

House _____ Amendment NO. _____

Offered By _____

1 AMEND Senate Committee Substitute for Senate Bill No. 89, Page 13, Section 302.768, Line 67,
2 by inserting after said section and line the following:

3
4 "304.580. As used in sections 304.582 and 304.585, the term "construction zone" or "work
5 zone" means any area upon or around any highway as defined in section 302.010 which is visibly
6 marked by the department of transportation or a contractor or subcontractor performing work for the
7 department of transportation as an area where construction, maintenance, incident removal, or other
8 work is temporarily occurring. The term "work zone" or "construction zone" also includes the lanes
9 of highway leading up to the area upon which an activity described in this subsection is being
10 performed, beginning at the point where appropriate signs or traffic control devices are posted or
11 placed. The terms "worker" or "highway worker" as used in sections 304.582 and 304.585 shall
12 mean any person ~~[that]~~ who is working in a construction zone or work zone on a state highway or
13 the right-of-way of a state highway, [or] any employee of the department of transportation [that]
14 who is performing duties under the department's motorist assist program on a state highway or the
15 right-of-way of a state highway, or any utility worker performing utility work on a state highway or
16 the right-of-way of a state highway. "Utility worker" means any employee or person employed
17 under contract of a utility that provides gas, heat, electricity, water, steam, telecommunications or
18 cable services, or sewer services, whether privately, municipally, or cooperatively owned, while in
19 performance of his or her job duties.

20 304.585. 1. A person shall be deemed to commit the offense of "endangerment of a
21 highway worker" upon conviction for any of the following when the offense occurs within a
22 construction zone or work zone, as defined in section 304.580:

- 23 (1) Exceeding the posted speed limit by fifteen miles per hour or more;
24 (2) Passing in violation of subsection 4 of section 304.582;
25 (3) Failure to stop for a work zone flagman or failure to obey traffic control devices erected
26 in the construction zone or work zone for purposes of controlling the flow of motor vehicles through
27 the zone;
28 (4) Driving through or around a work zone by any lane not clearly designated to motorists
29 for the flow of traffic through or around the work zone;
30 (5) Physically assaulting, or attempting to assault, or threatening to assault a highway
31 worker in a construction zone or work zone, with a motor vehicle or other instrument;
32 (6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices
33 erected to control the flow of traffic to protect workers and motorists in the work zone for a reason
34 other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant
35 of the motor vehicle or of another person; or
36 (7) Committing any of the following offenses for which points may be assessed under

Action Taken _____ Date _____

1 section 302.302:

- 2 (a) Leaving the scene of an accident in violation of section 577.060;
3 (b) Careless and imprudent driving in violation of subsection 4 of section 304.016;
4 (c) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of
5 section 302.020;
6 (d) Operating with a suspended or revoked license;
7 (e) Driving while in an intoxicated condition or under the influence of controlled substances
8 or drugs or driving with an excessive blood alcohol content;
9 (f) Any felony involving the use of a motor vehicle.

10 2. Upon conviction or a plea of guilty for committing the offense of endangerment of a
11 highway worker under subsection 1 of this section if no injury or death to a highway worker resulted
12 from the offense, in addition to any other penalty authorized by law, the person shall be subject to a
13 fine of not more than one thousand dollars and shall have four points assessed to his or her driver's
14 license under section 302.302.

15 3. A person shall be deemed to commit the offense of "aggravated endangerment of a
16 highway worker" upon conviction or a plea of guilty for any offense under subsection 1 of this
17 section when such offense occurs in a construction zone or work zone as defined in section 304.580
18 and results in the injury or death of a highway worker. Upon conviction or a plea of guilty for
19 committing the offense of aggravated endangerment of a highway worker, in addition to any other
20 penalty authorized by law, the person shall be subject to a fine of not more than five thousand
21 dollars if the offense resulted in injury to a highway worker and ten thousand dollars if the offense
22 resulted in death to a highway worker. In addition, such person shall have twelve points assessed to
23 their driver's license under section 302.302 and shall be subject to the provisions of section 302.304
24 regarding the revocation of the person's license and driving privileges.

25 4. Except for the offense established under subdivision (6) of subsection 1 of this section, no
26 person shall be deemed to commit the offense of endangerment of a highway worker except when
27 the act or omission constituting the offense occurred when one or more highway workers were in the
28 construction zone or work zone.

29 5. No person shall be cited or convicted for endangerment of a highway worker or
30 aggravated endangerment of a highway worker, for any act or omission otherwise constituting an
31 offense under subsection 1 of this section, if such act or omission resulted in whole or in part from
32 mechanical failure of the person's vehicle or from the negligence of another person or a highway
33 worker.

