

FIRST REGULAR SESSION

# HOUSE BILL NO. 87

103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE GRIFFITH.

0544H.011

DANA RADEMAN MILLER, Chief Clerk

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## 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.

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Section A. Section 577.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.010, to read as follows: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