

SECOND REGULAR SESSION

HOUSE BILL NO. 1743

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES STEVENSON (Sponsor), BRINGER,
KELLY AND FISCHER (107) (Co-sponsors).

4606L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.302, 302.309, 302.525, 302.700, 302.750, 479.020, 479.170, 577.001, 577.010, 577.012, 577.020, 577.021, 577.023, 577.039, 577.041, and 577.054, RSMo, and to enact in lieu thereof sixteen new sections relating to driving while intoxicated, with penalty provisions.

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

Section A. Sections 302.302, 302.309, 302.525, 302.700, 302.750, 479.020, 479.170, 577.001, 577.010, 577.012, 577.020, 577.021, 577.023, 577.039, 577.041, and 577.054, RSMo, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 302.302, 302.309, 302.525, 302.700, 302.750, 479.020, 479.170, 577.001, 577.005, 577.010, 577.012, 577.020, 577.021, 577.023, 577.039, and 577.041, to read as follows:

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

- (1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points (except any violation of municipal stop sign ordinance where no accident is involved 1 point)
- (2) Speeding In violation of a state law 3 points

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.

- 12 In violation of a county or municipal ordinance 2 points
- 13 (3) Leaving the scene of an accident in
- 14 violation of section 577.060, RSMo 12 points
- 15 In violation of any county or municipal ordinance 6 points
- 16 (4) Careless and imprudent driving in
- 17 violation of subsection 4 of section 304.016, RSMo 4 points
- 18 In violation of a county or municipal ordinance 2 points
- 19 (5) Operating without a valid license
- 20 in violation of subdivision (1) or (2) of
- 21 subsection 1 of section 302.020:
- 22 (a) For the first conviction 2 points
- 23 (b) For the second conviction 4 points
- 24 (c) For the third conviction 6 points
- 25 (6) Operating with a suspended or revoked
- 26 license prior to restoration of operating
- 27 privileges 12 points
- 28 (7) Obtaining a license by misrepresentation 12 points
- 29 (8) For the first conviction of driving while
- 30 in an intoxicated condition or under the influence
- 31 of controlled substances or drugs 8 points
- 32 (9) For the second or subsequent conviction
- 33 of any of the following offenses however combined:
- 34 driving while in an intoxicated condition,
- 35 driving under the influence of controlled substances
- 36 or drugs or driving with a blood alcohol content of
- 37 eight-hundredths of one percent or more by weight 12 points
- 38 (10) For the first conviction for driving
- 39 with blood alcohol content eight-hundredths of
- 40 one percent or more by weight In violation of state law 8 points
- 41 In violation of a county or municipal ordinance
- 42 or federal law or regulation 8 points
- 43 (11) Any felony involving the use of a
- 44 motor vehicle 12 points
- 45 (12) Knowingly permitting unlicensed
- 46 operator to operate a motor vehicle 4 points
- 47 (13) For a conviction for failure to maintain

48 financial responsibility pursuant to county or
49 municipal ordinance or pursuant to section 303.025,
50 RSMo 4 points
51 (14) Endangerment of a highway worker in
52 violation of section 304.585, RSMo 4 points
53 (15) Aggravated endangerment of a highway
54 worker in violation of section 304.585, RSMo 12 points
55 (16) For a conviction of violating a municipal
56 ordinance that prohibits tow truck operators from
57 stopping at or proceeding to the scene of an accident
58 unless they have been requested to stop or proceed
59 to such scene by a party involved in such accident
60 or by an officer of a public safety agency 4 points
61 **(17) Refusal to submit to a chemical test in**
62 **violation of section 570.020 or 570.021 2 points**
63 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
64 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section
65 302.020, when the director issues such operator a license or permit pursuant to the provisions
66 of sections 302.010 to 302.340.
67 3. An additional two points shall be assessed when personal injury or property damage
68 results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if
69 found to be warranted and certified by the reporting court.
70 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
71 section constitutes both a violation of a state law and a violation of a county or municipal
72 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an
73 offense arising out of the same occurrence could be construed to be a violation of subdivisions
74 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted [for] , **plead**
75 **guilty to, or be found guilty of** more than one offense pursuant to subdivisions (8), (9) and (10)
76 of subsection 1 of this section for offenses arising out of the same occurrence.
77 5. The director of revenue shall put into effect a system for staying the assessment of
78 points against an operator. The system shall provide that the satisfactory completion of a
79 driver-improvement program or, in the case of violations committed while operating a
80 motorcycle, a motorcycle-rider training course approved by the state highways and transportation
81 commission, by an operator, when so ordered and verified by any court having jurisdiction over
82 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a
83 violation committed in a commercial motor vehicle as defined in section 302.700 or a violation

84 committed by an individual who has been issued a commercial driver's license or is required to
85 obtain a commercial driver's license in this state or any other state, shall be accepted by the
86 director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4)
87 of subsection 1 of this section or pursuant to subsection 3 of this section. A court using a
88 centralized violation bureau established under section 476.385, RSMo, may elect to have the
89 bureau order and verify completion of a driver-improvement program or motorcycle-rider
90 training course as prescribed by order of the court. For the purposes of this subsection, the
91 driver-improvement program shall meet or exceed the standards of the National Safety Council's
92 eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the
93 operation of a motorcycle, the program shall meet the standards established by the state highways
94 and transportation commission pursuant to sections 302.133 to 302.137. The completion of a
95 driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu
96 of points more than one time in any thirty-six-month period and shall be completed within sixty
97 days of the date of conviction in order to be accepted in lieu of the assessment of points. Every
98 court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days
99 after completion of the driver-improvement program or motorcycle-rider training course by an
100 operator, forward a record of the completion to the director, all other provisions of the law to the
101 contrary notwithstanding. The director shall establish procedures for record keeping and the
102 administration of this subsection.

