

FIRST REGULAR SESSION  
[P E R F E C T E D]  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 36**  
**91ST GENERAL ASSEMBLY**

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Reported from the Committee on Transportation, February 1, 2001, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 36, adopted February 21, 2001.

Taken up for Perfection February 21, 2001. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

0356S.03P

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**AN ACT**

To repeal sections 302.130, 302.178, 302.302, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 479.500, 577.012, 577.021, 577.023, 577.037, 577.600 and 577.602, RSMo 2000, relating to traffic offenses, and to enact in lieu thereof nineteen new sections relating to the same subject, with penalty provisions and an effective date.

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

Section A. Sections 302.130, 302.178, 302.302, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 479.500, 577.012, 577.021, 577.023, 577.037, 577.600 and 577.602, RSMo 2000, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 302.130, 302.178, 302.302, 302.309, 302.505, 302.510, 302.520, 302.535, 302.540, 302.541, 302.543, 304.027, 479.500, 577.012, 577.021, 577.023, 577.037, 577.600 and 577.602, to read as follows:

302.130. 1. Any person at least fifteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of twelve months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied

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

by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent [or], guardian, **a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program** who has a valid driver's license. Beginning January 1, 2001, an applicant for a temporary instruction permit shall successfully complete a vision test and a test of the applicant's ability to understand highway signs which regulate, warn or direct traffic and practical knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal guardian gives written permission by signing the application and in so signing, state they, or their designee as set forth in subsection 2 of this section, will **either** provide a minimum of twenty hours of behind-the-wheel driving instruction, **or ensure that the applicant completes a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or by a qualified instructor of a private drivers' education program.**

2. In the event the parent, grandparent or guardian of the person under sixteen years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

3. The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of sixteen years but has passed the age of fifteen years. Such instruction permit

shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

4. The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

**5. A person at least fifteen years of age may operate a motor vehicle as part of a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education or a qualified instructor of a private drivers' education program.**

6. The director may adopt rules and regulations necessary to carry out the provisions of this section.

302.178. 1. Beginning January 1, 2001, any person between the ages of sixteen and eighteen years who is qualified to obtain a license pursuant to sections 302.010 to 302.340, may apply for, and the director shall issue, an intermediate driver's license entitling the applicant, while having such license in his or her possession, to operate a motor vehicle of the appropriate class upon the highways of this state in conjunction with the requirements of this section. An intermediate driver's license shall be readily distinguishable from a license issued to those over the age of eighteen. All applicants for an intermediate driver's license shall:

(1) Successfully complete the examination required by section 302.173;

(2) Pay the fee required by subsection 3 of this section;

(3) Have had a temporary instruction permit issued pursuant to subsection 1 of section 302.130 for at least a six-month period or a valid license from another state; and

(4) Have a parent, grandparent or legal guardian sign the application stating that the applicant has **either completed a driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the department of elementary and secondary education, or by a qualified instructor of a private drivers' education program, or** at least twenty hours of supervised driving experience under a temporary instruction permit issued pursuant to subsection 1 of section 302.130, or, if the applicant is an emancipated minor, the person over twenty-one years of age who supervised such driving. For purposes of this section, the term "emancipated minor" means a person who is at least sixteen years of age, but less than eighteen years of age, who:

(a) Marries with the consent of the legal custodial parent or legal guardian pursuant to section 451.080, RSMo;

(b) Has been declared emancipated by a court of competent jurisdiction;

(c) Enters active duty in the armed forces;

(d) Has written consent to the emancipation from the custodial parent or legal guardian;

or

(e) Through employment or other means provides for such person's own food, shelter and other cost-of-living expenses;

(5) Have had no alcohol-related enforcement contacts as defined in section 302.525 during the preceding twelve months; and

(6) Have no nonalcoholic traffic convictions for which points are assessed pursuant to section 302.302, within the preceding six months.

