

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
**SENATE BILLS NOS. 221,
250 & 256**

93RD GENERAL ASSEMBLY

Reported from the Committee on Transportation, March 3, 2005, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bills Nos. 221, 250 and 256, adopted March 7, 2005.

Taken up for Perfection March 7, 2005. Bill declared Perfected and Ordered Printed.

0633S.03P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 210.104, 210.107, 302.510, 302.530, 304.015, 304.016, 304.281, 304.351, 307.178, 577.023, 577.041, RSMo, section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and to enact in lieu thereof twelve new sections relating to the operation of motor vehicles, with penalty provisions.

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

Section A. Sections 210.104, 210.107, 302.510, 302.530, 304.015, 304.016, 304.281, 304.351, 307.178, 577.023, 577.041, RSMo, section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 302.302, 302.510, 302.530, 304.015, 304.016, 304.281, 304.351, 307.156, 307.178, 307.179, 577.023, and 577.041, 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

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

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 eight-hundredths of one percent or more by weight 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths 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

(14) For a conviction for failure to yield the right-of-way in violation of section 304.351, RSMo, where the court has determined that the driver caused a physical injury or serious physical injury 8 points

(15) For a conviction for failure to yield the right-of-way in violation of section 304.351, RSMo, where the court has determined that the driver caused a fatality 12 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 or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, 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.

[302.302. 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 eight-hundredths of one percent or more by weight	12 points
(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight	8 points
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.]

302.510. 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 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] **certified** 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 **certified under penalties of perjury for making a false statement to a public official and** 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] **licensed** by the director of the department of public safety pursuant to the provisions of [sections 590.100 to 590.180] **chapter 590**, RSMo.

302.530. 1. Any person who has received a notice of suspension or revocation may make a request within fifteen days of receipt of the notice for a review of the department's determination at a hearing. If the person's driver's license has not been previously surrendered, it [shall] **may** be surrendered at the time the request for a hearing is made.

2. At the time the request for a hearing is made, if it appears from the record that the person is the holder of a valid driver's license issued by this state, and that the driver's license has been surrendered [as required], the department shall issue a temporary permit which shall be valid until the scheduled date for the hearing. The department may later issue an additional temporary permit or permits in order to stay the effective date of the suspension or revocation until the final order is issued following the hearing, as required by section 302.520.

3. The hearing may be held by telephone, or if requested by the person, such person's attorney or representative, in the county where the arrest was made. The hearing shall be conducted by examiners who are licensed to practice law in the state of Missouri and who are

employed by the department on a part-time or full-time basis as the department may determine.

4. The sole issue at the hearing shall be whether by a preponderance of the evidence the person was driving a vehicle pursuant to the circumstances set out in section 302.505. The burden of proof shall be on the state to adduce such evidence. If the department finds the affirmative of this issue, the suspension or revocation order shall be sustained. If the department finds the negative of the issue, the suspension or revocation order shall be rescinded.

5. The procedure at such hearing shall be conducted in accordance with chapter 536, RSMo, [not otherwise in conflict] with sections 302.500 to 302.540. **A report certified under subsection 2 of section 302.510 shall be admissible in a like manner as a verified report as evidence of the facts stated therein and any provision of chapter 536, RSMo, to the contrary shall not apply.**

6. The department shall promptly notify[, by certified letter,] the person of its decision including the reasons for that decision. Such notification shall include a notice advising the person that the department's decision shall be final within fifteen days from the date [of certification of the letter] **such notice was mailed** unless the person challenges the department's decision within that time period by filing an appeal in the circuit court in the county where the arrest occurred.

7. Unless the person, within fifteen days after being notified [by certified letter] of the department's decision, files an appeal for judicial review pursuant to section 302.535, the decision of the department shall be final.

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

304.015. 1. All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.

2. Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;

(2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of sections 304.014 to 304.026 or traffic regulations thereunder or of municipalities;

(3) When the right half of a roadway is closed to traffic while under construction or repair;

(4) Upon a roadway designated by local ordinance as a one-way street and marked

or signed for one-way traffic.

3. It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

4. The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the Missouri highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

5. Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in sections 304.014 to 304.026;

(4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;

(5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

6. All vehicles in motion upon a highway having two or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when

overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

7. All trucks registered for a gross weight of more than forty-eight thousand pounds, shall not be driven in the far left-hand upon all interstate highways, freeways, or expressways within the urbanized areas of this state having three or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

(1) It is reasonably necessary for the operator of the truck to respond to emergency conditions;

(2) It is necessary for the operator of the truck to avoid actual or potential traffic moving onto the right lane from an acceleration or merging lane;

(3) It is necessary for the operator of the truck to follow traffic control devices that direct use of a lane other than the right lane; or

(4) The right half of a roadway is closed to traffic while under construction or repair.

8. Violation of this section shall be deemed an infraction unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class C misdemeanor, or unless an accident results from such violation, in which case such violation shall be deemed a class A misdemeanor.

9. As used in subsection 7 of this section, the word "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle as defined in section 301.010, RSMo.