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

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

7 3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear
8 applications and make eligibility determinations granting limited driving privileges. Any
9 application may be made in writing to the director of revenue and the person's reasons for
10 requesting the limited driving privilege shall be made therein.

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

- 13 (a) A business, occupation, or employment;
- 14 (b) Seeking medical treatment for such operator;
- 15 (c) Attending school or other institution of higher education;
- 16 (d) Attending alcohol or drug treatment programs;
- 17 (e) Seeking the required services of a certified ignition interlock device provider; or

18 (f) Any other circumstance the court or director finds would create an undue hardship
19 on the operator; the court or director may grant such limited driving privilege as the
20 circumstances of the case justify if the court or director finds undue hardship would result to the
21 individual, and while so operating a motor vehicle within the restrictions and limitations of the
22 limited driving privilege the driver shall not be guilty of operating a motor vehicle without a
23 valid license.

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

40 (4) No limited driving privilege shall be issued to any person otherwise eligible under
41 the provisions of paragraph (a), **(e), or (g)** of subdivision (6) of this subsection [on a license
42 revocation resulting from a conviction under subdivision (9) of subsection 1 of section 302.302,]
43 **whose driving record shows one or more prior alcohol-related enforcement contacts as**
44 **defined in subsection 3 of section 302.525, or a license denial under paragraph (h) or (i) of**
45 **subdivision (6) of this subsection,** or a license denial under paragraph (a) or (b) of subdivision
46 (8) of this subsection, until the applicant has filed proof with the department of revenue that any
47 motor vehicle operated by the person is equipped with a functioning, certified ignition interlock
48 device as a required condition of limited driving privilege.

49 (5) The court order or the director's grant of the limited or restricted driving privilege
50 shall indicate the termination date of the privilege, which shall be not later than the end of the
51 period of suspension or revocation. A copy of any court order shall be sent by the clerk of the
52 court to the director, and a copy shall be given to the driver which shall be carried by the driver
53 whenever such driver operates a motor vehicle. The director of revenue upon granting a limited

54 driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant
55 shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction
56 which results in the assessment of points pursuant to section 302.302, other than a violation of
57 a municipal stop sign ordinance where no accident is involved, against a driver who is operating
58 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points
59 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the
60 limited driving privilege, the privilege shall not be terminated. Failure of the driver to maintain
61 proof of financial responsibility, as required by chapter 303, or to maintain proof of installation
62 of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege.
63 The director shall notify by ordinary mail the driver whose privilege is so terminated.

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

68 (a) A conviction [of violating the provisions of] , **plea of guilty, or finding of guilt**
69 **under** section 577.010 or 577.012, RSMo, **not including any conviction, plea of guilty, or**
70 **finding of guilt for an offense listed in paragraph (i) of this subsection**, or any similar
71 provision of any federal or state law, or a municipal or county law where the judge in such case
72 was an attorney and the defendant was represented by or waived the right to an attorney in
73 writing, until the person has completed the first thirty days of a suspension or revocation imposed
74 pursuant to this chapter;

75 (b) A conviction [of] , **plea of guilty, or finding of guilt for** any felony in the
76 commission of which a motor vehicle was used;

77 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
78 (6), (7), (8), (9), (10) or (11) of section 302.060;

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

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

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

87 (g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not
88 completed the first thirty days of such suspension, provided the person is not otherwise ineligible

89 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525
90 if such person has not completed such revocation;

91 **(h) A conviction, finding of guilt, or plea of guilty for refusal to submit to a**
92 **chemical test under section 577.020 or 577.021; or**

93 **(i) A conviction, finding of guilt, or plea of guilty for violating section 577.010 when**
94 **the person's blood alcohol content is fifteen-hundredths of one percent or more by weight**
95 **of alcohol in such person's blood or any similar provision of any other state or federal law,**
96 **until the person has completed the first ninety days of a suspension or revocation imposed**
97 **under this chapter, followed immediately by a two hundred seventy-five day period of**
98 **restricted driving privilege as defined in section 302.010 and issued by the director of**
99 **revenue.**

100 (7) No person who possesses a commercial driver's license shall receive a limited driving
101 privilege issued for the purpose of operating a commercial motor vehicle if such person's driving
102 privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall
103 prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial
104 motor vehicle provided that pursuant to the provisions of this section, the applicant is not
105 otherwise ineligible for a limited driving privilege.

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

116 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
117 ineligible for a limited driving privilege or convicted of involuntary manslaughter while
118 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the
119 manner prescribed in this subsection, allow a person who has had such person's license to operate
120 a motor vehicle revoked where that person cannot obtain a new license for a period of five years
121 because of two [convictions] **offenses** of driving while intoxicated, as prescribed in subdivision
122 (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if
123 such person has served at least two years of such disqualification or revocation. Such person
124 shall present evidence satisfactory to the court or the director that such person has not been

125 convicted of, **pled guilty to, or been found guilty of** any offense related to alcohol, controlled
126 substances or drugs during the preceding two years and that the person's habits and conduct show
127 that the person no longer poses a threat to the public safety of this state. Any person who is
128 denied a license permanently in this state because of an alcohol-related conviction, **plea of**
129 **guilty, or finding of guilt** subsequent to a restoration of such person's driving privileges
130 pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege
131 pursuant to the provisions of this subdivision.

