

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 87**  
**103RD GENERAL ASSEMBLY**

0544H.02C

JOSEPH ENGLER, Chief Clerk

---

**AN ACT**

To repeal sections 302.304, 302.440, 302.525, 302.574, and 577.010, RSMo, and to enact in lieu thereof five new sections relating to driving while intoxicated, with penalty provisions.

---

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

Section A. Sections 302.304, 302.440, 302.525, 302.574, and 577.010, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections 302.304,  
3 302.440, 302.525, 302.574, and 577.010, to read as follows:

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

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

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

11 4. The license and driving privilege of any person whose license and driving privilege  
12 have been suspended under the provisions of sections 302.010 to 302.540 except those  
13 persons whose license and driving privilege have been suspended under the provisions of  
14 subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points  
15 together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who

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.

16 has filed proof of financial responsibility with the department of revenue, in accordance with  
17 chapter 303, and is otherwise eligible, shall be reinstated as follows:

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

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

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

24

25 Unless proof of financial responsibility is filed with the department of revenue, a suspension  
26 shall 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  
28 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has  
29 accumulated sufficient points together with a conviction under subdivision (10) of subsection  
30 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving  
31 privilege as defined in section 302.010. Upon completion of such period of restricted driving  
32 privilege, upon compliance with other requirements of law and upon filing of proof of  
33 financial responsibility with the department of revenue, in accordance with chapter 303, the  
34 license and driving privilege shall be reinstated. If a person, otherwise subject to the  
35 provisions of this subsection, files proof of installation with the department of revenue that  
36 any vehicle operated by such person is equipped with a functioning, certified ignition  
37 interlock device, there shall be no period of suspension. However, in lieu of a suspension the  
38 person shall instead complete a ninety-day period of restricted driving privilege. If the person  
39 fails to maintain such proof of the device with the director of revenue as required, the  
40 restricted driving privilege shall be terminated. Upon completion of such ninety-day period  
41 of restricted driving privilege, upon compliance with other requirements of law, and upon  
42 filing of proof of financial responsibility with the department of revenue, in accordance with  
43 chapter 303, the license and driving privilege shall be reinstated. However, if the monthly  
44 monitoring reports during such ninety-day period indicate that the ignition interlock device  
45 has registered a confirmed blood alcohol concentration level above the alcohol setpoint  
46 established by the department of transportation or such reports indicate that the ignition  
47 interlock device has been tampered with or circumvented, then the license and driving  
48 privilege of such person shall not be reinstated until the person completes an additional thirty-  
49 day period of restricted driving privilege.

50 6. If the person fails to maintain proof of financial responsibility in accordance with  
51 chapter 303, or, if applicable, if the person fails to maintain proof that any vehicle operated is

52 equipped with a functioning, certified ignition interlock device installed pursuant to  
53 subsection 5 of this section, the person's driving privilege and license shall be resuspended.

54         7. The director shall revoke the license and driving privilege of any person when the  
55 person's driving record shows such person has accumulated twelve points in twelve months or  
56 eighteen points in twenty-four months or twenty-four points in thirty-six months. The  
57 revocation period of any person whose license and driving privilege have been revoked under  
58 the provisions of sections 302.010 to 302.540 and who has filed proof of financial  
59 responsibility with the department of revenue in accordance with chapter 303 and is otherwise  
60 eligible, shall be terminated by a notice from the director of revenue after one year from the  
61 effective date of the revocation. Unless proof of financial responsibility is filed with the  
62 department of revenue, except as provided in subsection 2 of section 302.541, the revocation  
63 shall remain in effect for a period of two years from its effective date. If the person fails to  
64 maintain proof of financial responsibility in accordance with chapter 303, the person's license  
65 and driving privilege shall be rerevoked. Any person whose license and driving privilege  
66 have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of  
67 the notice of termination of the revocation from the director, pass the complete driver  
68 examination and apply for a new license before again operating a motor vehicle upon the  
69 highways of this state.

