

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR

**SENATE BILLS NOS. 934,
546, 578, 579 & 782**

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Offered February 24, 2000.

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TERRY L. SPIELER, Secretary.

4272S.05P

AN ACT

To repeal section 577.017, RSMo 1994, and sections 302.302, 302.304, 302.505, 302.540, 304.012, 577.001, 577.012, 577.023 and 577.600, RSMo Supp. 1999, relating to alcohol-related traffic offenses, and to enact in lieu thereof ten new sections relating to the same subject, with penalty provisions.

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

Section A. Section 577.017, RSMo 1994, and sections 302.302, 302.304, 302.505, 302.540, 304.012, 577.001, 577.012, 577.023 and 577.600, RSMo Supp. 1999, are repealed and ten new sections enacted in lieu thereof, to be known as sections 302.302, 302.304, 302.505, 302.540, 304.012, 577.001, 577.012, 577.017, 577.023 and 577.600, to read as follows:

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal traffic ordinance not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

as provided in section 302.303.....	2 points
(except any violation of municipal stop sign ordinance where no accident is involved.....	1 point)
(2) Speeding	
In violation of a state law.....	3 points
In violation of a county or municipal ordinance.....	2 points
(3) Leaving the scene of an accident in violation of section 577.060, RSMo.....	12 points
In violation of any county or municipal ordinance....	6 points
(4) Careless and imprudent driving in violation of either section 304.012, RSMo, or section 304.016, RSMo, and serious physical injury or death to any person results	8 points
In violation of section 304.012, RSMo, or section 304.016, RSMo, and physical injury to any person results	6 points
In violation of section 304.012, RSMo, or section 304.016, RSMo, and an accident is involved	4 points
In violation of section 304.012, RSMo, or section 304.016, RSMo	2 points
In violation of subsection 4 of section 304.016, RSMo.....	4 points
In violation of a county or municipal ordinance.....	2 points
(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:	
(a) For the first conviction.....	2 points
(b) For the second conviction.....	4 points
(c) For the third conviction.....	6 points
(6) Operating with a suspended or revoked license prior to restoration of operating privileges.....	12 points
(7) Obtaining a license by misrepresentation..	12 points
(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs.....	8 points
(9) For the second or subsequent conviction of	

any of the following offenses however combined:
driving while in an intoxicated condition, driving
under the influence of controlled substances or drugs
or driving with a blood alcohol content of
[ten-hundredths] **eight-hundredths** of one percent or
more by weight **when charged as driving while
intoxicated**.....

12 points

(10) For the first conviction for driving with
blood alcohol content [ten-hundredths] **eight-hundredths**
of one percent or more by weight **when charged as
driving while intoxicated**

In violation of state law.....

8 points

In violation of a county or municipal ordinance.....

8 points

**(11) For a conviction for driving with blood
alcohol content eight-hundredths of one percent or
more by weight when probable cause exists for any
moving violation**

In violation of state law.....

6 points

In violation of a county or municipal ordinance.....

6 points

[(11)] **(12)** Any felony involving the use of
a motor vehicle.....

12 points

[(12)] **(13)** Knowingly permitting unlicensed
operator to operate a motor vehicle.....

4 points

[(13)] **(14)** For a conviction for failure to
maintain financial responsibility pursuant to county
or municipal ordinance or pursuant to section
303.025, RSMo.....

4 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) [or] (8) or (10) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising

out of the same occurrence could be construed to be a violation of subdivisions (8), (9) [and] (10) **and (11)** of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) [and] (10) **and (11)** of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver improvement program or a motorcycle rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver improvement program or motorcycle rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

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

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

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

4. The license and driving privilege of any person whose license and driving privilege [has] **have** been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege [has] **have** been suspended under the provisions of subdivision

(8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

- (1) In the case of an initial suspension, thirty days after the effective date of the suspension;
- (2) In the case of a second suspension, sixty days after the effective date of the suspension;
- (3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension. Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege issued by the director of revenue for the limited purpose of driving between a residence and a place of employment, or to and from an alcohol education or treatment program, or for both between a residence and a place of employment and to and from such a program.

6. The period of suspension of the driver's license and driving privilege of any person for the first conviction for an offense involving driving with a blood alcohol level of fifteen-hundredths of one percent or more by weight shall be as follows:

- (1) For an offense involving blood alcohol content of eight-hundredths of one percent by weight when charged as driving while intoxicated, or fifteen-hundredths to eighteen-hundredths of one percent by weight, sixty days;**

- (2) For an offense involving blood alcohol content of nineteen-hundredths to twenty-one hundredths of one percent by weight, ninety days;**

- (3) For an offense involving blood alcohol content of twenty-two hundredths to thirty-hundredths of one percent, one hundred twenty days;**

- (4) For an offense involving blood alcohol content of more than thirty-hundredths of one percent, one hundred eighty days.**

7. Upon petition and for good cause shown, the court may order the director of revenue to issue a limited driving privilege after a period of suspension of at least thirty days for any suspension ordered pursuant to subsection 6 of this section. If a restricted driving privilege is ordered by a court for any offense involving a blood alcohol content of fifteen-hundredths of one percent or more, the court shall require the following as a condition of such privilege:

- (1) An assessment to determine the level of alcohol abuse;**
- (2) A course of treatment which may be either custodial or non-custodial;**
- (3) Participation in a twelve-step program acceptable to the court;**
- (4) Community service;**

(5) Restitution, if applicable; and

(6) Any other condition as the court deems just and prudent.

