

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Bill No. 189, Page 46, Section 301.551, Line 19,  
2 by inserting after said section and line the following:  
3

4 "302.304. 1. The director shall notify by ordinary mail any operator of the point value  
5 charged against the operator's record when the record shows four or more points have been  
6 accumulated in a twelve-month period.

7 2. In an action to suspend or revoke a license or driving privilege under this section points  
8 shall be accumulated on the date of conviction. No case file of any conviction for a driving  
9 violation for which points may be assessed pursuant to section 302.302 may be closed until such  
10 time as a copy of the record of such conviction is forwarded to the department of revenue.

11 3. The director shall suspend the license and driving privileges of any person whose driving  
12 record shows the driver has accumulated eight points in eighteen months.

13 4. The license and driving privilege of any person whose license and driving privilege have  
14 been suspended under the provisions of sections 302.010 to 302.540 except those persons whose  
15 license and driving privilege have been suspended under the provisions of subdivision (8) of  
16 subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction  
17 under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial  
18 responsibility with the department of revenue, in accordance with chapter 303, and is otherwise  
19 eligible, shall be reinstated as follows:

20 (1) In the case of an initial suspension, thirty days after the effective date of the suspension;

21 (2) In the case of a second suspension, sixty days after the effective date of the suspension;

22 (3) In the case of the third and subsequent suspensions, ninety days after the effective date  
23 of the suspension.

24  
25 Unless proof of financial responsibility is filed with the department of revenue, a suspension shall  
26 continue in effect for two years from its effective date.

27 5. The period of suspension of the driver's license and driving privilege of any person under  
28 the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated  
29 sufficient points together with a conviction under subdivision (10) of subsection 1 of section  
30 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege as defined

Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 in section 302.010. Upon completion of such period of restricted driving privilege, upon  
2 compliance with other requirements of law and upon filing of proof of financial responsibility with  
3 the department of revenue, in accordance with chapter 303, the license and driving privilege shall be  
4 reinstated. If a person, otherwise subject to the provisions of this subsection, files proof of  
5 installation with the department of revenue that any vehicle operated by such person is equipped  
6 with a functioning, certified ignition interlock device, there shall be no period of suspension.  
7 However, in lieu of a suspension the person shall instead complete a ninety-day period of restricted  
8 driving privilege. If the person fails to maintain such proof of the device with the director of  
9 revenue as required, the restricted driving privilege shall be terminated. Upon completion of such  
10 ninety-day period of restricted driving privilege, upon compliance with other requirements of law,  
11 and upon filing of proof of financial responsibility with the department of revenue, in accordance  
12 with chapter 303, the license and driving privilege shall be reinstated. However, if the monthly  
13 monitoring reports during such ninety-day period indicate that the ignition interlock device has  
14 registered a confirmed blood alcohol concentration level above the alcohol setpoint established by  
15 the department of transportation or such reports indicate that the ignition interlock device has been  
16 tampered with or circumvented, then the license and driving privilege of such person shall not be  
17 reinstated until the person completes an additional thirty-day period of restricted driving privilege.

18 6. If the person fails to maintain proof of financial responsibility in accordance with chapter  
19 303, or, if applicable, if the person fails to maintain proof that any vehicle operated is equipped with  
20 a functioning, certified ignition interlock device installed pursuant to subsection 5 of this section,  
21 the person's driving privilege and license shall be resuspended.

22 7. The director shall revoke the license and driving privilege of any person when the  
23 person's driving record shows such person has accumulated twelve points in twelve months or  
24 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation  
25 period of any person whose license and driving privilege have been revoked under the provisions of  
26 sections 302.010 to 302.540 and who has filed proof of financial responsibility with the department  
27 of revenue in accordance with chapter 303 and is otherwise eligible, shall be terminated by a notice  
28 from the director of revenue after one year from the effective date of the revocation. Unless proof  
29 of financial responsibility is filed with the department of revenue, except as provided in subsection 2  
30 of section 302.541, the revocation shall remain in effect for a period of two years from its effective  
31 date. If the person fails to maintain proof of financial responsibility in accordance with chapter 303,  
32 the person's license and driving privilege shall be rerevoked. Any person whose license and driving  
33 privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt  
34 of the notice of termination of the revocation from the director, pass the complete driver  
35 examination and apply for a new license before again operating a motor vehicle upon the highways  
36 of this state.

37 8. If, prior to conviction for an offense that would require suspension or revocation of a  
38 person's license under the provisions of this section, the person's total points accumulated are  
39 reduced, pursuant to the provisions of section 302.306, below the number of points required for

1 suspension or revocation pursuant to the provisions of this section, then the person's license shall not  
2 be suspended or revoked until the necessary points are again obtained and accumulated.

