

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/HCS/House Bill No. 192, Page 1, Section A, Line 4,

2 by inserting after all of said line the following:

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

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

17 (1) That the officer has:

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

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

24 (c) Reasonable grounds to believe that the person stopped,

1 being under the age of twenty-one years, was committing a
2 violation of the traffic laws of the state, or political
3 subdivision of the state, and such officer has reasonable grounds
4 to believe, after making such stop, that the person had a blood
5 alcohol content of two-hundredths of one percent or greater;

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

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

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

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

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

17 3. Upon receipt of the officer's report, the director shall
18 revoke the license of the person refusing to take the test for a
19 period of one year; or if the person is a nonresident, such
20 person's operating permit or privilege shall be revoked for one
21 year; or if the person is a resident without a license or permit
22 to operate a motor vehicle in this state, an order shall be
23 issued denying the person the issuance of a license or permit for
24 a period of one year.

25 4. If a person's license has been revoked because of the
26 person's refusal to submit to a chemical test, such person may
27 petition for a hearing before a circuit division or associate
28 division of the court in the county in which the arrest or stop
29 occurred. Pursuant to local court rule promulgated pursuant to

1 section 15 of article V of the Missouri Constitution, the case
2 may also be assigned to a traffic judge pursuant to section
3 479.500. The person may request such court to issue an order
4 staying the revocation until such time as the petition for review
5 can be heard. If the court, in its discretion, grants such stay,
6 it shall enter the order upon a form prescribed by the director
7 of revenue and shall send a copy of such order to the director.
8 Such order shall serve as proof of the privilege to operate a
9 motor vehicle in this state and the director shall maintain
10 possession of the person's license to operate a motor vehicle
11 until termination of any revocation under this section. Upon the
12 person's request, the clerk of the court shall notify the
13 prosecuting attorney of the county and the prosecutor shall
14 appear at the hearing on behalf of the director of revenue. At
15 the hearing, the court shall determine only:

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

17 (2) Whether the officer had:

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

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

25 (c) Reasonable grounds to believe that the person stopped,
26 being under the age of twenty-one years, was committing a
27 violation of the traffic laws of the state, or political
28 subdivision of the state, and such officer had reasonable grounds
29 to believe, after making such stop, that the person had a blood

1 alcohol content of two-hundredths of one percent or greater; and

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

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

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

8 7. No person who has had a license to operate a motor
9 vehicle suspended or revoked under the provisions of this section
10 shall have that license reinstated until such person has
11 participated in and successfully completed a substance abuse
12 traffic offender program defined in section 302.010, or a program
13 determined to be comparable by the department of mental health.
14 Assignment recommendations, based upon the needs assessment as
15 described in subdivision (24) of section 302.010, shall be
16 delivered in writing to the person with written notice that the
17 person is entitled to have such assignment recommendations
18 reviewed by the court if the person objects to the
19 recommendations. The person may file a motion in the associate
20 division of the circuit court of the county in which such
21 assignment was given, on a printed form provided by the state
22 courts administrator, to have the court hear and determine such
23 motion under the provisions of chapter 517. The motion shall
24 name the person or entity making the needs assessment as the
25 respondent and a copy of the motion shall be served upon the
26 respondent in any manner allowed by law. Upon hearing the
27 motion, the court may modify or waive any assignment
28 recommendation that the court determines to be unwarranted based
29 upon a review of the needs assessment, the person's driving

1 record, the circumstances surrounding the offense, and the
2 likelihood of the person committing a similar offense in the
3 future, except that the court may modify but [may] shall not
4 waive the assignment to an education or rehabilitation program of
5 a person determined to be a prior or persistent offender as
6 defined in section 577.001, or of a person determined to have
7 operated a motor vehicle with a blood alcohol content of
8 fifteen-hundredths of one percent or more by weight. Compliance
9 with the court determination of the motion shall satisfy the
10 provisions of this section for the purpose of reinstating such
11 person's license to operate a motor vehicle. The respondent's
12 personal appearance at any hearing conducted under this
13 subsection shall not be necessary unless directed by the court.