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

139 5. The director of revenue shall promulgate rules and regulations necessary to carry out
140 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
141 536.010, RSMo, that is created under the authority delegated in this section shall become
142 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
143 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
144 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
145 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
146 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
147 after August 28, 2001, shall be invalid and void.

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

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

11 (1) If the person's driving record shows no prior alcohol-related enforcement contacts
12 during the immediately preceding five years, the period of suspension shall be thirty days after
13 the effective date of suspension, followed by a sixty-day period of restricted driving privilege as

14 defined in section 302.010 and issued by the director of revenue. The restricted driving privilege
15 shall not be issued until he or she has filed proof of financial responsibility with the department
16 of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall
17 restricted driving privileges be issued pursuant to this section or section 302.535 until the person
18 has completed the first thirty days of a suspension under this section;

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

21 (3) **If the person was operating a motor vehicle when the person's blood alcohol**
22 **content was fifteen-hundredths of one percent or more by weight of alcohol in such**
23 **person's blood, and the person's driving record shows no prior alcohol-related enforcement**
24 **contacts during the immediately preceding five years, the period of revocation shall be for**
25 **a period of ninety days, followed immediately by a two hundred seventy-five day period**
26 **of restricted driving privilege as defined in section 302.010 and issued by the director of**
27 **revenue.**

28 (4) In no case shall restricted driving privileges be issued under this section to any person
29 whose driving record shows one or more prior alcohol-related enforcement contacts until the
30 person has completed the first thirty days of a suspension under [this section] **subdivision (1)**
31 **of this subsection, or the first ninety days of a revocation under subdivision (3) of this**
32 **subsection** and has filed proof with the department of revenue that any motor vehicle operated
33 by the person is equipped with a functioning, certified ignition interlock device as a required
34 condition of the restricted driving privilege. If the person fails to maintain such proof the
35 restricted driving privilege shall be terminated.

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

43 4. Where a license is suspended or revoked under this section and the person is also
44 convicted, **found guilty, or pled guilty** on charges arising out of the same occurrence for a
45 violation of section 577.010 or 577.012, RSMo, or for a violation of any county or municipal
46 ordinance prohibiting driving while intoxicated or alcohol-related traffic offense, both the
47 suspension or revocation under this section and any other suspension or revocation arising from
48 such convictions shall be imposed, but the period of suspension or revocation under sections
49 302.500 to 302.540 shall be credited against any other suspension or revocation arising from

50 such convictions, and the total period of suspension or revocation shall not exceed the longer of
51 the two suspension or revocation periods.

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

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, **whether sentence is imposed or suspended**, or a determination that a person has
33 violated or failed to comply with the law in a court of original jurisdiction or an authorized
34 administrative proceeding, an unvacated forfeiture of bail or collateral deposited to secure the
35 person's appearance in court, the payment of a fine or court cost, or violation of a condition of
36 release without bail, regardless of whether the penalty is rebated, suspended or prorated,
37 including an offense for failure to appear or pay;

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

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

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

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

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

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

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

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

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

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

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

60 (d) Refusing to submit to a chemical test in violation of section 577.020, 577.021,
61 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance;
62 or

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

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

73 (a) Driving a commercial or noncommercial motor vehicle while under the influence of
74 any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C.
75 802(6)), including any substance listed in schedules I through V of 21 CFR Part 1308, as they
76 may be revised from time to time;

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

79 (c) Refusing to submit to a chemical test in violation of section 577.020, 577.021,
80 577.041, RSMo, section 302.750, any federal or state law, or a county or municipal ordinance;

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

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

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

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

94 (19) "Gross combination weight rating" or "GCWR", the value specified by the
95 manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a

96 value specified by the manufacturer, GCWR will be determined by adding the GVWR of the
97 power unit and the total weight of the towed unit and any load thereon;

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

100 (21) "Hazardous materials", any material that has been designated as hazardous under
101 49 U.S.C. 5103 and is required to be placarded under subpart F of CFR Part 172 or any quantity
102 of a material listed as a select agent or toxin in 42 CFR Part 73. Fertilizers, including but not
103 limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel
104 or special fuel, shall not be considered hazardous materials when transported by a farm vehicle
105 provided all other provisions of this definition are followed;

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

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

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

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

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

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

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

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

128 (30) "Serious traffic violation", driving a commercial motor vehicle in such a manner
129 that the driver receives a conviction for the following offenses or driving a noncommercial motor
130 vehicle when the driver receives a conviction for the following offenses and the conviction

131 results in the suspension or revocation of the driver's license or noncommercial motor vehicle
132 driving privilege:

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

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

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

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

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

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

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

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

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

302.750. 1. If a person refuses, upon the request of a law enforcement officer pursuant
2 to section 302.745, to submit to any test allowed under that section, [then none shall be given
3 and] evidence of the refusal shall be admissible in any proceeding to determine whether a person
4 was operating a commercial motor vehicle while under the influence of alcohol or controlled
5 substances. In this event, the officer shall make a sworn report to the director that he requested
6 a test pursuant to section 302.745 and that the person refused to submit to such testing.

7 2. A person requested to submit to a test as provided by section 302.745 shall be warned
8 by the law enforcement officer requesting the test that a refusal to submit to the test will result
9 in that person being immediately placed out of service for a period of twenty-four hours and
10 being disqualified from operating a commercial motor vehicle for a period of not less than one
11 year if for a first refusal to submit to the test and for life if for a second or subsequent refusal to
12 submit to the test, **and that refusal to submit to a chemical test is a violation of section**
13 **577.020 or 577.021, or a class A misdemeanor.** The director may issue rules and regulations,
14 in accordance with guidelines established by the secretary, under which a disqualification for life
15 under this section may be reduced to a period of not less than ten years.