3 9. If any person shall neglect or refuse to surrender the person's license, as provided herein,  
4 the director shall direct the state highway patrol or any peace or police officer to secure possession  
5 thereof and return it to the director.

6 10. Upon the issuance of a reinstatement or termination notice after a suspension or  
7 revocation of any person's license and driving privilege under the provisions of sections 302.010 to  
8 302.540, the accumulated point value shall be reduced to four points, except that the points of any  
9 person serving as a member of the Armed Forces of the United States outside the limits of the  
10 United States during a period of suspension or revocation shall be reduced to zero upon the date of  
11 the reinstatement or termination of notice. It shall be the responsibility of such member of the  
12 Armed Forces to submit copies of official orders to the director of revenue to substantiate such  
13 overseas service. Any other provision of sections 302.010 to 302.540 to the contrary  
14 notwithstanding, the effective date of the four points remaining on the record upon reinstatement or  
15 termination shall be the date of the reinstatement or termination notice.

16 11. No credit toward reduction of points shall be given during periods of suspension or  
17 revocation or any period of driving under a limited driving privilege granted by a court or the  
18 director of revenue.

19 12. Any person or nonresident whose license or privilege to operate a motor vehicle in this  
20 state has been suspended or revoked under this or any other law shall, before having the license or  
21 privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty  
22 dollars which shall be in addition to all other fees provided by law.

23 13. Notwithstanding any other provision of law to the contrary, if after two years from the  
24 effective date of any suspension or revocation issued under this chapter, except any suspension or  
25 revocation issued under section 302.410, 302.462, or 302.574, the person or nonresident has not  
26 paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to  
27 operate a motor vehicle in this state. Any person who has had his or her license suspended or  
28 revoked under section 302.410, 302.462, or 302.574, shall be required to pay the reinstatement fee.

29 14. No person who has had a license to operate a motor vehicle suspended or revoked as a  
30 result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of  
31 section 302.302 shall have that license reinstated until such person has participated in and  
32 successfully completed a substance abuse traffic offender program defined in section 302.010, or a  
33 program determined to be comparable by the department of mental health. Assignment  
34 recommendations, based upon the needs assessment as described in subdivision (24) of section  
35 302.010, shall be delivered in writing to the person with written notice that the person is entitled to  
36 have such assignment recommendations reviewed by the court if the person objects to the  
37 recommendations. The person may file a motion in the associate division of the circuit court of the  
38 county in which such assignment was given, on a printed form provided by the state courts  
39 administrator, to have the court hear and determine such motion pursuant to the provisions of

chapter 517. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.001 or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

15. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee in an amount to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 or a program determined to be comparable by the department of mental health. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rate established pursuant to the provisions of section 32.065, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053.

16. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

17. Any person who has had a license to operate a motor vehicle suspended or revoked as a result of:

(1) An assessment of points for a conviction for an intoxication-related traffic offense, as defined under section 577.001, in which the person's blood alcohol content was found to be at least

1 eight-hundredths of one percent but less than fifteen-hundredths of one percent by weight of alcohol  
2 in such person's blood and who has a prior alcohol-related enforcement contact as defined under  
3 section 302.525[~~;~~]; or

4 (2) An assessment of points for a conviction for an intoxication-related traffic offense, as  
5 defined under section 577.001, in which the person's blood alcohol content was found to be fifteen-  
6 hundredths of one percent or more by weight of alcohol in such person's blood

7  
8 shall be required to file proof with the director of revenue that any motor vehicle operated by the  
9 person is equipped with a functioning, certified ignition interlock device as a required condition of  
10 reinstatement of the license. The ignition interlock device shall further be required to be maintained  
11 on all motor vehicles operated by the person for a period of not less than six months immediately  
12 following the date of reinstatement. If the monthly monitoring reports show that the ignition  
13 interlock device has registered any confirmed blood alcohol concentration readings above the  
14 alcohol setpoint established by the department of transportation or that the person has tampered with  
15 or circumvented the ignition interlock device within the last three months of the six-month period of  
16 required installation of the ignition interlock device, then the period for which the person must  
17 maintain the ignition interlock device following the date of reinstatement shall be extended until the  
18 person has completed three consecutive months with no violations as described in this section. If  
19 the person fails to maintain such proof with the director, the license shall be resuspended or revoked  
20 and the person shall be guilty of a class A misdemeanor.

