

SS SCS HCS HB 1695, 1742 & 1674 -- INTOXICATION-RELATED TRAFFIC OFFENSES

This bill changes the laws regarding intoxication-related traffic offenses. In its main provisions, the bill:

(1) Specifies that a DWI docket or court may grant limited driving privileges to a participant or graduate of the program who would otherwise be ineligible for the privilege. However, the DWI docket or court cannot grant a limited driving privilege to a person during his or her initial 45 days of participation (Section 302.309, RSMo);

(2) Removes the provision specifying that no chemical test will be given to a person with a commercial driver's license who refuses to submit to a chemical test at the request of a law enforcement officer (Section 302.750);

(3) Allows any circuit court or the county municipal court of Jackson County to establish a DWI docket or court to provide an alternative for the disposition of a driving while intoxicated or driving with excessive blood alcohol content (BAC) case when the person operating a motor vehicle has a BAC of at least .15, the person has previously pled guilty to or has been found guilty of one or more intoxication-related traffic offenses, or the person has two or more previous alcohol-related enforcement contacts. The court may assess any and all necessary costs for participation in a DWI court against the participant; and all moneys received by the court will not be considered court costs, charges, or fines. A DWI docket or court may operate in conjunction with a drug court, and a drug court commissioner may preside over a DWI court or any other treatment or problem-solving court (Sections 478.001 and 478.007);

(4) Specifies that any offense involving the operation of a motor vehicle in an intoxicated condition will not be cognizable in municipal court if the defendant has been convicted of, found guilty of, or pled guilty to two or more previous intoxication-related traffic offenses or has had two or more previous alcohol-related enforcement contacts (Section 479.170);

(5) Specifies that an application or execution of a search warrant cannot be deemed invalid solely because it relies upon electronic signatures of the peace officer or prosecutor seeking the warrant or the judge issuing the warrant (Section 542.276);

(6) Requires each law enforcement agency, county prosecuting attorney, and municipal prosecutor to adopt a policy to report the arrest and charge information for all intoxication-related traffic offenses to the State Highway Patrol's central repository

and to certify the adoption of the policy when applying for any grants administered by the Department of Public Safety. Beginning January 1, 2011, the patrol must maintain regular accountability reports of intoxication-related traffic offense arrests, charges, and dispositions based on the data submitted (Section 577.005);

(7) Requires each municipal judge to receive adequate instruction on the state laws regarding intoxication-related traffic offenses including jurisdictional issues related to those offenses, reporting requirements to the central repository, and the required assessment for offenders under the Substance Abuse Traffic Offender Program (SATOP) and requires each municipal judge to adopt a written policy requiring court personnel to timely report the dispositions of all charges for intoxication-related traffic offenses to the central repository and to provide a copy of the policy to the Office of State Courts Administrator and the patrol. Each municipal division of every circuit court must prepare a report every six months that includes the total number and disposition of every intoxication-related traffic offense adjudicated, dismissed, or pending in its division and to submit the report to the circuit court en banc for its review and to make recommendations or take any appropriate action (Section 577.006);

(8) Specifies that no person who operated a motor vehicle with a BAC of .15 or more will be granted a suspended imposition of sentence unless he or she participates and successfully completes the requirements of a DWI court or docket or other court-ordered treatment program. If a suspended imposition of sentence is not granted for a first offense, a person who operated a motor vehicle with a BAC of between .15 and .20 must be imprisoned for at least 48 hours and a person who operated a motor vehicle with a BAC of greater than .20 must be imprisoned for at least five days (Sections 577.010 and 577.012);

(9) Changes the minimum imprisonment from five days to 10 days for a prior offender and from 10 days to 30 days for a persistent offender to be eligible for parole or probation, unless as a condition, the person performs a specified amount of community service or participates in and successfully completes a program established under Section 478.007 or other court-ordered treatment program. A court is to include evidence received by a search of the central repository, Driving While Intoxicated Tracking System (DWITS), or the certified driving record maintained by the Department of Revenue for prior intoxication-related traffic offenses (Section 577.023);

(10) Removes the provision requiring an intoxication-related traffic offense arrest without a warrant to occur within 90

minutes of the alleged violation (Section 577.039);

(11) Removes the provision specifying that no test will be given to a person arrested or stopped for an alleged DWI offense who refuses to submit to a chemical test at the request of a law enforcement officer (Section 577.041); and

(12) Specifies that after 10 years, upon application by an individual, a court must enter an order of expungement if it determines that the person with a first alcohol-related driving offense has not been convicted of any subsequent alcohol-related driving offense, has no other subsequent alcohol-related enforcement contact, and has no other alcohol-related driving charge or enforcement action pending at the time of the hearing on the application. This provision will not apply to a person who has been convicted of driving a commercial motor vehicle while under the influence of alcohol (Section 577.054).