 amendments or regulations drafted to that act.

311.326. After a period of not less than one year, or upon reaching the age of twenty-one,
2 whichever occurs first, a person who has pleaded guilty to or has been found guilty of violating
3 section 311.325 for the first time, and who since such conviction has not been convicted of any
4 other alcohol-related offense, may apply to the court in which he or she was sentenced for an
5 order to expunge all official records of his or her arrest, plea, trial and conviction. **No records**
6 **shall be expunged if the person who has pled guilty to or has been found guilty of violating**
7 **section 311.325 is licensed as a commercial motor vehicle driver or was operating a**
8 **commercial motor vehicle, as defined in section 302.700, RSMo, at the time of the violation.**
9 If the court determines, upon review, that such person has not been convicted of any other
10 alcohol-related offense at the time of the application for expungement, and the person has had
11 no other alcohol-related enforcement contacts, as defined in section 302.525, RSMo, the court
12 shall enter an order of expungement. The effect of such an order shall be to restore such person
13 to the status he or she occupied prior to such arrest, plea or conviction, as if such event had never
14 happened. No person as to whom such order has been entered shall be held thereafter under any
15 provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his
16 or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in
17 response to any inquiry made of him or her for any purpose whatsoever. A person shall be
18 entitled to only one expungement pursuant to this section. Nothing contained in this section shall
19 prevent courts or other state officials from maintaining such records as are necessary to ensure
20 that an individual receives only one expungement pursuant to this section.

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