21 302.440. In addition to any other provisions of law, a court may require that any person who  
22 is found guilty of a first intoxication-related traffic offense, as defined in section 577.001, and a  
23 court shall require that any person who is found guilty of a second or subsequent intoxication-  
24 related traffic offense, as defined in section 577.001, or any person who is found guilty of an  
25 intoxication-related traffic offense, as defined under section 577.001, in which the person's blood  
26 alcohol content was found to be fifteen-hundredths of one percent or more by weight of alcohol in  
27 such person's blood shall not operate any motor vehicle unless that vehicle is equipped with a  
28 functioning, certified ignition interlock device that the person must use for a period of not less than  
29 six months from the date of reinstatement of the person's driver's license. In addition, any court  
30 authorized to grant a limited driving privilege under section 302.309 to any person who is found  
31 guilty of a second or subsequent intoxication-related traffic offense or to any person who is found  
32 guilty of an intoxication-related traffic offense, as defined under section 577.001, in which the  
33 person's blood alcohol content was found to be fifteen-hundredths of one percent or more by weight  
34 of alcohol in such person's blood shall require the use of an ignition interlock device on all vehicles  
35 operated by the person as a required condition of the limited driving privilege, except as provided in  
36 section 302.441. These requirements shall be in addition to any other provisions of this chapter or  
37 chapter 577 requiring installation and maintenance of an ignition interlock device. Any person  
38 required to use an ignition interlock device shall comply with such requirement subject to the  
39 penalties provided by section 577.599.

1           302.520. 1. Whenever the chemical test results are available to the law enforcement officer  
2 while the arrested person is still in custody, and where the results show an alcohol concentration of  
3 eight-hundredths of one percent or more by weight of alcohol in such person's blood or where such  
4 person is less than twenty-one years of age and the results show that there is two-hundredths of one  
5 percent or more of alcohol in the person's blood, the officer, acting on behalf of the department,  
6 shall serve the notice of suspension or revocation personally on the arrested person.

7           2. When the law enforcement officer serves the notice of suspension or revocation, ~~[the~~  
8 ~~officer shall take possession of any driver's license issued by this state which is held by the person.~~  
9 ~~When the officer takes possession of a valid driver's license issued by this state,]~~ the officer, acting  
10 on behalf of the department, shall issue a temporary permit which is valid for fifteen days after its  
11 date of issuance and shall also give the person arrested a notice which shall inform the person of all  
12 rights and responsibilities pursuant to sections 302.500 to 302.540. The notice shall be in such form  
13 so that the arrested person may sign the original as evidence of receipt thereof. The notice shall also  
14 contain a detachable form permitting the arrested person to request a hearing. Signing the hearing  
15 request form and mailing such request to the department shall constitute a formal application for a  
16 hearing.

17           3. A copy of the completed notice of suspension or revocation form, a copy of any  
18 completed temporary permit form, a copy of the notice of rights and responsibilities given to the  
19 arrested person, including any request for hearing, and any driver's license taken into possession  
20 pursuant to this section shall be forwarded to the department by the officer along with the report  
21 required in section 302.510.

22           4. The department shall provide forms for notice of suspension or revocation, for notice of  
23 rights and responsibilities, for request for a hearing and for temporary permits to law enforcement  
24 agencies.

25           302.525. 1. The license suspension or revocation shall become effective fifteen days after  
26 the subject person has received the notice of suspension or revocation as provided in section  
27 302.520, or is deemed to have received the notice of suspension or revocation by mail as provided in  
28 section 302.515. If a request for a hearing is received by or postmarked to the department within  
29 that fifteen-day period, the effective date of the suspension or revocation shall be stayed until a final  
30 order is issued following the hearing; provided, that any delay in the hearing which is caused or  
31 requested by the subject person or counsel representing that person without good cause shown shall  
32 not result in a stay of the suspension or revocation during the period of delay.

33           2. The period of license suspension or revocation under this section shall be as follows:

34           (1) If the person's driving record shows no prior alcohol-related enforcement contacts during  
35 the immediately preceding five years, the period of suspension shall be thirty days after the effective  
36 date of suspension, followed by a sixty-day period of restricted driving privilege as defined in  
37 section 302.010 and issued by the director of revenue. The restricted driving privilege shall not be  
38 issued until he or she has filed proof of financial responsibility with the department of revenue, in  
39 accordance with chapter 303, and is otherwise eligible. The restricted driving privilege shall

1 indicate ~~whether~~ that a functioning, certified ignition interlock device is required as a condition of  
 2 operating a motor vehicle. A copy of the restricted driving privilege shall be given to the person and  
 3 such person shall carry a copy of the restricted driving privilege while operating a motor vehicle. In  
 4 no case shall restricted driving privileges be issued pursuant to this section or section 302.535 until  
 5 the person has completed the first thirty days of a suspension under this section. If a person  
 6 otherwise subject to the provisions of this subdivision files proof of installation with the department  
 7 of revenue that any vehicle that he or she operates is equipped with a functioning, certified ignition  
 8 interlock device, there shall be no period of suspension. However, in lieu of a suspension the person  
 9 shall instead complete a ninety-day period of restricted driving privilege. Upon completion of such  
 10 ninety-day period of restricted driving privilege, compliance with other requirements of law, and  
 11 filing of proof of financial responsibility with the department of revenue, in accordance with chapter  
 12 303, the license and driving privilege shall be reinstated. However, if the monthly monitoring  
 13 reports during such ninety-day period indicate that the ignition interlock device has registered a  
 14 confirmed blood alcohol concentration level above the alcohol setpoint established by the  
 15 department of transportation or such reports indicate that the ignition interlock device has been  
 16 tampered with or circumvented, then the license and driving privilege of such person shall not be  
 17 reinstated until the person completes an additional thirty-day period of restricted driving privilege.  
 18 If the person fails to maintain such proof of the device with the director of revenue as required, the  
 19 restricted driving privilege shall be terminated;

