

FIRST REGULAR SESSION

# HOUSE BILL NO. 745

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BUCHHEIT-COURTWAY.

1803H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal section 304.585, RSMo, and to enact in lieu thereof one new section relating to the endangerment of a highway worker, with penalty provisions.

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

Section A. Section 304.585, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.585, to read as follows:

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

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

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

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

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

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

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

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.

17           (7) **Striking a vehicle, trailer, or other equipment owned or operated by the**  
18 **department, a contractor, or subcontractor, including a truck or trailer-mounted crash**  
19 **attenuator; or**

20           (8) Committing any of the following offenses for which points may be assessed under  
21 section 302.302:

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

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

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

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

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

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

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

35           3. A person shall be deemed to commit the offense of "aggravated endangerment of a  
36 highway worker" upon conviction or a plea of guilty for any offense under subsection 1 of  
37 this section when such offense occurs in a construction zone or work zone as defined in  
38 section 304.580 and results in the injury or death of a highway worker. Upon conviction or a  
39 plea of guilty for committing the offense of aggravated endangerment of a highway worker, in  
40 addition to any other penalty authorized by law, the person shall be subject to a fine of [~~not~~  
41 ~~more than~~] five thousand dollars if the offense resulted in injury to a highway worker and ten  
42 thousand dollars if the offense resulted in death to a highway worker. In addition, such person  
43 shall have twelve points assessed to their driver's license under section 302.302 and shall be  
44 subject to the provisions of section 302.304 regarding the revocation of the person's license  
45 and driving privileges.

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

50           5. No person shall be cited or convicted for endangerment of a highway worker or  
51 aggravated endangerment of a highway worker, for any act or omission otherwise constituting  
52 an offense under subsection 1 of this section, if such act or omission resulted in whole or in

53 part from mechanical failure of the person's vehicle [~~or from the negligence of another person~~  
54 ~~or a highway worker~~].

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

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

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

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

86         a. Whether the person was involved in a [~~physical accident~~] **traffic collision** where  
87 his or her vehicle struck a highway worker within a designated construction or work zone;

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

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

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

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

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