16 3. Upon receipt of the sworn report of a law enforcement officer submitted under
17 subsection 1 of this section, the director shall disqualify the driver from operating a commercial
18 motor vehicle.

19 4. If a person has been disqualified from operating a commercial motor vehicle because
20 of his refusal to submit to a chemical test, he may request a hearing before a court of record in
21 the county in which the request was made. Upon his request, the clerk of the court shall notify
22 the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf
23 of the officer. At the hearing the judge shall determine only:

24 (1) Whether or not the law enforcement officer had reasonable grounds to believe that
25 the person was driving a commercial motor vehicle with any amount of alcohol in his system;

26 (2) Whether or not the person refused to submit to the test.

27 5. If the judge determines any issues not to be in the affirmative, he shall order the
28 director to reinstate the privilege to operate a commercial motor vehicle.

29 6. Requests for review as herein provided shall go to the head of the docket of the court
30 wherein filed.

479.020. 1. Any city, town or village, including those operating under a constitutional
2 or special charter, may, and cities with a population of four hundred thousand or more shall,
3 provide by ordinance or charter for the selection, tenure and compensation of a municipal judge
4 or judges consistent with the provisions of this chapter who shall have original jurisdiction to
5 hear and determine all violations against the ordinances of the municipality. The method of
6 selection of municipal judges shall be provided by charter or ordinance. Each municipal judge
7 shall be selected for a term of not less than two years as provided by charter or ordinance.

8 2. Except where prohibited by charter or ordinance, the municipal judge may be a
9 part-time judge and may serve as municipal judge in more than one municipality.

10 3. No person shall serve as a municipal judge of any municipality with a population of
11 seven thousand five hundred or more or of any municipality in a county of the first class with a
12 charter form of government unless the person is licensed to practice law in this state unless, prior

13 to January 2, 1979, such person has served as municipal judge of that same municipality for at
14 least two years.

15 4. Notwithstanding any other statute, a municipal judge need not be a resident of the
16 municipality or of the circuit in which the municipal judge serves except where ordinance or
17 charter provides otherwise. Municipal judges shall be residents of Missouri.

18 5. Judges selected under the provisions of this section shall be municipal judges of the
19 circuit court and shall be divisions of the circuit court of the circuit in which the municipality,
20 or major geographical portion thereof, is located. The judges of these municipal divisions shall
21 be subject to the rules of the circuit court which are not inconsistent with the rules of the supreme
22 court. The presiding judge of the circuit shall have general administrative authority over the
23 judges and court personnel of the municipal divisions within the circuit.

24 6. No municipal judge shall hold any other office in the municipality which the
25 municipal judge serves as judge. The compensation of any municipal judge and other court
26 personnel shall not be dependent in any way upon the number of cases tried, the number of guilty
27 verdicts reached or the amount of fines imposed or collected.

28 7. Municipal judges shall be at least twenty-one years of age. No person shall serve as
29 municipal judge after that person has reached that person's seventy-fifth birthday.

30 8. Within six months after selection for the position, each municipal judge who is not
31 licensed to practice law in this state shall satisfactorily complete the course of instruction for
32 municipal judges prescribed by the supreme court. **The course of instruction shall include a**
33 **review of state laws on intoxication-related offenses as defined in section 577.023 and**
34 **jurisdictional issues related to such offenses as well as reporting requirements for courts**
35 **under section 577.005, and required assessment for offenders under the substance abuse**
36 **traffic offender program (SATOP).** The state courts administrator shall certify to the supreme
37 court the names of those judges who satisfactorily complete the prescribed course. If a municipal
38 judge fails to complete satisfactorily the prescribed course within six months after the municipal
39 judge's selection as municipal judge, the municipal judge's office shall be deemed vacant and
40 such person shall not thereafter be permitted to serve as a municipal judge, nor shall any
41 compensation thereafter be paid to such person for serving as municipal judge.

479.170. 1. If, in the progress of any trial before a municipal judge, it shall appear to the
2 judge that the accused ought to be put upon trial for an offense against the criminal laws of the
3 state and not cognizable before him as municipal judge, he shall immediately stop all further
4 proceedings before him as municipal judge and cause the complaint to be made before some
5 associate circuit judge within the county.

6 2. For purposes of this section, these offenses are not cognizable in municipal court:

7 (1) Any offense involving the operation of a motor vehicle in an intoxicated
8 condition as defined in section 577.001, if the defendant has been convicted, found guilty,
9 or pled guilty to any previous intoxication-related traffic offense as defined in section
10 577.023, or had any alcohol-related contacts as defined in section 302.525;

11 (2) Any offense involving the operation of a motor vehicle in an intoxicated
12 condition as defined in subsection 3 of section 577.001, if the defendant operated the vehicle
13 with fifteen-hundredths of one percent or more by weight of alcohol in such person's
14 blood;

15 (3) Any offense involving the refusal to submit to a chemical test.

16 3. The municipal judge shall review the defendant's driving record prior to
17 exercising jurisdiction for intoxicated-related traffic offenses. This review shall include a
18 search of the Missouri uniform law enforcement system (MULES) to include criminal
19 history records from the central repository, the driving while intoxicated tracking system
20 (DWITS) maintained by the highway patrol, and the driving record maintained by the
21 Missouri department of revenue.

22 4. As part of the course of instruction required for municipal judges in section
23 479.020, each municipal judge shall receive adequate instruction on the laws related to
24 intoxication-related offenses as defined in section 577.023, including related reporting
25 requirements for courts and required assessment for offenders under the substance abuse
26 traffic offender program (SATOP).