20 (2) The period of revocation shall be one year if the person's driving record shows one or  
 21 more prior alcohol-related enforcement contacts during the immediately preceding five years;

22 (3) In no case shall restricted driving privileges be issued under this section to any person  
 23 whose driving record shows one or more prior alcohol-related enforcement contacts or to any person  
 24 whose driving record shows a conviction of an intoxication-related traffic offense, as defined under  
 25 section 577.001, in which the person's blood alcohol content was found to be fifteen-hundredths of  
 26 one percent or more by weight of alcohol in such person's blood until the person has filed proof with  
 27 the department of revenue that any motor vehicle operated by the person is equipped with a  
 28 functioning, certified ignition interlock device as a required condition of the restricted driving  
 29 privilege. If the person fails to maintain such proof the restricted driving privilege shall be  
 30 terminated.

31 3. For purposes of this section, "alcohol-related enforcement contacts" shall include any  
 32 suspension or revocation under sections 302.500 to 302.540, any suspension or revocation entered in  
 33 this or any other state for a refusal to submit to chemical testing under an implied consent law, and  
 34 any conviction in this or any other state for a violation which involves driving while intoxicated,  
 35 driving while under the influence of drugs or alcohol, or driving a vehicle while having an unlawful  
 36 alcohol concentration.

37 4. Where a license is suspended or revoked under this section and the person is also  
 38 convicted on charges arising out of the same occurrence for a violation of section 577.010 or  
 39 577.012 or for a violation of any county or municipal ordinance prohibiting driving while

1 intoxicated or alcohol-related traffic offense, both the suspension or revocation under this section  
 2 and any other suspension or revocation arising from such convictions shall be imposed, but the  
 3 period of suspension or revocation under sections 302.500 to 302.540 shall be credited against any  
 4 other suspension or revocation arising from such convictions, and the total period of suspension or  
 5 revocation shall not exceed the longer of the two suspension or revocation periods.

6 5. Any person who has had a license to operate a motor vehicle revoked under this section  
 7 or suspended under this section with one or more prior alcohol-related enforcement contacts or a  
 8 conviction for an intoxication-related traffic offense, as defined under section 577.001, in which the  
 9 person's blood alcohol content was found to be fifteen-hundredths of one percent or more by weight  
 10 of alcohol in such person's blood showing on their driver record shall be required to file proof with  
 11 the director of revenue that any motor vehicle operated by that person is equipped with a  
 12 functioning, certified ignition interlock device as a required condition of reinstatement. The ignition  
 13 interlock device shall further be required to be maintained on all motor vehicles operated by the  
 14 person for a period of not less than six months immediately following the date of reinstatement. If  
 15 the monthly monitoring reports show that the ignition interlock device has registered any confirmed  
 16 blood alcohol concentration readings above the alcohol setpoint established by the department of  
 17 transportation or that the person has tampered with or circumvented the ignition interlock device  
 18 within the last three months of the six-month period of required installation of the ignition interlock  
 19 device, then the period for which the person must maintain the ignition interlock device following  
 20 the date of reinstatement shall be extended until the person has completed three consecutive months  
 21 with no violations as described in this section. If the person fails to maintain such proof with the  
 22 director, the license shall be suspended or revoked, until proof as required by this section is filed  
 23 with the director, and the person shall be guilty of a class A misdemeanor.

24 302.530. 1. Any person who has received a notice of suspension or revocation may make a  
 25 request within fifteen days of receipt of the notice for a review of the department's determination at  
 26 a hearing. ~~[If the person's driver's license has not been previously surrendered, it may be~~  
 27 ~~surrendered at the time the request for a hearing is made.]~~

28 2. At the time the request for a hearing is made, if it appears from the record that the person  
 29 is the holder of a valid driver's license issued by this state, ~~[and that the driver's license has been~~  
 30 ~~surrendered,]~~ the department shall issue a temporary permit which shall be valid until the scheduled  
 31 date for the hearing. The department may later issue an additional temporary permit or permits in  
 32 order to stay the effective date of the suspension or revocation until the final order is issued  
 33 following the hearing, as required by section 302.520.