70         8. If, prior to conviction for an offense that would require suspension or revocation of  
71 a person's license under the provisions of this section, the person's total points accumulated  
72 are reduced, pursuant to the provisions of section 302.306, below the number of points  
73 required for suspension or revocation pursuant to the provisions of this section, then the  
74 person's license shall not be suspended or revoked until the necessary points are again  
75 obtained and accumulated.

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

79         10. Upon the issuance of a reinstatement or termination notice after a suspension or  
80 revocation of any person's license and driving privilege under the provisions of sections  
81 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that  
82 the points of any person serving as a member of the Armed Forces of the United States  
83 outside the limits of the United States during a period of suspension or revocation shall be  
84 reduced to zero upon the date of the reinstatement or termination of notice. It shall be the  
85 responsibility of such member of the Armed Forces to submit copies of official orders to the  
86 director of revenue to substantiate such overseas service. Any other provision of sections  
87 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points

88 remaining on the record upon reinstatement or termination shall be the date of the  
89 reinstatement or termination notice.

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

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

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

105         14. No person who has had a license to operate a motor vehicle suspended or revoked  
106 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of  
107 subsection 1 of section 302.302 shall have that license reinstated until such person has  
108 participated in and successfully completed a substance abuse traffic offender program defined  
109 in section 302.010, or a program determined to be comparable by the department of mental  
110 health. Assignment recommendations, based upon the needs assessment as described in  
111 subdivision (24) of section 302.010, shall be delivered in writing to the person with written  
112 notice that the person is entitled to have such assignment recommendations reviewed by the  
113 court if the person objects to the recommendations. The person may file a motion in the  
114 associate division of the circuit court of the county in which such assignment was given, on a  
115 printed form provided by the state courts administrator, to have the court hear and determine  
116 such motion pursuant to the provisions of chapter 517. The motion shall name the person or  
117 entity making the needs assessment as the respondent and a copy of the motion shall be  
118 served upon the respondent in any manner allowed by law. Upon hearing the motion, the  
119 court may modify or waive any assignment recommendation that the court determines to be  
120 unwarranted based upon a review of the needs assessment, the person's driving record, the  
121 circumstances surrounding the offense, and the likelihood of the person committing a like  
122 offense in the future, except that the court may modify but may not waive the assignment to  
123 an education or rehabilitation program of a person determined to be a prior or persistent  
124 offender as defined in section 577.001 or of a person determined to have operated a motor

125 vehicle with fifteen-hundredths of one percent or more by weight in such person's blood.  
126 Compliance with the court determination of the motion shall satisfy the provisions of this  
127 section for the purpose of reinstating such person's license to operate a motor vehicle. The  
128 respondent's personal appearance at any hearing conducted pursuant to this subsection shall  
129 not be necessary unless directed by the court.

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

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

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

156         **(1)** An assessment of points for a conviction for an intoxication-related traffic  
157 offense, as defined under section 577.001, **in which the person's blood alcohol content was**  
158 **found to be at least eight-hundredths of one percent but less than fifteen-hundredths of**  
159 **one percent by weight of alcohol in such person's blood** and who has a prior alcohol-  
160 related enforcement contact as defined under section 302.525[5]; **or**

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

165

166 shall be required to file proof with the director of revenue that any motor vehicle operated by  
167 the person is equipped with a functioning, certified ignition interlock device as a required  
168 condition of reinstatement of the license. The ignition interlock device shall further be  
169 required to be maintained on all motor vehicles operated by the person for a period of not less  
170 than six months immediately following the date of reinstatement. If the monthly monitoring  
171 reports show that the ignition interlock device has registered any confirmed blood alcohol  
172 concentration readings above the alcohol setpoint established by the department of  
173 transportation or that the person has tampered with or circumvented the ignition interlock  
174 device within the last three months of the six-month period of required installation of the  
175 ignition interlock device, then the period for which the person must maintain the ignition  
176 interlock device following the date of reinstatement shall be extended until the person has  
177 completed three consecutive months with no violations as described in this section. If the  
178 person fails to maintain such proof with the director, the license shall be resuspended or  
179 revoked and the person shall be guilty of a class A misdemeanor.