27 5. A municipal judge may exercise jurisdiction over intoxication-related traffic
28 offenses not otherwise excluded by subsection 2 only if the municipal law enforcement
29 agency, municipal prosecutor, and municipal court comply with the reporting
30 requirements of section 577.005.

577.001. 1. As used in this chapter, the term "court" means any circuit, associate circuit,
2 or municipal court, including traffic court, but not any juvenile court or drug court.

3 2. As used in this chapter, the term "drive", "driving", "operates" or "operating" means
4 physically driving or operating a motor vehicle.

5 3. As used in this chapter, the term "driving while intoxicated tracking system" or
6 "DWITS" means the statewide system maintained by the Missouri state highway patrol
7 used to track arrests, charges, and dispositions of intoxication-related offenses as defined
8 in section 577.023.

9 4. As used in this chapter, a person is in an "intoxicated condition" when he is under the
10 influence of alcohol, a controlled substance, or drug, or any combination thereof.

11 [4.] 5. As used in this chapter, the term "law enforcement officer" or "arresting officer"
12 includes the definition of law enforcement officer in subdivision (17) of section 556.061, RSMo,

13 and military policemen conducting traffic enforcement operations on a federal military
14 installation under military jurisdiction in the state of Missouri.

15 [5.] 6. As used in this chapter, "substance abuse traffic offender program" means a
16 program certified by the division of alcohol and drug abuse of the department of mental health
17 to provide education or rehabilitation services pursuant to a professional assessment screening
18 to identify the individual needs of the person who has been referred to the program as the result
19 of an alcohol- or drug-related traffic offense. Successful completion of such a program includes
20 participation in any education or rehabilitation program required to meet the needs identified in
21 the assessment screening. The assignment recommendations based upon such assessment shall
22 be subject to judicial review as provided in subsection 7 of section 577.041.

**577.005. 1. Each law enforcement agency shall enter into the driving while
2 intoxicated tracking system (DWITS) information for intoxication-related traffic offenses,
3 as defined in section 577.023, and for refusals to submit to a chemical test under section
4 577.020 or 577.021 resulting in arrest or summons.**

**5 2. Each county prosecuting attorney and municipal prosecutor shall enter into
6 DWITS any charges relating to arrests or summons for intoxication-related offenses, as
7 defined in section 577.023, and for refusals to submit to a chemical test under section
8 577.020 or 577.021.**

**9 3. Each circuit court and municipal court shall enter into DWITS any dispositions
10 of charges filed under subsection 2 of this section.**

**11 4. The Missouri state highway patrol shall gather the data received into DWITS
12 and maintain regular accountability reports of alcohol-related arrests, charges, and
13 dispositions.**

**14 5. The Missouri state highway patrol shall, as part of its reporting duties, report
15 to the department of public safety and the governor any agency that fails to submit
16 information required under this section.**

**17 6. The governor may withhold any state funds to an agency that fails to comply
18 with this section.**

**19 7. The highway patrol may adopt any rules necessary to carry out the provisions
20 of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that
21 is created under the authority delegated in this section shall become effective only if it
22 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
23 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
24 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
25 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**

26 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**
27 **shall be invalid and void.**

577.010. 1. A person commits the crime of "driving while intoxicated" if he operates
2 a motor vehicle while in an intoxicated or drugged condition.

3 2. Driving while intoxicated is for the first offense, a class B misdemeanor, **unless the**
4 **person's blood alcohol content is fifteen-hundredths of one percent or more by weight of**
5 **alcohol in such person's blood in which case it is a class A misdemeanor.** No person
6 convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a
7 suspended imposition of sentence for such offense, unless such person shall be placed on
8 probation for a minimum of two years.

9 **3. A person who pleads guilty to the crime of driving while intoxicated and is**
10 **granted a suspended imposition of sentence may not later withdraw that plea.**

577.012. 1. A person commits the crime of "driving with excessive blood alcohol
2 content" if such person operates a motor vehicle in this state with eight-hundredths of one
3 percent or more by weight of alcohol in such person's blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall be based upon
5 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may
6 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes
7 of determining the alcoholic content of a person's blood under this section, the test shall be
8 conducted in accordance with the provisions of sections 577.020 to 577.041.

9 3. For the first offense, driving with excessive blood alcohol content is a class B
10 misdemeanor.

11 **4. A person who pleads guilty to driving with excessive blood alcohol content and**
12 **is granted a suspended imposition of sentence may not later withdraw that plea.**

577.020. 1. Any person who operates a motor vehicle upon the public highways of this
2 state shall be deemed to have given consent to, subject to the provisions of sections 577.019 to
3 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of
4 determining the alcohol or drug content of the person's blood pursuant to the following
5 circumstances:

6 (1) If the person is arrested for any offense arising out of acts which the arresting officer
7 had reasonable grounds to believe were committed while the person was driving a motor vehicle
8 while in an intoxicated or drugged condition; or

9 (2) If the person is under the age of twenty-one, has been stopped by a law enforcement
10 officer, and the law enforcement officer has reasonable grounds to believe that such person was
11 driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more
12 by weight; or

13 (3) If the person is under the age of twenty-one, has been stopped by a law enforcement
14 officer, and the law enforcement officer has reasonable grounds to believe that such person has
15 committed a violation of the traffic laws of the state, or any political subdivision of the state, and
16 such officer has reasonable grounds to believe, after making such stop, that such person has a
17 blood alcohol content of two-hundredths of one percent or greater;

18 (4) If the person is under the age of twenty-one, has been stopped at a sobriety
19 checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that
20 such person has a blood alcohol content of two-hundredths of one percent or greater;

21 (5) If the person, while operating a motor vehicle, [has been involved in a motor vehicle
22 collision which resulted in a fatality or a readily apparent serious physical injury as defined in
23 section 565.002, RSMo, or] has been arrested as evidenced by the issuance of a uniform traffic
24 ticket for the violation of any state law or county or municipal ordinance with the exception of
25 equipment violations contained in chapter 306, RSMo, or similar provisions contained in county
26 or municipal ordinances; or

27 (6) If the person, while operating a motor vehicle, has been involved in a motor vehicle
28 collision which resulted in a fatality or serious physical injury as defined in section 565.002,
29 RSMo. The test shall be administered at the direction of the law enforcement officer whenever
30 the person has been arrested or stopped for any reason.