34 3. The hearing may be held by telephone, or if requested by the person, such person's  
 35 attorney or representative, at a regional location as designated by the director. The hearing shall be  
 36 conducted by examiners who are licensed to practice law in the state of Missouri and who are  
 37 employed by the department on a part-time or full-time basis as the department may determine.

38 4. The sole issue at the hearing shall be whether by a preponderance of the evidence the  
 39 person was driving a vehicle pursuant to the circumstances set out in section 302.505. The burden



1 of proof shall be on the state to adduce such evidence. If the department finds the affirmative of this  
2 issue, the suspension or revocation order shall be sustained. If the department finds the negative of  
3 the issue, the suspension or revocation order shall be rescinded.

4 5. The procedure at such hearing shall be conducted in accordance with chapter 536, with  
5 sections 302.500 to 302.540. A report certified under subsection 2 of section 302.510 shall be  
6 admissible in a like manner as a verified report as evidence of the facts stated therein and any  
7 provision of chapter 536 to the contrary shall not apply.

8 6. The department shall promptly notify the person of its decision including the reasons for  
9 that decision. Such notification shall include a notice advising the person that the department's  
10 decision shall be final within fifteen days from the date such notice was mailed unless the person  
11 challenges the department's decision within that time period by filing an appeal in the circuit court  
12 in the county where the arrest occurred.

13 7. Unless the person, within fifteen days after being notified of the department's decision,  
14 files an appeal for judicial review pursuant to section 302.535, the decision of the department shall  
15 be final.

16 8. The director may adopt any rules and regulations necessary to carry out the provisions of  
17 this section.

18 302.574. 1. If a person who was operating a vehicle refuses upon the request of the officer  
19 to submit to any chemical test under section 577.041, the officer shall, on behalf of the director of  
20 revenue, serve the notice of license revocation personally upon the person and shall take possession  
21 of any license to operate a vehicle issued by this state which is held by that person. The officer shall  
22 issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and  
23 shall also give the person notice of his or her right to file a petition for review to contest the license  
24 revocation.

25 2. Such officer shall make a certified report under penalties of perjury for making a false  
26 statement to a public official. The report shall be forwarded to the director of revenue and shall  
27 include the following:

28 (1) That the officer has:

29 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while  
30 in an intoxicated condition; or

31 (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-  
32 one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one  
33 percent or more by weight; or

34 (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-  
35 one years, was committing a violation of the traffic laws of the state, or political subdivision of the  
36 state, and such officer has reasonable grounds to believe, after making such stop, that the person had  
37 a blood alcohol content of two-hundredths of one percent or greater;

38 (2) That the person refused to submit to a chemical test;

39 (3) Whether the officer secured the license to operate a motor vehicle of the person;

1 (4) Whether the officer issued a fifteen-day temporary permit;

2 (5) Copies of the notice of revocation, the fifteen-day temporary permit, and the notice of  
3 the right to file a petition for review. The notices and permit may be combined in one document;  
4 and

5 (6) Any license, which the officer has taken into possession, to operate a motor vehicle.

6 3. Upon receipt of the officer's report, the director shall revoke the license of the person  
7 refusing to take the test for a period of one year; or if the person is a nonresident, such person's  
8 operating permit or privilege shall be revoked for one year; or if the person is a resident without a  
9 license or permit to operate a motor vehicle in this state, an order shall be issued denying the person  
10 the issuance of a license or permit for a period of one year.

11 4. If a person's license has been revoked because of the person's refusal to submit to a  
12 chemical test, such person may petition for a hearing before a circuit division or associate division  
13 of the court in the county in which the arrest or stop occurred. Pursuant to local court rule  
14 promulgated pursuant to Section 15 of Article V of the Missouri Constitution, the case may also be  
15 assigned to a traffic judge pursuant to section 479.500. The person may request such court to issue  
16 an order staying the revocation until such time as the petition for review can be heard. If the court,  
17 in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of  
18 revenue and shall send a copy of such order to the director. Such order shall serve as proof of the  
19 privilege to operate a motor vehicle in this state and the director shall maintain possession of the  
20 person's license to operate a motor vehicle until termination of any revocation under this section.  
21 Upon the person's request, the clerk of the court shall notify the prosecuting attorney of the county  
22 and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing,  
23 the court shall determine only:

24 (1) Whether the person was arrested or stopped;

25 (2) Whether the officer had:

26 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in an  
27 intoxicated or drugged condition; or

28 (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-  
29 one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one  
30 percent or more by weight; or

31 (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-  
32 one years, was committing a violation of the traffic laws of the state, or political subdivision of the  
33 state, and such officer had reasonable grounds to believe, after making such stop, that the person had  
34 a blood alcohol content of two-hundredths of one percent or greater; and

35 (3) Whether the person refused to submit to the test.

36 5. If the court determines any issue not to be in the affirmative, the court shall order the  
37 director to reinstate the license or permit to drive.