2. An intermediate driver's license grants the licensee the same privileges to operate that classification of motor vehicle as a license issued pursuant to section 302.177, except that no person shall operate a motor vehicle on the highways of this state under such an intermediate driver's license between the hours of 1:00 a.m. and 5:00 a.m. unless accompanied by a person described in subsection 1 of section 302.130; except the licensee may operate a motor vehicle without being accompanied if the travel is to or from a school or educational program or activity, a regular place of employment or in emergency situations as defined by the director by regulation. Each intermediate driver's license shall be restricted by requiring that the driver and all passengers in the licensee's vehicle wear safety belts at all times. This safety belt restriction shall not apply to a person operating a motorcycle.

3. Notwithstanding the provisions of section 302.177 to the contrary, the fee for an intermediate driver's license shall be five dollars and such license shall be valid for a period of two years.

4. Any intermediate driver's licensee accumulating six or more points in a twelve-month period may be required to participate in and successfully complete a driver-improvement program approved by the director of the department of public safety. The driver-improvement program ordered by the director of revenue shall not be used in lieu of point assessment.

5. (1) An intermediate driver's licensee who has, for the preceding twelve-month period, had no alcohol-related enforcement contacts, as defined in section 302.525 and no traffic convictions for which points are assessed, upon reaching the age of eighteen years may apply for and receive without further examination, other than a vision test as prescribed by section 302.173, a license issued pursuant to this chapter granting full driving privileges. Such person shall pay the required fee for such license as prescribed in section 302.177.

(2) The director of revenue shall deny an application for a full driver's license until the person has had no traffic convictions for which points are assessed for a period of twelve months

prior to the date of application for license or until the person is eligible to apply for a six-year driver's license as provided for in section 302.177, provided the applicant is otherwise eligible for full driving privileges. An intermediate driver's license shall expire when the licensee is eligible and receives a full driver's license as prescribed in subdivision (1) of this section.

6. No person upon reaching the age of eighteen years whose intermediate driver's license and driving privilege is denied, suspended, canceled or revoked in this state or any other state, for any reason may apply for a full driver's license until such license or driving privilege is fully reinstated. Any such person whose intermediate driver's license has been revoked pursuant to the provisions of sections 302.010 to 302.540 shall, upon receipt of reinstatement of the revocation from the director, pass the complete driver examination, apply for a new license, and pay the proper fee before again operating a motor vehicle upon the highways of this state.

7. A person shall be exempt from the intermediate licensing requirements if the person has reached the age of eighteen years and meets all other licensing requirements.

8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2000, shall be invalid and void.

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 or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision 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 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] <b>eight-hundredths</b> of one percent or more by weight .....	12 points
(10) For the first conviction for driving with blood alcohol content [ten-hundredths] <b>eight-hundredths</b> of one percent or more by weight	
In violation of state law .....	8 points
In violation of a county or municipal ordinance or federal law or regulation .....	8 points
(11) Any felony involving the use of a motor vehicle .....	12 points
(12) Knowingly permitting unlicensed operator to operate a motor vehicle .....	4 points
(13) 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) 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) 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) 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.

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be

made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; or

(e) Any other circumstance the court or director finds would create an undue hardship on the operator; the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) The court order or the director's grant of the limited driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to



a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(5) Except as provided in subdivision (6) of this subsection, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter **and has received a needs assessment and recommended course of treatment from a substance abuse traffic offender program;**

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state;

(g) Disqualification of a commercial driver's license pursuant to sections 302.700 to 302.780, however, nothing in this subsection shall prevent a person holding a commercial driver's license who is suspended or revoked as a result of an action occurring while not driving a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an operator of a personal vehicle from applying for a limited driving privilege to operate a commercial vehicle, if otherwise eligible for such limited privilege; or

(h) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation.

(6) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner

prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove**

**and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

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] eight-hundredths** of one percent or more by weight, 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.

302.510. 1. Except as provided in subsection 3 of this section, a law enforcement officer who arrests any person for a violation of any state statute related to driving while intoxicated or for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense, and in which the alcohol concentration in the person's blood, breath, or urine was **[ten-hundredths] eight-hundredths** of one percent or more by weight or two-hundredths of one percent or more by weight for anyone less than twenty-one years of age, shall forward to the department a verified report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated any state statute related to driving while intoxicated or was less than twenty-one years of age and was driving with two-hundredths of one percent or more by weight of alcohol in the person's blood, or a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense, a report of the results of any chemical tests which were conducted, and a copy of the citation and complaint filed with the court.