8. Upon completion of [such] any period of restricted driving privilege, **if applicable, and** upon compliance with other requirements of law and upon filing of proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

[6.] **9.** If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

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

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

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

[10.] **13.** Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed

forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

[11.] **14.** No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a hardship driving privilege granted by a court.

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

[13.] **16.** Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.

[14.] **17.** No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010[, except]. The department may waive [such] the requirement upon completion of a comparable program or upon good cause shown or the court may waive such requirement upon good cause shown. The court in making this determination shall consider the person's driving record, the circumstances surrounding the offense and the likelihood of the person committing a like offense in the future. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo, after reviewing such assessment. 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. Such assessment and 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.] **18.** 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 of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees 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, RSMo.

302.505. 1. The department shall suspend or revoke the license of any person upon its determination that the person was arrested upon probable cause to believe such person was driving a motor vehicle while the alcohol concentration in the person's blood, breath, or urine was ten-hundredths of one percent or more by weight, **or eight-hundredths of one percent by weight when the person was the proximate cause of a motor vehicle accident**, based on the definition of alcohol concentration in section 302.500, or where such person was less than twenty-one years of age when stopped and was stopped upon probable cause to believe such person was driving while intoxicated in violation of section 577.010, RSMo, or driving with excessive blood alcohol content in violation of section 577.012, RSMo, or upon probable cause to believe such person violated a state, county or municipal traffic offense and such person was driving with a blood alcohol content of two-hundredths of one percent or more by weight.

2. The department shall make a determination of these facts on the basis of the report of a law enforcement officer required in section 302.510, and this determination shall be final unless a hearing is requested and held. If a hearing is held, the department shall review the matter and make a final determination on the basis of evidence received at the hearing.

3. The determination of these facts by the department is independent of the determination of the same or similar facts in the adjudication of any criminal charges arising out of the same occurrence. The disposition of those criminal charges shall not affect any suspension or revocation under this section.

302.540. 1. No person who has had a license to operate a motor vehicle suspended or revoked under the provisions of sections 302.500 to 302.540 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, except the department may waive such requirement upon completion of a comparable program or upon good cause shown or the court may waive such requirement upon good cause shown. The court in making this determination shall consider the person's driving record, the circumstances surrounding the offense and the likelihood of the person committing a like offense in the future. Assignment recommendations, based upon the needs assessment as described in subdivision (21) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court, on a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of

chapter 517, RSMo, after reviewing such assessment. 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. Such assessment and 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.

2. The fees for the program authorized in subsection 1 of this section, or a portion thereof to be determined by the division of alcohol and drug abuse of 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 of sixty dollars. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. The supplemental fees 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, RSMo.

3. Court-ordered participation in a substance abuse traffic offender program, pursuant to section 577.049, RSMo, shall satisfy the requirements of this section if the court action arose out of the same occurrence that resulted in a person's license being administratively suspended or revoked.

4. The division of alcohol and drug abuse of the department of mental health shall develop and certify a program to provide education or rehabilitation services for individuals determined by the division to be serious or repeat offenders. The program shall qualify as a substance abuse traffic offender program.

304.012. 1. Every person operating a motor vehicle on the roads and highways of this state shall drive the vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person and shall exercise the highest degree of care.

2. Any person who violates the provisions of this section is guilty of a class B misdemeanor, unless an accident is involved **or there are aggravating circumstances** then it shall be a class A misdemeanor. **For the purposes of this section, the term "aggravating circumstances" shall be defined as circumstances in which any person suffers death or serious physical injury, as defined in section 565.002, RSMo, as a result of the violation of this section.**

577.001. 1. As used in this chapter, the term "drive", "driving", "operates" or "operating" means physically driving or operating a motor vehicle.

2. As used in this chapter, a person is in an "intoxicated condition" when [he is under the influence] **the person's ability to safely operate a motor vehicle is significantly impaired because** of alcohol, a controlled substance, or drug, or any combination thereof.

3. As used in this chapter, the term "law enforcement officer" or "arresting officer" includes

the definition of law enforcement officer in subdivision (17) of section 556.061, RSMo, and military policemen conducting traffic enforcement operations on a federal military installation under military jurisdiction in the state of Missouri.