38 6. Requests for review as provided in this section shall go to the head of the docket of the  
39 court wherein filed.

1           7. No person who has had a license to operate a motor vehicle suspended or revoked under  
2 the provisions of this section shall have that license reinstated until such person has participated in  
3 and successfully completed a substance abuse traffic offender program defined in section 302.010,  
4 or a program determined to be comparable by the department of mental health. Assignment  
5 recommendations, based upon the needs assessment as described in subdivision (24) of section  
6 302.010, shall be delivered in writing to the person with written notice that the person is entitled to  
7 have such assignment recommendations reviewed by the court if the person objects to the  
8 recommendations. The person may file a motion in the associate division of the circuit court of the  
9 county in which such assignment was given, on a printed form provided by the state courts  
10 administrator, to have the court hear and determine such motion under the provisions of chapter 517.  
11 The motion shall name the person or entity making the needs assessment as the respondent and a  
12 copy of the motion shall be served upon the respondent in any manner allowed by law. Upon  
13 hearing the motion, the court may modify or waive any assignment recommendation that the court  
14 determines to be unwarranted based upon a review of the needs assessment, the person's driving  
15 record, the circumstances surrounding the offense, and the likelihood of the person committing a  
16 similar offense in the future, except that the court may modify but shall not waive the assignment to  
17 an education or rehabilitation program of a person determined to be a prior or persistent offender as  
18 defined in section 577.001, or of a person determined to have operated a motor vehicle with a blood  
19 alcohol content of fifteen-hundredths of one percent or more by weight. Compliance with the court  
20 determination of the motion shall satisfy the provisions of this section for the purpose of reinstating  
21 such person's license to operate a motor vehicle. The respondent's personal appearance at any  
22 hearing conducted under this subsection shall not be necessary unless directed by the court.

23           8. The fees for the substance abuse traffic offender program, or a portion thereof, to be  
24 determined by the division of behavioral health of the department of mental health, shall be paid by  
25 the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition  
26 to any fee charged for the program, a supplemental fee to be determined by the department of  
27 mental health for the purposes of funding the substance abuse traffic offender program defined in  
28 section 302.010. The administrator of the program shall remit to the division of behavioral health of  
29 the department of mental health on or before the fifteenth day of each month the supplemental fee  
30 for all persons enrolled in the program, less two percent for administrative costs. Interest shall be  
31 charged on any unpaid balance of the supplemental fees due to the division of behavioral health  
32 under this section, and shall accrue at a rate not to exceed the annual rates established under the  
33 provisions of section 32.065, plus three percentage points. The supplemental fees and any interest  
34 received by the department of mental health under this section shall be deposited in the mental  
35 health earnings fund, which is created in section 630.053.

36           9. Any administrator who fails to remit to the division of behavioral health of the  
37 department of mental health the supplemental fees and interest for all persons enrolled in the  
38 program under this section shall be subject to a penalty equal to the amount of interest accrued on  
39 the supplemental fees due to the division under this section. If the supplemental fees, interest, and

1 penalties are not remitted to the division of behavioral health of the department of mental health  
2 within six months of the due date, the attorney general of the state of Missouri shall initiate  
3 appropriate action for the collection of said fees and accrued interest. The court shall assess  
4 attorneys' fees and court costs against any delinquent program.

5 10. Any person who has had a license to operate a motor vehicle revoked under this section  
6 and who has a prior alcohol-related enforcement contact, as defined in section 302.525, or who has  
7 been convicted of an intoxication-related traffic offense, as defined under section 577.001, in which  
8 the person's blood alcohol content was found to be fifteen-hundredths of one percent or more by  
9 weight of alcohol in such person's blood shall be required to file proof with the director of revenue  
10 that any motor vehicle operated by the person is equipped with a functioning, certified ignition  
11 interlock device as a required condition of license reinstatement. Such ignition interlock device  
12 shall further be required to be maintained on all motor vehicles operated by the person for a period  
13 of not less than six months immediately following the date of reinstatement. If the monthly  
14 monitoring reports show that the ignition interlock device has registered any confirmed blood  
15 alcohol concentration readings above the alcohol setpoint established by the department of  
16 transportation or that the person has tampered with or circumvented the ignition interlock device  
17 within the last three months of the six-month period of required installation of the ignition interlock  
18 device, then the period for which the person shall maintain the ignition interlock device following  
19 the date of reinstatement shall be extended until the person has completed three consecutive months  
20 with no violations as described in this section. If the person fails to maintain such proof with the  
21 director as required by this section, the license shall be rerevoked until proof as required by this  
22 section is filed with the director, and the person shall be guilty of a class A misdemeanor.

