

FIRST REGULAR SESSION

HOUSE BILL NO. 1042

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GATSCHENBERGER (Sponsor),
KOENIG AND BIVINS (Co-sponsors).

2379L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.304, 302.525, and 577.600, RSMo, and to enact in lieu thereof three new sections relating to ignition interlock devices, with penalty provisions.

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

Section A. Sections 302.304, 302.525, and 577.600, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 302.304, 302.525, and 577.600, to read as follows:

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

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

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

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of

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

16 financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,
17 and is otherwise eligible, shall be reinstated as follows:

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

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

22 (3) In the case of the third and subsequent suspensions, ninety days after the effective
23 date of the suspension. Unless proof of financial responsibility is filed with the department of
24 revenue, a suspension shall continue in effect for two years from its effective date.

25 5. The period of suspension of the driver's license and driving privilege of any person
26 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has
27 accumulated sufficient points together with a conviction under subdivision (10) of subsection
28 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving
29 privilege as defined in section 302.010. Upon completion of such period of restricted driving
30 privilege, **upon compliance with subsection 17 of this section**, upon compliance with other
31 requirements of law, and upon filing of proof of financial responsibility with the department of
32 revenue[,] in accordance with chapter 303, RSMo, the license and driving privilege shall be
33 reinstated.

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

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

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

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

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

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

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

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

80 14. No person who has had a license to operate a motor vehicle suspended or revoked
81 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of
82 subsection 1 of section 302.302 shall have that license reinstated until such person has
83 participated in and successfully completed a substance abuse traffic offender program defined
84 in section 302.010, or a program determined to be comparable by the department of mental
85 health. Assignment recommendations, based upon the needs assessment as described in
86 subdivision (22) of section 302.010, shall be delivered in writing to the person with written

notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

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

16. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest

123 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
124 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
125 department of mental health within six months of the due date, the attorney general of the state
126 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
127 The court shall assess attorney fees and court costs against any delinquent program.

128 17. Any person who has had a license to operate a motor vehicle suspended or revoked
129 as a result of an assessment of points for a violation under subdivision **(8) or (9)** of subsection
130 1 of section 302.302 shall be required to file proof with the director of revenue that any motor
131 vehicle operated by the person is equipped with a functioning, certified ignition interlock device
132 as a required condition of reinstatement of the license. The ignition interlock device shall further
133 be required to be maintained on all motor vehicles operated by the person for a period of not less
134 than six months immediately following the date of reinstatement. If the person fails to maintain
135 such proof with the director, the license shall be resuspended or revoked and the person shall be
136 guilty of a class A misdemeanor.

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

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

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

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

21 (3) In no case shall restricted driving privileges be issued under this section to any person
22 [whose driving record shows one or more prior alcohol-related enforcement contacts] until the

23 person has completed the first thirty days of a suspension under this section and has filed proof
24 with the department of revenue that any motor vehicle operated by the person is equipped with
25 a functioning, certified ignition interlock device as a required condition of the restricted driving
26 privilege. If the person fails to maintain such proof the restricted driving privilege shall be
27 terminated.

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

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

43 5. Any person who has had a license to operate a motor vehicle revoked under this
44 section or suspended under this section [with one or more prior alcohol-related enforcement
45 contacts showing on their driver record] shall be required to file proof with the director of
46 revenue that any motor vehicle operated by that person is equipped with a functioning, certified
47 ignition interlock device as a required condition of reinstatement. The ignition interlock device
48 shall further be required to be maintained on all motor vehicles operated by the person for a
49 period of not less than six months immediately following the date of reinstatement. If the person
50 fails to maintain such proof with the director, the license shall be resuspended or revoked, as
51 applicable.

577.600. 1. In addition to any other provisions of law, a court [may] **shall** require that
2 any person who is found guilty of or pleads guilty to a first intoxication-related traffic offense,
3 as defined in section 577.023, and a court shall require that any person who is found guilty of or
4 pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section
5 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a functioning,
6 certified ignition interlock device for a period of not less than six months from the date of
7 reinstatement of the person's driver's license. In addition, any court authorized to grant a limited

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

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

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

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