2. The report required by this section shall be made on forms supplied by the department or in a manner specified by regulations of the department.

3. A county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol related traffic offense may not be the basis for suspension or revocation of a driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement officer, other than an elected peace officer or official, has been certified by the director of the department of public safety pursuant to the provisions of sections 590.100 to 590.180, RSMo.

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

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

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

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

302.535. 1. Any person aggrieved by a decision of the department may file a petition for trial de novo by the circuit court. The burden of proof shall be on the state to adduce the evidence. Such trial shall be conducted pursuant to the Missouri rules of civil procedure and not as an appeal of an administrative decision pursuant to chapter 536, RSMo. The petition shall be filed in the circuit court of the county where the arrest occurred. The case shall be decided by the judge sitting without a jury. The presiding judge of the circuit court may assign a ~~[traffic judge,~~ pursuant to section 479.500, RSMo 1994, a] circuit judge or an associate circuit judge to hear such

petition.

2. The filing of a petition for trial de novo shall not result in a stay of the suspension or revocation order. But upon the filing of such petition, a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education shall be issued by the department if the person's driving record shows no prior alcohol related enforcement contact during the immediately preceding five years. Such limited driving privilege shall terminate on the date of the disposition of the petition for trial de novo.

3. In addition to the limited driving privilege as permitted in subsection 2 of this section, the department may upon the filing of a petition for trial de novo issue a restricted driving privilege for the limited purpose of driving in connection with the petitioner's business, occupation, employment, or formal program of secondary, postsecondary or higher education. In determining whether to issue such a restrictive driving privilege, the department shall consider the number and the seriousness of prior convictions and the entire driving record of the driver.

4. Such time of restricted driving privilege pending disposition of trial de novo shall be counted toward any time of restricted driving privilege imposed pursuant to section 302.525. Nothing in this subsection shall be construed to prevent a person from maintaining his restricted driving privilege for an additional sixty days in order to meet the conditions imposed by section 302.540 for reinstating a person's driver's license.

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. As used in this subsection, a serious or repeat offender is one who was determined to have a blood alcohol content of fifteen-hundredths of one percent or more by weight while operating a motor vehicle or a prior or persistent offender as defined in section 577.023, RSMo.**

302.541. 1. In addition to other fees required by law, any person who has had a license to operate a motor vehicle suspended or revoked following a determination, pursuant to section 302.505, or section 577.010, 577.012, 577.041 or 577.510, RSMo, or any 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, that such person was driving while intoxicated or with a blood alcohol content of [ten-hundredths] **eight-hundredths** of one percent or more by weight or, where such person was at the time of the arrest less than twenty-one years of age and was driving with a blood alcohol content of two-hundredths of one percent or more by weight, shall pay an additional fee of twenty-five dollars prior to the reinstatement or reissuance of the license.

2. Any person less than twenty-one years of age whose driving privilege has been suspended or revoked solely for a first determination pursuant to sections 302.500 to 302.540 that such person was driving a motor vehicle with two-hundredths of one percent or more blood alcohol content is exempt from filing proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, as a prerequisite for reinstatement of driving privileges or obtaining a restricted driving privilege as provided by section 302.525.

**302.543. 1. Prior to reinstating any license pursuant to section 302.304 or 302.540**

or section 577.049, RSMo, the court or the director shall require the following as a condition of such license:

- (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 or the director;
- (4) Community service;
- (5) Restitution, if applicable; and
- (6) Any other condition as the court or director deems just and prudent.

2. Prior to issuing any restricted driving privilege pursuant to section 302.304 or 302.525, the court or the director shall require an assessment to determine the level of alcohol abuse. If the assessment recommends that the privilege should be conditioned on any of the following, the court or the director will require such conditions prior to issuing the restricted driving privilege:

- (1) A course of treatment which may be either custodial or non-custodial;
- (2) Participation in a twelve-step program acceptable to the court or the director;
- (3) Community service;
- (4) Restitution, if applicable; and
- (5) Any other condition as the court deems just and prudent.