23 11. The revocation period of any person whose license and driving privilege has been  
24 revoked under this section and who has filed proof of financial responsibility with the department of  
25 revenue in accordance with chapter 303 and is otherwise eligible shall be terminated by a notice  
26 from the director of revenue after one year from the effective date of the revocation. Unless proof  
27 of financial responsibility is filed with the department of revenue, the revocation shall remain in  
28 effect for a period of two years from its effective date. If the person fails to maintain proof of  
29 financial responsibility in accordance with chapter 303, the person's license and driving privilege  
30 shall be rerevoked.

31 12. A person commits the offense of failure to maintain proof with the Missouri department  
32 of revenue if, when required to do so, he or she fails to file proof with the director of revenue that  
33 any vehicle operated by the person is equipped with a functioning, certified ignition interlock device  
34 or fails to file proof of financial responsibility with the department of revenue in accordance with  
35 chapter 303. The offense of failure to maintain proof with the Missouri department of revenue is a  
36 class A misdemeanor."; and

37  
38 Further amend said bill, Page 106, Section 556.039, Line 7, by inserting after said section and line  
39 the following:

1  
2 "557.520. 1. For purposes of this section, the following terms shall mean:

3 (1) "Failed start", any attempt to start a vehicle with a breath alcohol concentration  
4 exceeding twenty-five thousandths of one percent by weight of alcohol in a person's breath, unless a  
5 subsequent retest performed within ten minutes registers a breath alcohol concentration not  
6 exceeding twenty-five thousandths of one percent by weight of alcohol in such person's breath;

7 (2) "Running retest", failure to take a breath test performed by a driver upon a certified  
8 ignition interlock device at random intervals after an initial engine startup breath test and while the  
9 vehicle's motor is running or failure to take a breath retest with a breath alcohol concentration not  
10 exceeding twenty-five thousandths of one percent by weight of alcohol in such driver's breath;

11 (3) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on  
12 highways.

13 2. In any criminal case involving an intoxication-related traffic offense, the defendant may  
14 request to divert the criminal case to a driving while intoxicated (DWI) diversion program described  
15 in this section by submitting a request to the prosecuting or circuit attorney and sending a copy of  
16 such request to the department of revenue within fifteen days of his or her arrest. The prosecuting  
17 or circuit attorney may divert the criminal case to this DWI diversion program by filing a motion  
18 with the court to stay the criminal proceeding, if the defendant meets the following criteria for  
19 eligibility for entry into the DWI diversion program:

20 (1) The defendant has not previously pled guilty to or been convicted of an intoxication-  
21 related traffic offense in violation of section 577.010, 577.012, 577.013, 577.014, 577.015, or  
22 577.016;

23 (2) The defendant is not currently enrolled in, and has not in the previous five years  
24 completed, a diversion program pursuant to this section;

25 (3) The defendant does not hold a commercial driver's license;

26 (4) The offense did not occur while operating a commercial vehicle;

27 (5) The offense did not result in the injury or death of another person; and

28 (6) The defendant did not refuse to submit to any test allowed pursuant to section 577.020.

29 3. Upon a motion filed by the prosecuting or circuit attorney, the court may continue a  
30 diverted case involving an intoxication-related traffic offense if the prosecuting or circuit attorney  
31 deems appropriate based on the specific situation of the defendant. The case shall be diverted for a  
32 period not to exceed twenty-four months and order the defendant to comply with terms, conditions,  
33 or requirements.

34 4. The DWI diversion plan shall be for a specified period and be in writing. The  
35 prosecuting or circuit attorney has the sole authority to develop diversionary program requirements,  
36 but shall require installation of an ignition interlock device for a period of not less than one year,  
37 require the defendant to participate in a victim impact panel sponsored by a nonprofit organization,  
38 and require other terms deemed necessary by the court.

1        5. If the court continues the criminal case to divert the defendant to this DWI diversion  
2 program, a copy of such order shall be sent to the department of revenue and, upon receipt, the  
3 department shall rescind its order of suspension or revocation, if issued, and shall continue any  
4 proceeding to suspend or revoke a license pursuant to chapter 302 for a period not to exceed twenty-  
5 four months. After the defendant successfully completes the requirements of the DWI diversion  
6 program, the department shall dismiss any proceeding against the defendant.

7        6. The court shall notify the defendant that he or she is required to install a functioning,  
8 certified ignition interlock device on each vehicle that the defendant operates and the defendant is  
9 prohibited from operating a motor vehicle unless that vehicle is equipped with a functioning,  
10 certified ignition interlock device pursuant to this section. These requirements shall be in addition  
11 to any other provisions of this chapter or chapter 302 requiring installation and maintenance of an  
12 ignition interlock device. Any person required to use an ignition interlock device shall comply with  
13 such requirement subject to the penalties provided by section 577.599.