302.440. In addition to any other provisions of law, a court may require that any  
2 person who is found guilty of a first intoxication-related traffic offense, as defined in section  
3 577.001, and a court shall require that any person who is found guilty of a second or  
4 subsequent intoxication-related traffic offense, as defined in section 577.001, **or any person**  
5 **who is found guilty of an intoxication-related traffic offense, as defined under section**  
6 **577.001, in which the person's blood alcohol content was found to be fifteen-hundredths**  
7 **of one percent or more by weight of alcohol in such person's blood** shall not operate any  
8 motor vehicle unless that vehicle is equipped with a functioning, certified ignition interlock  
9 device **that the person must use** for a period of not less than six months from the date of  
10 reinstatement of the person's driver's license. In addition, any court authorized to grant a  
11 limited driving privilege under section 302.309 to any person who is found guilty of a second  
12 or subsequent intoxication-related traffic offense **or to any person who is found guilty of an**  
13 **intoxication-related traffic offense, as defined under section 577.001, in which the**  
14 **person's blood alcohol content was found to be fifteen-hundredths of one percent or**  
15 **more by weight of alcohol in such person's blood** shall require the use of an ignition  
16 interlock device on all vehicles operated by the person as a required condition of the limited  
17 driving privilege, except as provided in section 302.441. These requirements shall be in  
18 addition to any other provisions of this chapter or chapter 577 requiring installation and

19 maintenance of an ignition interlock device. Any person required to use an ignition interlock  
20 device shall comply with such requirement subject to the penalties provided by section  
21 577.599.

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

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

12 (1) If the person's driving record shows no prior alcohol-related enforcement contacts  
13 during the immediately preceding five years, the period of suspension shall be thirty days  
14 after the effective date of suspension, followed by a sixty-day period of restricted driving  
15 privilege as defined in section 302.010 and issued by the director of revenue. The restricted  
16 driving privilege shall not be issued until he or she has filed proof of financial responsibility  
17 with the department of revenue, in accordance with chapter 303, and is otherwise eligible.  
18 The restricted driving privilege shall indicate ~~[whether]~~ **that** a functioning, certified ignition  
19 interlock device is required as a condition of operating a motor vehicle. A copy of the  
20 restricted driving privilege shall be given to the person and such person shall carry a copy of  
21 the restricted driving privilege while operating a motor vehicle. In no case shall restricted  
22 driving privileges be issued pursuant to this section or section 302.535 until the person has  
23 completed the first thirty days of a suspension under this section. If a person otherwise  
24 subject to the provisions of this subdivision files proof of installation with the department of  
25 revenue that any vehicle that he or she operates is equipped with a functioning, certified  
26 ignition interlock device, there shall be no period of suspension. However, in lieu of a  
27 suspension the person shall instead complete a ninety-day period of restricted driving  
28 privilege. Upon completion of such ninety-day period of restricted driving privilege,  
29 compliance with other requirements of law, and filing of proof of financial responsibility with  
30 the department of revenue, in accordance with chapter 303, the license and driving privilege  
31 shall be reinstated. However, if the monthly monitoring reports during such ninety-day  
32 period indicate that the ignition interlock device has registered a confirmed blood alcohol  
33 concentration level above the alcohol setpoint established by the department of transportation  
34 or such reports indicate that the ignition interlock device has been tampered with or

35 circumvented, then the license and driving privilege of such person shall not be reinstated  
36 until the person completes an additional thirty-day period of restricted driving privilege. If  
37 the person fails to maintain such proof of the device with the director of revenue as required,  
38 the restricted driving privilege shall be terminated;

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

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

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

57 4. Where a license is suspended or revoked under this section and the person is also  
58 convicted on charges arising out of the same occurrence for a violation of section 577.010 or  
59 577.012 or for a violation of any county or municipal ordinance prohibiting driving while  
60 intoxicated or alcohol-related traffic offense, both the suspension or revocation under this  
61 section and any other suspension or revocation arising from such convictions shall be  
62 imposed, but the period of suspension or revocation under sections 302.500 to 302.540 shall  
63 be credited against any other suspension or revocation arising from such convictions, and the  
64 total period of suspension or revocation shall not exceed the longer of the two suspension or  
65 revocation periods.

