

SECOND REGULAR SESSION

HOUSE BILL NO. 1797

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (50).

5689L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 302.535, RSMo, and to enact in lieu thereof one new section relating to driver's license suspensions.

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

Section A. Section 302.535, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.535, to read as follows:

302.535. 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. Until January 1, 2002, the presiding judge of the circuit court may assign a traffic judge, pursuant to section 479.500, RSMo 1994, a circuit judge or an associate circuit judge to hear such petition. After January 1, 2002, pursuant to local court rule pursuant to article V, section 15 of the Missouri Constitution, the case may be assigned to a circuit judge or an associate circuit judge, or to a traffic judge pursuant to section 479.500.

2. The filing of a petition for trial de novo shall [not] result in a stay of the suspension or revocation order **and the department shall issue a temporary driving permit which shall be valid until a final order is issued following the date of the disposition of the petition for a trial de novo.** [A restricted driving privilege as defined in section 302.010 shall be issued in accordance with subsection 2 of section 302.525, if the person's driving record shows no prior alcohol-related enforcement contact during the immediately preceding five years. Such restricted driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

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.

18 3. In addition to the restricted driving privilege as permitted in subsection 2 of this
19 section, the department may upon the filing of a petition for trial de novo issue a restricted
20 driving privilege as defined in section 302.010. In determining whether to issue such a restrictive
21 driving privilege, the department shall consider the number and the seriousness of prior
22 convictions and the entire driving record of the driver.

23 4. Such time of restricted driving privilege pending disposition of trial de novo shall be
24 counted toward any time of restricted driving privilege imposed pursuant to section 302.525.
25 Nothing in this subsection shall be construed to prevent a person from maintaining his restricted
26 driving privilege for an additional sixty days in order to meet the conditions imposed by section
27 302.540 for reinstating a person's driver's license.]

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