14        7. The department of revenue shall inform the defendant of the requirements of this section,  
15 including the term for which the defendant is required to have a certified ignition interlock device  
16 installed and shall notify the defendant that installation of a functioning, certified ignition interlock  
17 device on a vehicle does not allow the defendant to drive without a valid driver's license. The  
18 department shall record the mandatory use of the device for the term required and the time when the  
19 device is required to be installed pursuant to the court order. A defendant who is notified by the  
20 department shall do all of the following:

21        (1) Arrange for each vehicle operated by the defendant to be equipped with a functioning,  
22 certified ignition interlock device by a certified ignition interlock device provider as determined by  
23 the department of transportation; and

24        (2) Arrange for each vehicle with a functioning, certified ignition interlock device to be  
25 serviced by the installer at least once every thirty days for the installer to recalibrate and monitor the  
26 operation of the device.

27        8. The certified ignition interlock device provider shall notify the department:

28        (1) If the device is removed or indicates that the defendant has attempted to remove, bypass  
29 by a running retest, or tamper with the device;

30        (2) If the defendant fails three or more times to comply with any requirement for the  
31 maintenance or calibration of the ignition interlock device; or

32        (3) If the device registers a failed start.

33  
34 If a defendant has any failed start that occurs within the last ninety days of the required period of  
35 installation of the ignition interlock device, the term may be extended for a period of up to ninety  
36 days.

37        9. After the completion of the DWI diversion program and if the defendant has complied  
38 with all the imposed terms and conditions, the court shall dismiss the criminal case against the  
39 defendant, record the dismissal, and transmit the record to the central repository upon dismissal.

Any court automation system, including any pilot project, that provides public access to electronic record on the internet shall redact any personal identifying information of the defendant, including name, address, and year of birth. Such information shall be provided in a confidential filing sheet contemporaneously filed with the court or entered by the court, which shall not be subject to public inspection or availability.

10. In the event of noncompliance by the defendant with the terms and conditions of the DWI diversion program, the prosecuting or circuit attorney may file a motion to terminate the defendant from the diversion program and may recommend the prosecution of the underlying case. Upon the filing of such motion, after notice to the defendant, the court shall hold a hearing to determine by preponderance of the evidence whether the defendant has failed to comply with the terms and conditions of the diversion program. If the court finds that the defendant has not complied with the terms and conditions of the diversion program, the court may end the diversion program and set the case on the next available criminal docket.

11. Any defendant who is found guilty of any intoxication-related traffic offense and who has previously utilized the DWI diversion program pursuant to this section shall be considered a prior offender as defined in section 577.001, provided that the prior offense occurred within five years of the intoxication-related offense for which the person is charged, as provided in subsection 20 of section 577.001.

12. For the limited purpose of determining whether a defendant is a chronic, habitual, persistent, or prior offender under section 577.001, a criminal case diverted to a DWI diversion program and successfully completed by a defendant shall be counted as one intoxication-related traffic offense.

13. A certified ignition interlock device provider shall adopt a discounted fee schedule that provides for the payment of the costs of the certified ignition interlock device by offenders with an income at or below one hundred and fifty percent of the federal poverty level. A person with an income at or below one hundred and fifty percent of the federal poverty level who provides income verification shall be responsible for ten percent of the cost of the ignition interlock device. Any additional costs accrued by the person for noncompliance with program requirements are not subject to discounted rates and are the sole responsibility of the person. The certified ignition interlock provider shall verify the offender's income to determine the cost of the ignition interlock device by verifying from the offender the previous year's federal income tax return, the previous three months of weekly or monthly income statements, or a court order declaring the person with an income at or below one hundred and fifty percent of the federal poverty level.

14. Nothing in this section shall prohibit a prosecuting or circuit attorney from diverting a criminal case pursuant to section 557.014 in any criminal case involving an intoxication-related traffic offense."; and

Further amend said bill, Page 126, Section 574.207, Line 25, by inserting after said section and line the following:

"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

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

(5) A class C felony if:

(a) The defendant is a chronic offender; or

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

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

(6) A class B felony if:

(a) The defendant is a habitual offender; or

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

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

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

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

(7) A class A felony if:



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

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

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

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

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

13       (2) In a circuit where a DWI court or docket created under section 478.007 or other court-  
14 ordered treatment program is available, and where the offense was committed with fifteen-  
15 hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual  
16 participates and successfully completes a program under such DWI court or docket or other court-  
17 ordered treatment program.

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

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

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

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

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

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

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

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

38       (b) The offender participates in and successfully completes a program established under  
39 section 478.007 or other court-ordered treatment program, if available, and as part of either

1 program, the offender performs at least thirty days of community service under the supervision of  
2 the court;

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

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

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

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

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

16 ~~[(6)]~~ 7. Any probation or parole granted under ~~[this]~~ subsection 6 of this section may  
17 include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a  
18 minimum of four times per day.

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

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

25  
26 Further amend said bill by amending the title, enacting clause, and intersectional references  
27 accordingly.