31 2. The implied consent to submit to the chemical tests listed in subsection 1 of this
32 section shall be limited to not more than two such tests arising from the same arrest, incident or
33 charge.

34 3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid
35 pursuant to the provisions of sections 577.019 to 577.041 shall be performed according to
36 methods approved by the state department of health and senior services by licensed medical
37 personnel or by a person possessing a valid permit issued by the state department of health and
38 senior services for this purpose.

39 4. The state department of health and senior services shall approve satisfactory
40 techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of
41 sections 577.019 to 577.041 and shall establish standards to ascertain the qualifications and
42 competence of individuals to conduct analyses and to issue permits which shall be subject to
43 termination or revocation by the state department of health and senior services.

44 5. The person tested may have a physician, or a qualified technician, chemist, registered
45 nurse, or other qualified person at the choosing and expense of the person to be tested, administer
46 a test in addition to any administered at the direction of a law enforcement officer. The failure
47 or inability to obtain an additional test by a person shall not preclude the admission of evidence
48 relating to the test taken at the direction of a law enforcement officer.

49 6. Upon the request of the person who is tested, full information concerning the test shall
50 be made available to such person. Full information is limited to the following:

51 (1) The type of test administered and the procedures followed;

52 (2) The time of the collection of the blood or breath sample or urine analyzed;

53 (3) The numerical results of the test indicating the alcohol content of the blood and
54 breath and urine;

55 (4) The type and status of any permit which was held by the person who performed the
56 test;

57 (5) If the test was administered by means of a breath-testing instrument, the date of
58 performance of the most recent required maintenance of such instrument. Full information does
59 not include manuals, schematics, or software of the instrument used to test the person or any
60 other material that is not in the actual possession of the state. Additionally, full information does
61 not include information in the possession of the manufacturer of the test instrument.

62 7. Any person given a chemical test of the person's breath pursuant to subsection 1 of
63 this section or a field sobriety test may be videotaped during any such test at the direction of the
64 law enforcement officer. Any such video recording made during the chemical test pursuant to
65 this subsection or a field sobriety test shall be admissible as evidence at either any trial of such
66 person for either a violation of any state law or county or municipal ordinance, or any license
67 revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

68 **8. A person who refuses to submit to a chemical test requested by a law**
69 **enforcement officer under this section commits a class A misdemeanor if:**

70 **(1) The officer has probable cause to believe the driver is operating a vehicle in an**
71 **intoxicated condition; and**

72 **(2) The officer informs the driver that refusal to submit to a chemical test requested**
73 **by the officer is a class A misdemeanor.**

74

75 **A person who has previously been convicted, been found guilty of, or pled guilty to refusal**
76 **to submit to a chemical test under this section or section 577.021, and commits a**
77 **subsequent offense, is guilty of a class D felony.**

78 **9. A person who pleads guilty to refusal to submit to a chemical test and is granted**
79 **a suspended imposition of sentence may not later withdraw that plea.**

577.021. 1. Any [state, county or municipal] law enforcement officer who has the power
2 of arrest for violations of section 577.010 or 577.012 and who is [certified] **licensed** pursuant
3 to chapter 590, RSMo, may, prior to arrest, administer a chemical test to any person suspected
4 of operating a motor vehicle in violation of section 577.010 or 577.012.

5 2. Any [state, county, or municipal] law enforcement officer who has the power of arrest
6 for violations of section 577.010 or 577.012 and who is [certified] **licensed** under chapter 590,
7 RSMo, shall make all reasonable efforts to administer a chemical test to any person suspected
8 of driving a motor vehicle involved in a collision which resulted in a fatality or serious physical
9 injury as defined in section 565.002, RSMo.

10 3. A test administered pursuant to this section shall be admissible as evidence of
11 probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of
12 blood alcohol content.

13 **4. A person who refuses to submit to a chemical test requested by a law**
14 **enforcement officer under this section commits a class A misdemeanor if:**

15 **(1) The officer has probable cause to believe the driver is operating a vehicle in an**
16 **intoxicated condition; and**

17 **(2) The officer informs the driver that refusal to submit to a chemical test requested**
18 **by the officer is a class A misdemeanor.**

19

20 **A person who has previously been convicted, been found guilty of, or pled guilty to refusal**
21 **to submit to a chemical test under this section or section 577.020 and commits a subsequent**
22 **offense, commits a class D felony.**

23 **5. A person who pleads guilty to refusal to submit to a chemical test requested by**
24 **a law enforcement officer under this section and is granted a suspended imposition of**
25 **sentence may not later withdraw that plea.**

26 [The provisions of sections 577.019 and 577.020 shall not apply to a test administered prior to
27 arrest pursuant to this section. The provisions changing chapter 577 are severable from this
28 legislation. The general assembly would have enacted the remainder of this legislation without
29 the changes made to chapter 577, and the remainder of the legislation is not essentially and
30 inseparably connected with or dependent upon the changes to chapter 577.]

