

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE BILL NO. 499
100TH GENERAL ASSEMBLY

1178H.07C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 304.580, 304.585, and 304.894, RSMo, and to enact in lieu thereof three new sections relating to accidents occurring in work or emergency zones, with penalty provisions.

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

Section A. Sections 304.580, 304.585, and 304.894, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 304.580, 304.585, and 304.894, to read as follows:

304.580. As used in sections 304.582 and 304.585, the term "construction zone" or "work zone" means any area upon or around any highway as defined in section 302.010 which is visibly marked by the department of transportation or a contractor or subcontractor performing work for the department of transportation as an area where construction, maintenance, incident removal, or other work is temporarily occurring. The term "work zone" or "construction zone" also includes the lanes of highway leading up to the area upon which an activity described in this subsection is being performed, beginning at the point where appropriate signs or traffic control devices are posted or placed. The terms "worker" or "highway worker" as used in sections 304.582 and 304.585 shall mean any person ~~[that]~~ **who** is working in a construction zone or work zone **on a state highway or the right-of-way of a state highway**, ~~[or]~~ any employee of the department of transportation ~~[that]~~ **who** is performing duties under the department's motorist assist program on a state highway or the right-of-way of a state highway, **or any utility worker performing utility work on a state highway or the right-of-way of a state highway. "Utility worker" means any employee or person employed under contract of a utility that provides gas, heat, electricity, water, steam, telecommunications or cable services, or sewer services,**

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

16 **whether privately, municipally, or cooperatively owned, while in performance of his or her**
17 **job duties.**

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

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

5 (2) Passing in violation of subsection 4 of section 304.582;

6 (3) Failure to stop for a work zone flagman or failure to obey traffic control devices
7 erected in the construction zone or work zone for purposes of controlling the flow of motor
8 vehicles through the zone;

9 (4) Driving through or around a work zone by any lane not clearly designated to
10 motorists for the flow of traffic through or around the work zone;

11 (5) Physically assaulting, or attempting to assault, or threatening to assault a highway
12 worker in a construction zone or work zone, with a motor vehicle or other instrument;

13 (6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices
14 erected to control the flow of traffic to protect workers and motorists in the work zone for a
15 reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of
16 an occupant of the motor vehicle or of another person; or

17 (7) Committing any of the following offenses for which points may be assessed under
18 section 302.302:

19 (a) Leaving the scene of an accident in violation of section 577.060;

20 (b) Careless and imprudent driving in violation of subsection 4 of section 304.016;

21 (c) Operating without a valid license in violation of subdivision (1) or (2) of subsection
22 1 of section 302.020;

23 (d) Operating with a suspended or revoked license;

24 (e) Driving while in an intoxicated condition or under the influence of controlled
25 substances or drugs or driving with an excessive blood alcohol content;

26 (f) Any felony involving the use of a motor vehicle.

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

32 3. A person shall be deemed to commit the offense of "aggravated endangerment of a
33 highway worker" upon conviction or a plea of guilty for any offense under subsection 1 of this
34 section when such offense occurs in a construction zone or work zone as defined in section

35 304.580 and results in the injury or death of a highway worker. Upon conviction or a plea of
36 guilty for committing the offense of aggravated endangerment of a highway worker, in addition
37 to any other penalty authorized by law, the person shall be subject to a fine of not more than five
38 thousand dollars if the offense resulted in injury to a highway worker and ten thousand dollars
39 if the offense resulted in death to a highway worker. In addition, such person shall have twelve
40 points assessed to their driver's license under section 302.302 and shall be subject to the
41 provisions of section 302.304 regarding the revocation of the person's license and driving
42 privileges.

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

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

52 6. (1) **Notwithstanding any provision of this section or any other law to the**
53 **contrary, the director of the department of revenue or his or her agent shall order the**
54 **revocation of a driver's license upon its determination that an individual holding such**
55 **license was involved in a physical accident where his or her negligent acts or omissions**
56 **contributed to his or her vehicle striking a highway worker within a designated**
57 **construction zone or work zone where department of transportation guidelines involving**
58 **notice and signage were properly implemented. The department shall make its**
59 **determination of these facts on the basis of the report of a law enforcement officer**
60 **investigating the incident and this determination shall be final unless a hearing is requested**
61 **and held as provided under subdivision (2) of this subsection. Upon its determination that**
62 **the facts support a license revocation, the department shall issue a notice of revocation**
63 **which shall be mailed to the person at the last known address shown on the department's**
64 **records. The notice is deemed received three days after mailing unless returned by postal**
65 **authorities. The notice of revocation shall clearly specify the reason and statutory grounds**
66 **for the revocation, the effective date of the revocation which shall be at least fifteen days**
67 **from the date the department issued its order, the right of the person to request a hearing,**
68 **and the date by which the request for a hearing must be made.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 2. Upon a finding of guilt or a plea of guilty for committing the offense of endangerment
18 of an emergency responder under subsection 1 of this section, if no injury or death to an
19 emergency responder resulted from the offense, the court shall assess a fine of not more than one
20 thousand dollars, and four points shall be assessed to the operator's license pursuant to section
21 302.302 upon conviction.

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

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

35 5. No person shall be cited for, or found guilty of, endangerment of an emergency
36 responder or aggravated endangerment of an emergency responder, for any act or omission
37 otherwise constituting an offense under subsection 1 of this section, if such act or omission

38 resulted in whole or in part from mechanical failure of the person's vehicle, or from the
39 negligence of another person or emergency responder.

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

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

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

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

- 73 a. Whether the person was involved in a physical accident where his or her vehicle
74 struck an emergency responder within an active emergency zone;
75 b. Whether the guidelines involving notice and signage were properly implemented
76 in such emergency zone; and
77 c. Whether the investigating officer had probable cause to believe the person's
78 negligent acts or omissions substantially contributed to his or her vehicle striking an
79 emergency responder.

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

83 (3) The department of revenue administrative adjudication to reinstate a driver's
84 license that was revoked under this subsection, and any evidence provided to the
85 department related to such adjudication, shall not be produced by subpoena or any other
86 means and made available as evidence in any other administrative action, civil case, or
87 criminal prosecution. The court's determinations issued under this section, and the
88 evidence provided to the court relating to such determinations, shall not be produced by
89 subpoena or any other means and made available in any other administrative action, civil
90 case, or criminal prosecution. Nothing in this subdivision shall be construed to prevent the
91 department from providing information to the system authorized under 49 U.S.C. Section
92 31309, or any successor federal law, pertaining to the licensing, identification, and
93 disqualification of operators of commercial motor vehicles.

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