14 8. The fees for the substance abuse traffic offender
15 program, or a portion thereof, to be determined by the division
16 of [alcohol and drug abuse] behavioral health of the department
17 of mental health, shall be paid by the person enrolled in the
18 program. Any person who is enrolled in the program shall pay, in
19 addition to any fee charged for the program, a supplemental fee
20 to be determined by the department of mental health for the
21 purposes of funding the substance abuse traffic offender program
22 defined in section 302.010. The administrator of the program
23 shall remit to the division of [alcohol and drug abuse]
24 behavioral health of the department of mental health on or before
25 the fifteenth day of each month the supplemental fee for all
26 persons enrolled in the program, less two percent for
27 administrative costs. Interest shall be charged on any unpaid
28 balance of the supplemental fees due to the division of [alcohol
29 and drug abuse] behavioral health under this section, and shall

1 accrue at a rate not to exceed the annual rates established under
2 the provisions of section 32.065, plus three percentage points.
3 The supplemental fees and any interest received by the department
4 of mental health under this section shall be deposited in the
5 mental health earnings fund, which is created in section 630.053.

6 9. Any administrator who fails to remit to the division of
7 [alcohol and drug abuse] behavioral health of the department of
8 mental health the supplemental fees and interest for all persons
9 enrolled in the program under this section shall be subject to a
10 penalty equal to the amount of interest accrued on the
11 supplemental fees due to the division under this section. If the
12 supplemental fees, interest, and penalties are not remitted to
13 the division of [alcohol and drug abuse] behavioral health of the
14 department of mental health within six months of the due date,
15 the attorney general of the state of Missouri shall initiate
16 appropriate action for the collection of said fees and accrued
17 interest. The court shall assess attorneys' fees and court costs
18 against any delinquent program.

19 10. Any person who has had a license to operate a motor
20 vehicle revoked under this section and who has a prior
21 alcohol-related enforcement contact, as defined in section
22 302.525, shall be required to file proof with the director of
23 revenue that any motor vehicle operated by the person is equipped
24 with a functioning, certified ignition interlock device as a
25 required condition of license reinstatement. Such ignition
26 interlock device shall further be required to be maintained on
27 all motor vehicles operated by the person for a period of not
28 less than six months immediately following the date of
29 reinstatement. If the monthly monitoring reports show that the

1 ignition interlock device has registered any confirmed blood
2 alcohol concentration readings above the alcohol setpoint
3 established by the department of transportation or that the
4 person has tampered with or circumvented the ignition interlock
5 device within the last three months of the six-month period of
6 required installation of the ignition interlock device, then the
7 period for which the person [must] shall maintain the ignition
8 interlock device following the date of reinstatement shall be
9 extended until the person has completed three consecutive months
10 with no violations as described in this section. If the person
11 fails to maintain such proof with the director as required by
12 this section, the license shall be rerevoked until proof as
13 required by this section is filed with the director, and the
14 person shall be guilty of a class A misdemeanor.

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

27 12. A person commits the offense of failure to maintain
28 proof with the Missouri department of revenue if, when required
29 to do so, he or she fails to file proof with the director of

1 revenue that any vehicle operated by the person is equipped with
2 a functioning, certified ignition interlock device or fails to
3 file proof of financial responsibility with the department of
4 revenue in accordance with chapter 303. The offense of failure
5 to maintain proof with the Missouri department of revenue is a
6 class A misdemeanor."; and

7 Further amend said bill, page 4, section 386.515, line 1 by
8 inserting after all of said line the following:

9 "479.500. 1. In the twenty-first judicial circuit, a
10 majority of the circuit judges, en banc, may establish a traffic
11 court, which shall be a division of the circuit court, and may
12 authorize the appointment of not more than three municipal judges
13 who shall be known as traffic judges. The traffic judges shall
14 be appointed by a traffic court judicial commission consisting of
15 the presiding judge of the circuit, who shall be the chair, one
16 circuit judge elected by the circuit judges, one associate
17 circuit judge elected by the associate circuit judges of the
18 circuit, and two members appointed by the county executive of St.
19 Louis County, each of whom shall represent one of the two
20 political parties casting the highest number of votes at the next
21 preceding gubernatorial election. The procedures and operations
22 of the traffic court judicial commission shall be established by
23 circuit court rule.

24 2. Traffic judges may be authorized to act as commissioners
25 to hear in the first instance nonfelony violations of state law
26 involving motor vehicles, and such other offenses as may be
27 provided by circuit court rule. Traffic judges may also be
28 authorized to hear in the first instance violations of county and
29 municipal ordinances involving motor vehicles, and other county

1 ordinance violations, as provided by circuit court rule.