34 6. (1) Notwithstanding any provision of this section or any other law to the contrary, the
35 director of the department of revenue or his or her agent shall order the revocation of a driver's
36 license upon its determination that an individual holding such license was involved in a physical
37 accident where his or her negligent acts or omissions contributed to his or her vehicle striking a
38 highway worker within a designated construction zone or work zone where department of
39 transportation guidelines involving notice and signage were properly implemented. The department
40 shall make its determination of these facts on the basis of the report of a law enforcement officer
41 investigating the incident and this determination shall be final unless a hearing is requested and held
42 as provided under subdivision (2) of this subsection. Upon its determination that the facts support a
43 license revocation, the department shall issue a notice of revocation which shall be mailed to the
44 person at the last known address shown on the department's records. The notice is deemed received
45 three days after mailing unless returned by postal authorities. The notice of revocation shall clearly
46 specify the reason and statutory grounds for the revocation, the effective date of the revocation
47 which shall be at least fifteen days from the date the department issued its order, the right of the
48 person to request a hearing, and the date by which the request for a hearing must be made.

49 (2) An individual who received notice of revocation from the department under this section

1 may seek reinstatement by either:

2 (a) Taking and passing the written and driving portions of the driver's license examination,
 3 in which case the individual's driver's license shall be immediately reinstated; or

4 (b) Petitioning for a hearing before a circuit division or associate division of the court in the
 5 county in which the work zone accident occurred. The individual may request such court to issue an
 6 order staying the revocation until such time as the petition for review can be heard. If the court, in
 7 its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of
 8 revenue and shall send a copy of such order to the director. Such order shall serve as proof of the
 9 privilege to operate a motor vehicle in this state, and the director shall maintain possession of the
 10 person's license to operate a motor vehicle until the termination of any suspension under this
 11 subsection. The clerk of the court shall notify the prosecuting attorney of the county, and the
 12 prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing, the court
 13 shall determine only:

14 a. Whether the person was involved in a physical accident where his or her vehicle struck a
 15 highway worker within a designated construction or work zone;

16 b. Whether the department of transportation guidelines involving notice and signage were
 17 properly implemented in such work zone; and

18 c. Whether the investigating officer had probable cause to believe the person's negligent acts
 19 or omissions contributed to his or her vehicle striking a highway worker.

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 21 If the court determines subparagraph a., b., or c. of this subdivision not to be in the affirmative, the
 22 court shall order the director to reinstate the license or permit to drive.

23 (3) The department of revenue administrative adjudication to reinstate a driver's license that
 24 was revoked under this subsection, and any evidence provided to the department related to such
 25 adjudication, shall not be produced by subpoena or any other means and made available as evidence
 26 in any other administrative action, civil case, or criminal prosecution. The court's determinations
 27 issued under this section, and the evidence provided to the court relating to such determinations,
 28 shall not be produced by subpoena or any other means and made available in any other
 29 administrative action, civil case, or criminal prosecution. Nothing in this subdivision shall be
 30 construed to prevent the department from providing information to the system authorized under 49
 31 U.S.C. Section 31309, or any successor federal law, pertaining to the licensing, identification, and
 32 disqualification of operators of commercial motor vehicles.

33 304.894. 1. A person commits the offense of endangerment of an emergency responder for
 34 any of the following offenses when the offense occurs within an active emergency zone:

35 (1) Exceeding the posted speed limit by fifteen miles per hour or more;

36 (2) Passing in violation of subsection 3 of section 304.892;

37 (3) Failure to stop for an active emergency zone flagman or emergency responder, or failure
 38 to obey traffic control devices erected, or personnel posted, in the active emergency zone for
 39 purposes of controlling the flow of motor vehicles through the zone;

40 (4) Driving through or around an active emergency zone via any lane not clearly designated
 41 for motorists to control the flow of traffic through or around the active emergency zone;

42 (5) Physically assaulting, attempting to assault, or threatening to assault an emergency
 43 responder with a motor vehicle or other instrument; or

44 (6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices
 45 erected to control the flow of traffic to protect emergency responders and motorists unless the action
 46 was necessary to avoid an obstacle, an emergency, or to protect the health and safety of an occupant
 47 of the motor vehicle or of another person.

48 2. Upon a finding of guilt or a plea of guilty for committing the offense of endangerment of
 49 an emergency responder under subsection 1 of this section, if no injury or death to an emergency

1 responder resulted from the offense, the court shall assess a fine of not more than one thousand
2 dollars, and four points shall be assessed to the operator's license pursuant to section 302.302 upon
3 conviction.