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

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

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

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

10 RSMo; or assault of a law enforcement officer in the second degree under subdivision (4) of
11 subsection 1 of section 565.082, RSMo;

12 (2) A "chronic offender" is:

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

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

22 (c) A person who has pleaded guilty to or has been found guilty of two or more
23 intoxication-related traffic offenses and, in addition, any of the following: involuntary
24 manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024, RSMo; murder in
25 the second degree under section 565.021, RSMo, where the underlying felony is an
26 intoxication-related traffic offense; assault in the second degree under subdivision (4) of
27 subsection 1 of section 565.060, RSMo; or assault of a law enforcement officer in the second
28 degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

29 (3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal
30 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
31 location of the person who is being monitored, and regularly transmitting the data. Continuous
32 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
33 section 217.690, RSMo;

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

42 (5) A "persistent offender" is one of the following:

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

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

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

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

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

59 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010
60 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a
61 class C felony.

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

65 6. No state, county, or municipal court shall suspend the imposition of sentence as to a
66 prior offender, persistent offender, aggravated offender, or chronic offender under this section
67 nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo,
68 to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until
69 he or she has served a minimum of five days imprisonment, unless as a condition of such parole
70 or probation such person performs at least thirty days of community service under the
71 supervision of the court in those jurisdictions which have a recognized program for community
72 service. No persistent offender shall be eligible for parole or probation until he or she has served
73 a minimum of ten days imprisonment, unless as a condition of such parole or probation such
74 person performs at least sixty days of community service under the supervision of the court. No
75 aggravated offender shall be eligible for parole or probation until he or she has served a
76 minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or
77 probation until he or she has served a minimum of two years imprisonment. In addition to any
78 other terms or conditions of probation, the court shall consider, as a condition of probation for
79 any person who pleads guilty to or is found guilty of an intoxication-related traffic offense,
80 requiring the offender to abstain from consuming or using alcohol or any products containing

81 alcohol as demonstrated by continuous alcohol monitoring or by verifiable breath alcohol testing
82 performed a minimum of four times per day as scheduled by the court for such duration as
83 determined by the court, but not less than ninety days. The court may, in addition to imposing
84 any other fine, costs, or assessments provided by law, require the offender to bear any costs
85 associated with continuous alcohol monitoring or verifiable breath alcohol testing.

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

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

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

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

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

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

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

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

104 12. Nothing in this section shall prevent the use of presentence investigations or
105 commitments.

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

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

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

113 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an
114 intoxication-related traffic offense shall be heard and determined by the trial court out of the
115 hearing of the jury prior to the submission of the case to the jury, and shall include but not be
116 limited to evidence [of convictions] received by a search of the records of the Missouri uniform

117 law enforcement system **to include criminal history records from the central repository or**
118 **records from the driving while intoxicated tracking system (DWITS)** maintained by the
119 Missouri state highway patrol **or the certified driving record maintained by the Missouri**
120 **department of revenue.** After hearing the evidence, the court shall enter its findings thereon.
121 A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended imposition
122 of sentence, suspended execution of sentence, probation or parole or any combination thereof
123 in any intoxication-related traffic offense in a state, county or municipal court or any
124 combination thereof, shall be treated as a prior plea of guilty or finding of guilt for purposes of
125 this section.

126 **17. Any person who has been convicted of, pled guilty to, or has been found guilty**
127 **of an "intoxication-related traffic offense" as defined in this section, whether sentence is**
128 **imposed or suspended, shall have the record of the offense assessed to his or her driving**
129 **record by the director of revenue.**

577.039. An arrest without a warrant by a law enforcement officer, including a
2 uniformed member of the state highway patrol, for a violation of section 577.010 or 577.012 is
3 lawful whenever the arresting officer has [reasonable grounds] **probable cause** to believe that
4 the person to be arrested has violated the section, whether or not the violation occurred in the
5 presence of the arresting officer [and when such arrest without warrant is made within one and
6 one-half hours after such claimed violation occurred, unless the person to be arrested has left the
7 scene of an accident or has been removed from the scene to receive medical treatment, in which
8 case such arrest without warrant may be made more than one and one-half hours after such
9 violation occurred].

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision
2 (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to
3 any test allowed pursuant to section 577.020, [then none shall be given and] evidence of the
4 refusal shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082,
5 RSMo, or section 577.010 or 577.012 **or 577.020.** The request of the officer shall include:

6 **(1)** The reasons of the officer for requesting the person to submit to a test [and also shall
7 inform the person] ;

8 **(2) That the failure to submit to the test is a class A misdemeanor;**

9 **(3) That evidence of refusal to take the test may be used against such person in a**
10 **subsequent criminal or administrative action; and**

11 **(4) That the person's license shall be immediately revoked upon refusal to take the test.**
12

13 If a person when requested to submit to any test allowed pursuant to section 577.020 requests
14 to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact

15 an attorney. If upon the completion of the twenty-minute period the person continues to refuse
16 to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the
17 director of revenue, serve the notice of license revocation personally upon the person and shall
18 take possession of any license to operate a motor vehicle issued by this state which is held by that
19 person. The officer shall issue a temporary permit, on behalf of the director of revenue, which
20 is valid for fifteen days and shall also give the person a notice of such person's right to file a
21 petition for review to contest the license revocation.