66 5. Any person who has had a license to operate a motor vehicle revoked under this  
67 section or suspended under this section with one or more prior alcohol-related enforcement  
68 contacts **or a conviction for an intoxication-related traffic offense, as defined under**  
69 **section 577.001, in which the person's blood alcohol content was found to be fifteen-**  
70 **hundredths of one percent or more by weight of alcohol in such person's blood** showing  
71 on their driver record shall be required to file proof with the director of revenue that any



72 motor vehicle operated by that person is equipped with a functioning, certified ignition  
73 interlock device as a required condition of reinstatement. The ignition interlock device shall  
74 further be required to be maintained on all motor vehicles operated by the person for a period  
75 of not less than six months immediately following the date of reinstatement. If the monthly  
76 monitoring reports show that the ignition interlock device has registered any confirmed blood  
77 alcohol concentration readings above the alcohol setpoint established by the department of  
78 transportation or that the person has tampered with or circumvented the ignition interlock  
79 device within the last three months of the six-month period of required installation of the  
80 ignition interlock device, then the period for which the person must maintain the ignition  
81 interlock device following the date of reinstatement shall be extended until the person has  
82 completed three consecutive months with no violations as described in this section. If the  
83 person fails to maintain such proof with the director, the license shall be suspended or  
84 revoked, until proof as required by this section is filed with the director, and the person shall  
85 be guilty of a class A misdemeanor.

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

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

11 (1) That the officer has:

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

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

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

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

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

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

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

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

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

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

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

48 (2) Whether the officer had:

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

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

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

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

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

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

64           7. No person who has had a license to operate a motor vehicle suspended or revoked  
65 under the provisions of this section shall have that license reinstated until such person has  
66 participated in and successfully completed a substance abuse traffic offender program defined  
67 in section 302.010, or a program determined to be comparable by the department of mental  
68 health. Assignment recommendations, based upon the needs assessment as described in  
69 subdivision (24) of section 302.010, shall be delivered in writing to the person with written  
70 notice that the person is entitled to have such assignment recommendations reviewed by the  
71 court if the person objects to the recommendations. The person may file a motion in the  
72 associate division of the circuit court of the county in which such assignment was given, on a  
73 printed form provided by the state courts administrator, to have the court hear and determine  
74 such motion under the provisions of chapter 517. The motion shall name the person or entity  
75 making the needs assessment as the respondent and a copy of the motion shall be served upon  
76 the respondent in any manner allowed by law. Upon hearing the motion, the court may  
77 modify or waive any assignment recommendation that the court determines to be unwarranted  
78 based upon a review of the needs assessment, the person's driving record, the circumstances  
79 surrounding the offense, and the likelihood of the person committing a similar offense in the  
80 future, except that the court may modify but shall not waive the assignment to an education or  
81 rehabilitation program of a person determined to be a prior or persistent offender as defined in  
82 section 577.001, or of a person determined to have operated a motor vehicle with a blood  
83 alcohol content of fifteen-hundredths of one percent or more by weight. Compliance with the  
84 court determination of the motion shall satisfy the provisions of this section for the purpose of  
85 reinstating such person's license to operate a motor vehicle. The respondent's personal  
86 appearance at any hearing conducted under this subsection shall not be necessary unless  
87 directed by the court.