304.027. 1. There is hereby created in the state treasury for use by the board of curators of the University of Missouri a fund to be known as the "Spinal Cord Injury Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the spinal cord injury fund established pursuant to sections 302.133 to 302.138, RSMo, shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the board of curators, be received and expended by the board for the purpose of funding research projects that promote an advancement of knowledge in the area of spinal cord injury. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the spinal cord injury fund at the end of any biennium shall not be transferred to the general revenue fund.

2. Any person who violates a speed limit law pursuant to sections 304.009 to 304.011 shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of five dollars. Any person who is convicted of an intoxication-related offense, as defined by section 577.023, RSMo, shall have a judgment entered against the defendant in favor of the spinal cord injury fund, in the amount of fifty dollars.

**3. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the spinal cord injury fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.**

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

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

3. In the event that a county municipal court is established pursuant to section 66.010, RSMo, which takes jurisdiction of county ordinance violations the circuit court may then authorize the appointment of no more than two traffic judges authorized to hear municipal ordinance violations other than county ordinance violations, and to act as commissioner to hear in the first instance nonfelony violations of state law involving motor vehicles, and such other offenses as may be provided by rule. [These traffic court judges also may be authorized to act as commissioners to hear in the first instance petitions to review decisions of the department of revenue or the director of revenue filed pursuant to sections 302.309, 302.311, 302.535 and 302.750, RSMo.]

4. In establishing a traffic court, the circuit may be divided into such sectors as may be established by a majority of the circuit and associate circuit judges, en banc. The traffic court in each sector shall hear those cases arising within the territorial limits of the sector unless a case arising within another sector is transferred as provided by operating procedures.

5. Traffic judges shall be licensed to practice law in this state and shall serve at the pleasure of a majority of the circuit and associate circuit judges, en banc, and shall be residents of St. Louis County, and shall receive from the state as annual compensation an amount equal to one-third of the annual compensation of an associate circuit judge. Each judge shall devote approximately one-third of his working time to the performance of his duties as a traffic judge. Traffic judges shall not accept or handle cases in their practice of law which are inconsistent with their duties as a



traffic judge and shall not be a judge or prosecutor for any other court. Traffic judges shall not be considered state employees and shall not be members of the state employees' or judicial retirement system or be eligible to receive any other employment benefit accorded state employees or judges.

6. A majority of the judges, en banc, shall establish operating procedures for the traffic court which shall provide for regular sessions in the evenings after 6:00 p.m. and for Saturday or other sessions as efficient operation and convenience to the public may require. Proceedings in the traffic court, except when a judge is acting as a commissioner pursuant to this section, shall be conducted as provided in supreme court rule 37. The hearing shall be before a traffic judge without jury, and the judge shall assume an affirmative duty to determine the merits of the evidence presented and the defenses of the defendant and may question parties and witnesses. No term of imprisonment or confinement may be assessed by a traffic judge. In the event a jury trial is requested, the cause shall be certified to the circuit court for trial by jury as otherwise provided by law. Clerks and computer personnel shall be assigned as needed for the efficient operation of the court.

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

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

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

10. All costs to establish and operate a county municipal court under section 66.010, RSMo, and this section shall be borne by such county.

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.

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] B misdemeanor.

577.021. A member of the state highway patrol, **county or municipal law enforcement officer** may, prior to arrest, administer a chemical test to any person suspected of operating a motor vehicle in violation of section 577.010 or 577.012. A test administered pursuant to this section shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 577.020 shall not apply to a test administered prior to arrest pursuant to this section.

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, 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) 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) 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 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. 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. 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.**

5. The court shall find the defendant to be a prior offender or persistent 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 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 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 offender.

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

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

9. The defendant may waive proof of the facts alleged.

10. Nothing in this section shall prevent the use of presentence investigations or commitments.

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

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

13. 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 offenders.

14. 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.