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

25 (1) That the officer has:

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

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

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

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

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

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

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

47 4. If a person's license has been revoked because of the person's refusal to submit to a
48 chemical test, such person may petition for a hearing before a circuit or associate circuit court
49 in the county in which the arrest or stop occurred. The person may request such court to issue
50 an order staying the revocation until such time as the petition for review can be heard. If the

51 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the
52 director of revenue and shall send a copy of such order to the director. Such order shall serve
53 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain
54 possession of the person's license to operate a motor vehicle until termination of any revocation
55 pursuant to this section. Upon the person's request the clerk of the court shall notify the
56 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the
57 director of revenue. At the hearing the court shall determine only:

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

59 (2) Whether or not the officer had:

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

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

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

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

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

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

74 7. No person who has had a license to operate a motor vehicle suspended or revoked
75 pursuant to the provisions of this section shall have that license reinstated until such person has
76 participated in and successfully completed a substance abuse traffic offender program defined
77 in section 577.001, or a program determined to be comparable by the department of mental
78 health or the court. Assignment recommendations, based upon the needs assessment as
79 described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the
80 person with written notice that the person is entitled to have such assignment recommendations
81 reviewed by the court if the person objects to the recommendations. The person may file a
82 motion in the associate division of the circuit court of the county in which such assignment was
83 given, on a printed form provided by the state courts administrator, to have the court hear and
84 determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name
85 the person or entity making the needs assessment as the respondent and a copy of the motion
86 shall be served upon the respondent in any manner allowed by law. Upon hearing the motion,

87 the court may modify or waive any assignment recommendation that the court determines to be
88 unwarranted based upon a review of the needs assessment, the person's driving record, the
89 circumstances surrounding the offense, and the likelihood of the person committing [a like] **an**
90 **alcohol-related** offense in the future, except that the court may modify but may not waive the
91 assignment to an education or rehabilitation program of a person determined to be a prior or
92 persistent offender as defined in section 577.023, or of a person determined to have operated a
93 motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood.
94 Compliance with the court determination of the motion shall satisfy the provisions of this section
95 for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's
96 personal appearance at any hearing conducted pursuant to this subsection shall not be necessary
97 unless directed by the court.

98 8. The fees for the substance abuse traffic offender program, or a portion thereof to be
99 determined by the division of alcohol and drug abuse of the department of mental health, shall
100 be paid by the person enrolled in the program. Any person who is enrolled in the program shall
101 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
102 department of mental health for the purposes of funding the substance abuse traffic offender
103 program defined in section 302.010, RSMo, and section 577.001. The administrator of the
104 program shall remit to the division of alcohol and drug abuse of the department of mental health
105 on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the
106 program, less two percent for administrative costs. Interest shall be charged on any unpaid
107 balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this
108 section and shall accrue at a rate not to exceed the annual rates established pursuant to the
109 provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and
110 any interest received by the department of mental health pursuant to this section shall be
111 deposited in the mental health earnings fund which is created in section 630.053, RSMo.

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

120 10. Any person who has had a license to operate a motor vehicle **suspended or** revoked
121 [more than once] for violation of the provisions of this section **whose driving record shows one**
122 **or more prior alcohol-related enforcement contacts as defined in subsection 3 of section**

123 **302.525, or who has had a license to operate a motor vehicle suspended or revoked for**
124 **driving while intoxicated under section 577.010 when classified as a class A misdemeanor,**
125 **or for refusing to submit to a chemical test under section 577.020 or 577.021** shall be
126 required to file proof with the director of revenue that any motor vehicle operated by the person
127 is equipped with a functioning, certified ignition interlock device as a required condition of
128 license reinstatement. Such ignition interlock device shall further be required to be maintained
129 on all motor vehicles operated by the person for a period of not less than six months immediately
130 following the date of reinstatement. If the person fails to maintain such proof with the director
131 as required by this section, the license shall be rerevoked and the person shall be guilty of a class
132 A misdemeanor.

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

[577.054. 1. After a period of not less than ten years, an individual who
2 has pleaded guilty or has been convicted for a first alcohol-related driving offense
3 which is a misdemeanor or a county or city ordinance violation and which is not
4 a conviction for driving a commercial motor vehicle while under the influence
5 of alcohol and who since such date has not been convicted of any other
6 alcohol-related driving offense may apply to the court in which he or she pled
7 guilty or was sentenced for an order to expunge from all official records all
8 recordations of his or her arrest, plea, trial or conviction. If the court determines,
9 after hearing, that such person has not been convicted of any alcohol-related
10 driving offense in the ten years prior to the date of the application for
11 expungement, and has no other alcohol-related enforcement contacts as defined
12 in section 302.525, RSMo, during that ten-year period, the court shall enter an
13 order of expungement. Upon granting of the order of expungement, the records
14 and files maintained in any administrative or court proceeding in an associate or
15 circuit division of the circuit court under this section shall be confidential and
16 only available to the parties or by order of the court for good cause shown. The
17 effect of such order shall be to restore such person to the status he or she
18 occupied prior to such arrest, plea or conviction and as if such event had never
19 taken place. No person as to whom such order has been entered shall be held
20 thereafter under any provision of any law to be guilty of perjury or otherwise
21 giving a false statement by reason of his or her failure to recite or acknowledge

22 such arrest, plea, trial, conviction or expungement in response to any inquiry
23 made of him or her for any purpose whatsoever and no such inquiry shall be
24 made for information relating to an expungement under this section. A person
25 shall only be entitled to one expungement pursuant to this section. Nothing
26 contained in this section shall prevent the director from maintaining such records
27 as to ensure that an individual receives only one expungement pursuant to this
28 section for the purpose of informing the proper authorities of the contents of any
29 record maintained pursuant to this section.

30 2. The provisions of this section shall not apply to any individual who
31 has been issued a commercial driver's license or is required to possess a
32 commercial driver's license issued by this state or any other state.]

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