2 3. In the event that a county municipal court is
3 established pursuant to section 66.010 which takes jurisdiction
4 of county ordinance violations the circuit court may then
5 authorize the appointment of no more than two traffic judges
6 authorized to hear municipal ordinance violations other than
7 county ordinance violations, and to act as commissioner to hear
8 in the first instance nonfelony violations of state law involving
9 motor vehicles, and such other offenses as may be provided by
10 rule. These traffic court judges also may be authorized to act
11 as commissioners to hear in the first instance petitions to
12 review decisions of the department of revenue or the director of
13 revenue filed pursuant to sections 302.309 and 302.311 and, prior
14 to January 1, 2002, pursuant to sections 302.535 and 302.750.

15 4. After January 1, 2002, traffic judges, in addition to
16 the authority provided in subsection 3 of this section, may be
17 authorized by local court rule adopted pursuant to Article V,
18 Section 15 of the Missouri Constitution to conduct proceedings
19 pursuant to sections 302.535, 302.574, and 302.750, subject to
20 procedures that preserve a meaningful hearing before a judge of
21 the circuit court, as follows:

22 (1) Conduct the initial call docket and accept uncontested
23 dispositions of petitions to review;

24 (2) The petitioner shall have the right to the de novo
25 hearing before a judge of the circuit court, except that, at the
26 option of the petitioner, traffic judges may hear in the first
27 instance such petitions for review.

28 5. In establishing a traffic court, the circuit may be
29 divided into such sectors as may be established by a majority of

1 the circuit and associate circuit judges, en banc. The traffic
2 court in each sector shall hear those cases arising within the
3 territorial limits of the sector unless a case arising within
4 another sector is transferred as provided by operating
5 procedures.

6 6. Traffic judges shall be licensed to practice law in this
7 state and shall serve at the pleasure of a majority of the
8 circuit and associate circuit judges, en banc, and shall be
9 residents of St. Louis County, and shall receive from the state
10 as annual compensation an amount equal to one-third of the annual
11 compensation of an associate circuit judge. Each judge shall
12 devote approximately one-third of his working time to the
13 performance of his duties as a traffic judge. Traffic judges
14 shall not accept or handle cases in their practice of law which
15 are inconsistent with their duties as a traffic judge and shall
16 not be a judge or prosecutor for any other court. Traffic judges
17 shall not be considered state employees and shall not be members
18 of the state employees' or judicial retirement system or be
19 eligible to receive any other employment benefit accorded state
20 employees or judges.

21 7. A majority of the judges, en banc, shall establish
22 operating procedures for the traffic court which shall provide
23 for regular sessions in the evenings after 6:00 p.m. and for
24 Saturday or other sessions as efficient operation and convenience
25 to the public may require. Proceedings in the traffic court,
26 except when a judge is acting as a commissioner pursuant to this
27 section, shall be conducted as provided in supreme court rule 37.
28 The hearing shall be before a traffic judge without jury, and the
29 judge shall assume an affirmative duty to determine the merits of

1 the evidence presented and the defenses of the defendant and may
2 question parties and witnesses. In the event a jury trial is
3 requested, the cause shall be certified to the circuit court for
4 trial by jury as otherwise provided by law. Clerks and computer
5 personnel shall be assigned as needed for the efficient operation
6 of the court.

7 8. In establishing operating procedure, provisions shall be
8 made for appropriate circumstances whereby defendants may enter
9 not guilty pleas and obtain trial dates by telephone or written
10 communication without personal appearance, or to plead guilty and
11 deliver by mail or electronic transfer or other approved method
12 the specified amount of the fine and costs as otherwise provided
13 by law, within a specified period of time.

14 9. Operating procedures shall be provided for electronic
15 recording of proceedings, except that if adequate recording
16 equipment is not provided at county expense, then, in that event,
17 a person aggrieved by a judgment of a traffic judge or
18 commissioner shall have the right of a trial de novo. The
19 procedures for perfecting the right of a trial de novo shall be
20 the same as that provided under sections 512.180 to 512.320,
21 except that the provisions of subsection 2 of section 512.180
22 shall not apply to such cases.

23 10. The circuit court shall only have the authority to
24 appoint two commissioners with the jurisdiction provided in
25 subsection 3 of this section.

26 11. All costs to establish and operate a county municipal
27 court under section 66.010 and this section shall be borne by
28 such county."; and
29

1 Further amend the title and enacting clause accordingly.