

SECOND REGULAR SESSION

HOUSE BILL NO. 2841

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LOVASCO.

5886H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 577.001, RSMo, and to enact in lieu thereof two new sections relating to offenses involving vehicles or vessels.

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

Section A. Section 577.001, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 577.001 and 577.009, to read as follows:

577.001. As used in this chapter, the following terms mean:

(1) "Aggravated offender", a person who has been found guilty of:

(a) Three or more intoxication-related traffic offenses committed on separate occasions; or

(b) Two or more intoxication-related traffic offenses committed on separate occasions where at least one of the intoxication-related traffic offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed;

(2) "Aggravated boating offender", a person who has been found guilty of:

(a) Three or more intoxication-related boating offenses; or

(b) Two or more intoxication-related boating offenses committed on separate occasions where at least one of the intoxication-related boating offenses is an offense committed in violation of any state law, county or municipal ordinance, any federal offense, or any military offense in which the defendant was operating a vessel while intoxicated and another person was injured or killed;

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 (3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively
18 for off-highway use, with an unladen dry weight of one thousand five hundred pounds or less,
19 traveling on three, four or more nonhighway tires, with either:

20 (a) A seat designed to be straddled by the operator, or with a seat designed to carry
21 more than one person, and handlebars for steering control; or

22 (b) A width of fifty inches or less, measured from outside of tire rim to outside of tire
23 rim, regardless of seating or steering arrangement;

24 (4) "Court", any circuit, associate circuit, or municipal court, including traffic court,
25 but not any juvenile court or treatment court;

26 (5) "Chronic offender", a person who has been found guilty of:

27 (a) Four or more intoxication-related traffic offenses committed on separate
28 occasions; or

29 (b) Three or more intoxication-related traffic offenses committed on separate
30 occasions where at least one of the intoxication-related traffic offenses is an offense
31 committed in violation of any state law, county or municipal ordinance, any federal offense,
32 or any military offense in which the defendant was operating a vehicle while intoxicated and
33 another person was injured or killed; or

34 (c) Two or more intoxication-related traffic offenses committed on separate occasions
35 where both intoxication-related traffic offenses were offenses committed in violation of any
36 state law, county or municipal ordinance, any federal offense, or any military offense in which
37 the defendant was operating a vehicle while intoxicated and another person was injured or
38 killed;

39 (6) "Chronic boating offender", a person who has been found guilty of:

40 (a) Four or more intoxication-related boating offenses; or

41 (b) Three or more intoxication-related boating offenses committed on separate
42 occasions where at least one of the intoxication-related boating offenses is an offense
43 committed in violation of any state law, county or municipal ordinance, any federal offense,
44 or any military offense in which the defendant was operating a vessel while intoxicated and
45 another person was injured or killed; or

46 (c) Two or more intoxication-related boating offenses committed on separate
47 occasions where both intoxication-related boating offenses were offenses committed in
48 violation of any state law, county or municipal ordinance, any federal offense, or any military
49 offense in which the defendant was operating a vessel while intoxicated and another person
50 was injured or killed;

51 (7) "Continuous alcohol monitoring", automatically testing breath, blood, or
52 transdermal alcohol concentration levels and tampering attempts at least once every hour,
53 regardless of the location of the person who is being monitored, and regularly transmitting the

54 data. Continuous alcohol monitoring shall be considered an electronic monitoring service
55 under subsection 3 of section 217.690;

56 (8) "Controlled substance", a drug, substance, or immediate precursor in schedules I
57 to V listed in section 195.017;

58 (9) "Drive", "driving", "operates" or "operating", **to physically** ~~driving or operating~~
59 **move** a vehicle or vessel **along or through with the engine or motor running**;

60 (10) "Flight crew member", the pilot in command, copilots, flight engineers, and
61 flight navigators;

62 (11) "Habitual offender", a person who has been found guilty of:

63 (a) Five or more intoxication-related traffic offenses committed on separate
64 occasions; or

65 (b) Four or more intoxication-related traffic offenses committed on separate
66 occasions where at least one of the intoxication-related traffic offenses is an offense
67 committed in violation of any state law, county or municipal ordinance, any federal offense,
68 or any military offense in which the defendant was operating a vehicle while intoxicated and
69 another person was injured or killed; or