88           8. The fees for the substance abuse traffic offender program, or a portion thereof, to  
89 be determined by the division of behavioral health of the department of mental health, shall  
90 be paid by the person enrolled in the program. Any person who is enrolled in the program  
91 shall pay, in addition to any fee charged for the program, a supplemental fee to be determined  
92 by the department of mental health for the purposes of funding the substance abuse traffic  
93 offender program defined in section 302.010. The administrator of the program shall remit to  
94 the division of behavioral health of the department of mental health on or before the fifteenth  
95 day of each month the supplemental fee for all persons enrolled in the program, less two  
96 percent for administrative costs. Interest shall be charged on any unpaid balance of the

97 supplemental fees due to the division of behavioral health under this section, and shall accrue  
98 at a rate not to exceed the annual rates established under the provisions of section 32.065, plus  
99 three percentage points. The supplemental fees and any interest received by the department  
100 of mental health under this section shall be deposited in the mental health earnings fund,  
101 which is created in section 630.053.

102 9. Any administrator who fails to remit to the division of behavioral health of the  
103 department of mental health the supplemental fees and interest for all persons enrolled in the  
104 program under this section shall be subject to a penalty equal to the amount of interest  
105 accrued on the supplemental fees due to the division under this section. If the supplemental  
106 fees, interest, and penalties are not remitted to the division of behavioral health of the  
107 department of mental health within six months of the due date, the attorney general of the  
108 state of Missouri shall initiate appropriate action for the collection of said fees and accrued  
109 interest. The court shall assess attorneys' fees and court costs against any delinquent program.

110 10. Any person who has had a license to operate a motor vehicle revoked under this  
111 section and who has a prior alcohol-related enforcement contact, as defined in section  
112 302.525, **or who has been convicted of an intoxication-related traffic offense, as defined**  
113 **under section 577.001, in which the person's blood alcohol content was found to be**  
114 **fifteen-hundredths of one percent or more by weight of alcohol in such person's blood**  
115 shall be required to file proof with the director of revenue that any motor vehicle operated by  
116 the person is equipped with a functioning, certified ignition interlock device as a required  
117 condition of license reinstatement. Such ignition interlock device shall further be required to  
118 be maintained on all motor vehicles operated by the person for a period of not less than six  
119 months immediately following the date of reinstatement. If the monthly monitoring reports  
120 show that the ignition interlock device has registered any confirmed blood alcohol  
121 concentration readings above the alcohol setpoint established by the department of  
122 transportation or that the person has tampered with or circumvented the ignition interlock  
123 device within the last three months of the six-month period of required installation of the  
124 ignition interlock device, then the period for which the person shall maintain the ignition  
125 interlock device following the date of reinstatement shall be extended until the person has  
126 completed three consecutive months with no violations as described in this section. If the  
127 person fails to maintain such proof with the director as required by this section, the license  
128 shall be rerevoked until proof as required by this section is filed with the director, and the  
129 person shall be guilty of a class A misdemeanor.

130 11. The revocation period of any person whose license and driving privilege has been  
131 revoked under this section and who has filed proof of financial responsibility with the  
132 department of revenue in accordance with chapter 303 and is otherwise eligible shall be  
133 terminated by a notice from the director of revenue after one year from the effective date of

134 the revocation. Unless proof of financial responsibility is filed with the department of  
 135 revenue, the revocation shall remain in effect for a period of two years from its effective date.  
 136 If the person fails to maintain proof of financial responsibility in accordance with chapter 303,  
 137 the person's license and driving privilege shall be rerevoked.

138 12. A person commits the offense of failure to maintain proof with the Missouri  
 139 department of revenue if, when required to do so, he or she fails to file proof with the director  
 140 of revenue that any vehicle operated by the person is equipped with a functioning, certified  
 141 ignition interlock device or fails to file proof of financial responsibility with the department of  
 142 revenue in accordance with chapter 303. The offense of failure to maintain proof with the  
 143 Missouri department of revenue is a class A misdemeanor.

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

3 2. The offense of driving while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior offender; or

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

8 (3) A class E felony if[~~:~~

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

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

12 (4) A class D felony if:

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

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

17 ~~(c) 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 ~~(c) 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 ~~[(c) 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.**

✓