577.037. 1. Upon the trial of any person for violation of any of the provisions of section 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of any criminal action or violations of county or municipal ordinances or in any license suspension or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts alleged to have been committed by any person while driving a motor vehicle while in an intoxicated condition, the amount of alcohol in the person's blood at the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise admissible. If there was **[ten-hundredths] eight-hundredths** of one percent or more by weight of alcohol in the person's blood, this shall be prima facie evidence that the person was intoxicated at the time the specimen was taken.

2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

3. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was intoxicated.

4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise to the presumption or to have the effect provided for in subsection 1 of this section, shall have been performed as provided in sections 577.020 to 577.041 and in accordance with methods and standards approved by the state department of health.

5. Any charge alleging a violation of section 577.010 or 577.012 or any county or municipal ordinance prohibiting driving while intoxicated or driving under the influence of alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood, saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated thereunder by the state department of health demonstrate that there was less than **[ten-hundredths] eight-hundredths** of one percent of alcohol in the defendant's blood unless one or more of the following considerations cause the court to find a dismissal unwarranted:

(1) There is evidence that the chemical analysis is unreliable as evidence of the defendant's intoxication at the time of the alleged violation due to the lapse of time between the alleged violation and the obtaining of the specimen;

(2) There is evidence that the defendant was under the influence of a controlled substance, or drug, or a combination of either or both with or without alcohol; or

(3) There is substantial evidence of intoxication from physical observations of witnesses or admissions of the defendant.

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 **or subsequent** intoxication-related traffic offense, as defined in section 577.023, who was granted probation, shall not operate **[a] or own any** 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] for a period of not less than one month from the date of reinstatement of the person's drivers license**. In addition, any court authorized to grant a limited driving privilege under section 302.309, RSMo, **[may] to any person who is found guilty or pleads guilty to a second or subsequent intoxication-related traffic offense shall** require the use of an ignition interlock device **on all vehicles owned or operated by the person** as a **required** 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] this section**.

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.

577.602. 1. **[No court shall require the use of an ignition interlock device until it has made an affirmative finding that such a requirement will not impose any undue hardship by reason of the cost of the device or by reason of the difficulties associated with any necessary installation, testing, calibration, servicing or removal of the device. No court shall be required to require a person who is found guilty of or pleads guilty to a second intoxication-related traffic offense, as defined in section 577.023, to use an ignition interlock device as a condition of a limited driving privilege if such a device cannot be installed within fifty miles of the county seat of such person's county of residence; however, the court in such case may, in its discretion, require the use of such a device.**

**2.]** If a court imposes a fine and requires the use of an ignition interlock device for the same offense, the amount of the fine may be reduced by the cost of the ignition interlock device.

**[3.] 2.** If the court requires the use of an ignition interlock device, it shall order the installation of the device on any vehicle which the probationer operates during the period of probation or limited driving privilege.

**[4.] 3.** If the court imposes the use of an ignition interlock device on a person having full or limited driving privileges, the court shall require the person to provide proof of compliance with the order to the court or the probation officer within thirty days of this court's order or sooner, as

required by the court. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation or limited driving privilege.

**[5.] 4.** Nothing in sections 577.600 to 577.614 shall be construed to authorize a person to operate a motor vehicle whose driving privileges have been suspended or revoked, unless the person has obtained a limited driving privilege or restricted driving privilege under other provisions of law.

**[6.] 5.** The person whose driving privilege is restricted pursuant to section 577.600 shall report to the court or the probation officer at least once annually, or more frequently as the court may order, on the operation of each ignition interlock device in the person's vehicle or vehicles. Such person shall be responsible for the cost and maintenance of the ignition interlock device. If such device is broken, destroyed or stolen, such person shall also be liable for the cost of replacement of the device.

**[7.] 6.** The court may require a person whose driving privilege is restricted under section 577.600 to report to any officer appointed by the court in lieu of a probation officer.

**[8.] 7.** The court shall require periodic calibration checks that are needed for the proper operation of the ignition interlock device.

Section B. The repeal and reenactment of sections 302.302, 302.309, 302.505, 302.510, 302.520, 302.541, 577.012, 577.023, 577.037, 577.600 and 577.602, shall become effective September 29, 2001.

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