4 3. A person commits the offense of aggravated endangerment of an emergency responder
5 upon a finding of guilt or a plea of guilty for any offense under subsection 1 of this section when
6 such offense results in the injury or death of an emergency responder. Upon a finding of guilt or a
7 plea of guilty for committing the offense of aggravated endangerment of an emergency responder, in
8 addition to any other penalty authorized by law, the court shall assess a fine of not more than five
9 thousand dollars if the offense resulted in injury to an emergency responder, and ten thousand
10 dollars if the offense resulted in the death of an emergency responder. In addition, twelve points
11 shall be assessed to the operator's license pursuant to section 302.302 upon conviction.

12 4. Except for the offense established under subdivision (6) of subsection 1 of this section, no
13 person shall be deemed to have committed the offense of endangerment of an emergency responder
14 except when the act or omission constituting the offense occurred when one or more emergency
15 responders were responding to an active emergency.

16 5. No person shall be cited for, or found guilty of, endangerment of an emergency responder
17 or aggravated endangerment of an emergency responder, for any act or omission otherwise
18 constituting an offense under subsection 1 of this section, if such act or omission resulted in whole
19 or in part from mechanical failure of the person's vehicle, or from the negligence of another person
20 or emergency responder.

21 6. (1) Notwithstanding any provision of this section or any other law to the contrary, the
22 director of the department of revenue or his or her agent shall order the revocation of a driver's
23 license upon its determination that an individual holding such license was involved in a physical
24 accident where his or her negligent acts or omissions substantially contributed to his or her vehicle
25 striking an emergency responder within an active emergency zone where the appropriate visual
26 markings for active emergency zones were properly implemented. The department shall make its
27 determination of these facts on the basis of the report of a law enforcement officer investigating the
28 incident and this determination shall be final unless a hearing is requested and held as provided
29 under subdivision (2) of this subsection. Upon its determination that the facts support a license
30 revocation, the department shall issue a notice of revocation which shall be mailed to the person at
31 the last known address shown on the department's records. The notice is deemed received three
32 days after mailing unless returned by postal authorities. The notice of revocation shall clearly
33 specify the reason and statutory grounds for the revocation, the effective date of the revocation
34 which shall be at least fifteen days from the date the department issued its order, the right of the
35 person to request a hearing, and the date by which the request for a hearing must be made.

36 (2) An individual who received notice of revocation from the department under this section
37 may seek reinstatement by either:

38 (a) Taking and passing the written and driving portions of the driver's license examination,
39 in which case the individual's driver's license shall be immediately reinstated; or

40 (b) Petitioning for a hearing before a circuit division or associate division of the court in the
41 county in which the emergency zone accident occurred. The individual may request such court to
42 issue an order staying the revocation until such time as the petition for review can be heard. If the
43 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the
44 director of revenue and shall send a copy of such order to the director. Such order shall serve as
45 proof of the privilege to operate a motor vehicle in this state, and the director shall maintain
46 possession of the person's license to operate a motor vehicle until the termination of any suspension
47 under this subsection. The clerk of the court shall notify the prosecuting attorney of the county, and
48 the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing, the
49 court shall determine only:

1 a. Whether the person was involved in a physical accident where his or her vehicle struck an
2 emergency responder within an active emergency zone;

3 b. Whether the guidelines involving notice and signage were properly implemented in such
4 emergency zone; and

5 c. Whether the investigating officer had probable cause to believe the person's negligent acts
6 or omissions substantially contributed to his or her vehicle striking an emergency responder.

7
8 If the court determines subparagraph a., b., or c. of this subdivision not to be in the affirmative, the
9 court shall order the director to reinstate the license or permit to drive.

10 (3) The department of revenue administrative adjudication to reinstate a driver's license that
11 was revoked under this subsection, and any evidence provided to the department related to such
12 adjudication, shall not be produced by subpoena or any other means and made available as evidence
13 in any other administrative action, civil case, or criminal prosecution. The court's determinations
14 issued under this section, and the evidence provided to the court relating to such determinations,
15 shall not be produced by subpoena or any other means and made available in any other
16 administrative action, civil case, or criminal prosecution. Nothing in this subdivision shall be
17 construed to prevent the department from providing information to the system authorized under 49
18 U.S.C. Section 31309, or any successor federal law, pertaining to the licensing, identification, and
19 disqualification of operators of commercial motor vehicles."; and

20
21 Further amend said bill by amending the title, enacting clause, and intersectional references
22 accordingly.