70 (c) Three or more intoxication-related traffic offenses committed on separate
71 occasions where at least two of the intoxication-related traffic offenses were offenses
72 committed in violation of any state law, county or municipal ordinance, any federal offense,
73 or any military offense in which the defendant was operating a vehicle while intoxicated and
74 another person was injured or killed;

75 (12) "Habitual boating offender", a person who has been found guilty of:

76 (a) Five or more intoxication-related boating offenses; or

77 (b) Four or more intoxication-related boating offenses committed on separate
78 occasions where at least one of the intoxication-related boating offenses is an offense
79 committed in violation of any state law, county or municipal ordinance, any federal offense,
80 or any military offense in which the defendant was operating a vessel while intoxicated and
81 another person was injured or killed; or

82 (c) Three or more intoxication-related boating offenses committed on separate
83 occasions where at least two of the intoxication-related boating offenses were offenses
84 committed in violation of any state law, county or municipal ordinance, any federal offense,
85 or any military offense in which the defendant was operating a vessel while intoxicated and
86 another person was injured or killed; or

87 (d) While boating while intoxicated, the defendant acted with criminal negligence to:

88 a. Cause the death of any person not a passenger in the vessel operated by the
89 defendant, including the death of an individual that results from the defendant's vessel leaving
90 the water; or

91 b. Cause the death of two or more persons; or

92 c. Cause the death of any person while he or she has a blood alcohol content of at
93 least eighteen-hundredths of one percent by weight of alcohol in such person's blood;

94 (13) "Intoxicated" or "intoxicated condition", when a person is under the influence of
95 alcohol, a controlled substance, or drug, or any combination thereof;

96 (14) "Intoxication-related boating offense", operating a vessel while intoxicated;
97 boating while intoxicated; operating a vessel with excessive blood alcohol content or an
98 offense in which the defendant was operating a vessel while intoxicated and another person
99 was injured or killed in violation of any state law, county or municipal ordinance, any federal
100 offense, or any military offense;

101 (15) "Intoxication-related traffic offense", driving while intoxicated, driving with
102 excessive blood alcohol content, driving under the influence of alcohol or drugs in violation
103 of a state law, county or municipal ordinance, any federal offense, or any military offense, or
104 an offense in which the defendant was operating a vehicle while intoxicated and another
105 person was injured or killed in violation of any state law, county or municipal ordinance, any
106 federal offense, or any military offense;

107 (16) "Law enforcement officer" or "arresting officer", includes the definition of law
108 enforcement officer in section 556.061 and military policemen conducting traffic enforcement
109 operations on a federal military installation under military jurisdiction in the state of
110 Missouri;

111 (17) "Operate a vessel", to physically control the movement of a vessel in motion
112 under mechanical or sail power in water;

113 (18) "Persistent offender", a person who has been found guilty of:

114 (a) Two or more intoxication-related traffic offenses committed on separate
115 occasions; or

116 (b) One intoxication-related traffic offense committed in violation of any state law,
117 county or municipal ordinance, federal offense, or military offense in which the defendant
118 was operating a vehicle while intoxicated and another person was injured or killed;

119 (19) "Persistent boating offender", a person who has been found guilty of:

120 (a) Two or more intoxication-related boating offenses committed on separate
121 occasions; or

122 (b) One intoxication-related boating offense committed in violation of any state law,
123 county or municipal ordinance, federal offense, or military offense in which the defendant
124 was operating a vessel while intoxicated and another person was injured or killed;

125 (20) "Prior offender", a person who has been found guilty of one intoxication-related
126 traffic offense, where such prior offense occurred within five years of the occurrence of the
127 intoxication-related traffic offense for which the person is charged;

128 (21) "Prior boating offender", a person who has been found guilty of one intoxication-
129 related boating offense, where such prior offense occurred within five years of the occurrence
130 of the intoxication-related boating offense for which the person is charged.

**577.009. Unless an accident has occurred, it shall be an affirmative defense to a
2 violation of:**

3 **(1) Section 577.010 or 577.012 that the driver abandoned the violation by**
4 **stopping and parking the vehicle off the roadway; and**

5 **(2) Section 577.013 or 577.014 that the driver abandoned the violation by**
6 **stopping and docking or anchoring the vessel.**

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