

HOUSE BILL NO. 2768

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIFFITH.

5490H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 577.010, RSMo, and to enact in lieu thereof one new section relating to the offense of driving while intoxicated, with penalty provisions.

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

Section A. Section 577.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.010, to read as follows:

577.010. 1. A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.

2. The offense of driving while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

~~(a) the defendant is a persistent offender; [or~~

~~(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;]~~

(4) A class D felony if:

(a) The defendant is an aggravated offender; **or**

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to **[a law enforcement officer or emergency personnel] 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 ~~(e) While driving while intoxicated, the defendant acts with criminal negligence to~~
 18 ~~cause serious physical injury to another person;]~~

19 (5) A class C felony if:

20 (a) The defendant is a chronic offender; **or**

21 (b) While driving while intoxicated, the defendant acts with criminal negligence to
 22 cause serious physical injury to ~~[a law enforcement officer or emergency personnel]~~ **another**
 23 **person; [or**

24 ~~(e) While driving while intoxicated, the defendant acts with criminal negligence to~~
 25 ~~cause the death of another person;]~~

26 (6) A class B felony if:

27 (a) The defendant is a habitual offender; **or**

28 (b) While driving while intoxicated, the defendant acts with criminal negligence to
 29 cause the death of ~~[a law enforcement officer or emergency personnel]~~ **another person;**

30 ~~[(e) While driving while intoxicated, the defendant acts with criminal negligence to~~
 31 ~~cause the death of any person not a passenger in the vehicle operated by the defendant,~~
 32 ~~including the death of an individual that results from the defendant's vehicle leaving a~~
 33 ~~highway, as defined in section 301.010, or the highway's right-of-way;~~

34 ~~(d) While driving while intoxicated, the defendant acts with criminal negligence to~~
 35 ~~cause the death of two or more persons; or~~

36 ~~(e) While driving while intoxicated, the defendant acts with criminal negligence to~~
 37 ~~cause the death of any person while he or she has a blood alcohol content of at least eighteen~~
 38 ~~hundredths of one percent by weight of alcohol in such person's blood;]~~

39 (7) A class A felony if:

40 (a) **While driving while intoxicated, the defendant acts with criminal negligence**
 41 **to cause the death of two or more persons;**

42 (b) **While driving while intoxicated, the defendant acts with criminal negligence**
 43 **to cause the death of any person while the defendant has a blood alcohol content of at**
 44 **least fifteen-hundredths of one percent by weight of alcohol; or**

45 (c) The defendant has previously been found guilty of an offense under ~~[paragraphs]~~
 46 **paragraph (a) [to (e)] or (b)** of subdivision (6) of this subsection and is found guilty of a
 47 subsequent violation of ~~[such paragraphs]~~ **this section.**

48 3. Notwithstanding the provisions of subsection 2 of this section, a person found
 49 guilty of the offense of driving while intoxicated as a first offense shall not be granted a
 50 suspended imposition of sentence:

51 (1) Unless such person shall be placed on probation for a minimum of two years; or

52 (2) In a circuit where a DWI court or docket created under section 478.007 or other
 53 court-ordered treatment program is available, and where the offense was committed with

54 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
55 the individual participates and successfully completes a program under such DWI court or
56 docket or other court-ordered treatment program.

57 4. If a person is found guilty of a second or subsequent offense of driving while
58 intoxicated, the court may order the person to submit to a period of continuous alcohol
59 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
60 a condition of probation.

61 5. If a person is not granted a suspended imposition of sentence for the reasons
62 described in subsection 3 of this section:

63 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-
64 hundredths of one percent by weight of alcohol in such person's blood, the required term of
65 imprisonment shall be not less than forty-eight hours;

66 (2) If the individual operated the vehicle with greater than twenty-hundredths of one
67 percent by weight of alcohol in such person's blood, the required term of imprisonment shall
68 be not less than five days.

69 6. A person found guilty of the offense of driving while intoxicated:

70 (1) As a prior offender, persistent offender, aggravated offender, chronic offender, or
71 habitual offender shall not be granted a suspended imposition of sentence or be sentenced to
72 pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

73 (2) As a prior offender shall not be granted parole or probation until he or she has
74 served a minimum of ten days imprisonment:

75 (a) Unless as a condition of such parole or probation such person performs at least
76 thirty days of community service under the supervision of the court in those jurisdictions
77 which have a recognized program for community service; or

78 (b) The offender participates in and successfully completes a program established
79 under section 478.007 or other court-ordered treatment program, if available, and as part of
80 either program, the offender performs at least thirty days of community service under the
81 supervision of the court;

82 (3) As a persistent offender shall not be eligible for parole or probation until he or she
83 has served a minimum of thirty days imprisonment:

84 (a) Unless as a condition of such parole or probation such person performs at least
85 sixty days of community service under the supervision of the court in those jurisdictions
86 which have a recognized program for community service; or

87 (b) The offender participates in and successfully completes a program established
88 under section 478.007 or other court-ordered treatment program, if available, and as part of
89 either program, the offender performs at least sixty days of community service under the
90 supervision of the court;

91 (4) As an aggravated offender shall not be eligible for parole or probation until he or
92 she has served a minimum of sixty days imprisonment; **and**

93 (5) As a chronic or habitual offender shall not be eligible for parole or probation until
94 he or she has served a minimum of two years imprisonment~~[-and]~~.

95 [~~6~~] 7. Any probation or parole granted under [~~this~~] subsection **6 of this section** may
96 include a period of continuous alcohol monitoring or verifiable breath alcohol testing
97 performed a minimum of four times per day.

98 **8. Notwithstanding any other provision of law, an offender found guilty under**
99 **paragraph (b) of subdivision (6) of subsection 2 of this section shall not be eligible for**
100 **parole or probation until he or she has served a minimum of five years' imprisonment.**

101 **9. Notwithstanding any other provision of law, an offender found guilty under**
102 **subdivision (7) of subsection 2 of this section shall not be eligible for parole or probation**
103 **until he or she has served a minimum of ten years' imprisonment.**

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