4. As used in this chapter, "substance abuse traffic offender program" means a program certified by the division of alcohol and drug abuse of the department of mental health to provide education or rehabilitation services pursuant to a professional assessment screening to identify the individual needs of the person who has been referred to the program as the result of an alcohol or drug related traffic offense. Successful completion of such a program includes participation in any education or rehabilitation program required to meet the needs identified in the assessment screening. The assignment recommendations based upon such assessment shall be subject to judicial review as provided in subsection 7 of section 577.041.

577.012. 1. A person commits the crime of "driving with excessive blood alcohol content" if such person operates a motor vehicle in this state with [ten-hundredths] **eight-hundredths** of one percent or more by weight of alcohol in such person's blood **upon a finding that the person was guilty of a moving violation.**

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. [For the first offense,] Driving with excessive blood alcohol content is a class C misdemeanor.

4. Any person guilty of driving with excessive blood alcohol content who is the proximate cause of a motor vehicle accident may be charged with driving while intoxicated. For the first offense, driving with excessive blood alcohol content when charged as driving while intoxicated is a class B misdemeanor.

577.017. 1. No person shall consume [any] **an** alcoholic beverage [while operating a moving motor vehicle upon the highways, as defined in section 301.010, RSMo] **or possess an open alcoholic beverage container in the passenger area of the motor vehicle in any motor vehicle operated on a public highway or the right-of-way of a public highway.**

2. Any person found guilty of violating the provisions of this section is guilty of an infraction.

3. Any infraction under this section shall not reflect on any records with the department of revenue.

4. The provisions of this section shall not apply to passengers who are occupying a chartered tour bus or a recreational motor vehicle, or to possession of an open alcoholic beverage container behind the last upright seat of a motor vehicle that is not

equipped with a trunk.

5. As used in this section, "alcoholic beverage", "open alcoholic beverage container", "motor vehicle" and "passenger area" shall have the same meaning as defined in Title 23 of the United States Code, Section 154.

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content **when charged as driving while intoxicated**, involuntary manslaughter pursuant to subdivision (2) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing;

(2) An "aggravated driving offender" is a person who has been convicted of three or more driving while intoxicated offenses, one of which was a felony conviction, where such three or more convictions occurred within fifteen years of the occurrence of the driving while intoxicated offense for which the person is charged;

(3) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses, where such two or more offenses occurred within ten years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo; and

[3.] (4) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who is convicted of a violation of section 577.010 who is alleged and proved to be an aggravated driving offender shall be guilty of a class C felony.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

[3.] 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

[4.] 5. [No court shall suspend the imposition of sentence as to a prior or persistent offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section

557.011, RSMo, to the contrary notwithstanding, nor shall such person] **No prior offender shall** be eligible for parole or probation until he has served a minimum of [forty-eight consecutive hours'] **five days** imprisonment, unless as a condition of such parole or probation such person performs at least [ten] **thirty** days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. **No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or probation such person performs at least sixty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service.**

[5.] **6.** The court shall find the defendant to be a prior offender [or], persistent **or aggravated driving** offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender [or], persistent **or aggravated driving** offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender [or], persistent **or aggravated driving** offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender [or], persistent **or aggravated driving** offender.

[6.] **7.** In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

[7.] **8.** In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

[8.] **9.** The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

[9.] **10.** The defendant may waive proof of the facts alleged.

[10.] **11.** Nothing in this section shall prevent the use of presentence investigations or commitments.

[11.] **12.** At the sentencing hearing both the state and the defendant shall be permitted to present additional information bearing on the issue of sentence.

[12.] **13.** The pleas or findings of guilty shall be prior to the date of commission of the present offense.

[13.] **14.** The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders [or], persistent **or aggravated driving** offenders.

[14.] **15.** Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not

be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in a state court shall be treated as a prior conviction.

577.600. 1. [Beginning January 1, 1996, in addition to any other provisions of law, a court may require that any person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as defined in section 577.023, and a court shall require that any person who is found guilty of or pleads guilty to a second intoxication-related traffic offense, as defined in section 577.023, who was granted probation, shall not operate a motor vehicle during the period of probation unless that vehicle is equipped with a functioning, certified ignition interlock device as provided in sections 577.600 to 577.614. In addition, any court authorized to grant a limited driving privilege under section 302.309, RSMo, may require the use of an ignition interlock device as a condition of the limited driving privilege. Any person required to use an ignition interlock device shall comply with the court order, subject to the penalties provided by sections 577.600 to 577.614.] **Any person who is convicted of a second or subsequent intoxication related traffic offense shall be subject to the impoundment or immobilization of each of his or her motor vehicles, or the installation of an ignition interlock system on each of his or her motor vehicles for a period not to exceed one year from the date of the conviction.**

2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to have had [his] **that person's** driving privilege restricted as provided in subsection 1 of this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted as provided in subsection 1 of this section shall notify any other person who rents, leases or loans a motor vehicle to [him] **that person** of the driving restriction imposed [under] **pursuant to** this section.

3. Any person convicted of a violation of this section shall be guilty of a class A misdemeanor.

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