304.016. 1. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

2. The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a city street with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction;

(3) Upon a one-way street;

(4) Upon any highway outside of a city with unobstructed pavement of sufficient width and clearly marked for four or more lines of traffic. The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway. The provisions of this subsection shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

3. Except when a roadway has been divided into three traffic lanes, no vehicle shall be driven to the left side of the center line of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

4. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, tunnel or when approaching within one hundred feet of or at any intersection or railroad grade crossing;

(3) When the roadway is clearly marked with a solid yellow center stripe indicating a no passing zone or an unsafe location to overtake or drive to the left side of the roadway.

5. Violation of this section shall be deemed a class C misdemeanor.

304.281. 1. Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited;

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement

indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;

(c) Unless otherwise directed by a pedestrian control signal, as provided in section 304.291, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection;

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in section 304.291, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication

(a) Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection at a clearly marked stop line but, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph (b);

(b) The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highways and transportation commission with reference to an intersection involving a state highway, and local authorities with reference to an intersection involving other highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, said prohibition shall be effective when a sign is erected at such intersection giving notice thereof;

(c) Unless otherwise directed by a pedestrian control signal as provided in section 304.291, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provision of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

2. Notwithstanding the provisions of section 304.361, violation of this section is a class C misdemeanor.

3. A person operating a motorcycle who violates this section or section 304.301 by entering or crossing an intersection controlled by a traffic-control signal against a red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:

(1) The motorcycle has been brought to a complete stop;

(2) The traffic-control signal continues to show a red light for an unreasonable time;

(3) The traffic-control is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and

(4) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard.

The affirmative defense in this subsection applies only to a violation for entering or crossing an intersection controlled by a traffic-control signal against a red light and does not provide a defense to any other civil or criminal action.

304.351. 1. The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway, provided, however, there is no form of traffic control at such intersection.

2. When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one of such vehicles is attempting to or is making a left turn.

3. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

4. (1) The state highways and transportation commission with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

[(1)] (2) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in this section:

(a) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the

intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(b) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such traffic is moving across or within the intersection.

5. The driver of a vehicle about to enter or cross a highway from an alley, building or any private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

6. The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.

7. The state highways and transportation commission or local authorities with respect to roads under their respective jurisdictions, on any section where construction or major maintenance operations are being effected, may fix a speed limit in such areas by posting of appropriate signs, and the operation of a motor vehicle in excess of such speed limit in the area so posted shall be deemed prima facie evidence of careless and imprudent driving and a violation of section 304.010.

8. Notwithstanding the provisions of section 304.361, violation of this section shall be deemed a class C misdemeanor **unless such violation causes serious physical injury, in which case such violation shall be deemed a class B misdemeanor as provided for in subsection 10 of this section, or unless such violation causes death in which case such violation shall be deemed a class A misdemeanor as provided for in subsection 11 of this section.**

9. **Any person who pleads guilty to or is found guilty of violating the provisions of this section in which the offender is found to have caused physical injury to a person or persons shall be assessed a fine of no less than two hundred dollars.**

10. **Any person who pleads guilty to or is found guilty of violating the provisions of this section in which the offender is found to have caused serious physical injury to a person or persons shall be guilty of a class B misdemeanor and**

shall be assessed a fine of no less than five hundred dollars.

11. Notwithstanding the provisions of subsection 8 of this section, any person who pleads guilty to or is found guilty of violating the provisions of this section in which the offender is found to have caused a fatality shall be guilty of a class A misdemeanor and shall be assessed a fine of no less than one thousand dollars.

12. As used in subsections 9 and 10 of this section, the terms "physical injury" and "serious physical injury" shall have the meanings ascribed to them in section 556.061, RSMo.

307.156. Any person, firm, or corporation that owns or operates a business engaged in whole or in part in servicing motor vehicles and installs or purports to install an airbag in a motor vehicle and either:

(1) Installs an airbag that does not meet all applicable federal safety regulations for an airbag installed in a vehicle of that make, model, and year; or

(2) Installs an airbag that previously has been installed in another motor vehicle without disclosing in writing to the owner or lessee of the vehicle receiving such airbag installation that a used airbag has been installed in it, shall be guilty of a class D felony.

307.178. 1. As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that, a child less than four years of age shall be protected as required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection; **however, nothing shall prohibit a law enforcement officer from enforcing the provisions of this section if the violation is clearly visible to the officer without stopping the vehicle.** The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute

probable cause for violation of any other provision of law **or for a search of the driver, passenger, or vehicle.**

3. Each driver of a motor vehicle transporting a child four years of age or more[, but less than sixteen years of age,] shall secure the child in a properly adjusted and fastened [safety belt] **restraint under section 307.179.**

4. In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this section may be admitted to mitigate damages, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this section must first introduce expert evidence proving that a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.

5. Each driver who violates the provisions of subsection 2 or 3 of this section is guilty of an infraction for which a fine not to exceed ten dollars may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for a violation of this section.

6. The [department of public safety] **state highways and transportation commission** shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The [department of public safety] **commission** shall evaluate the effectiveness of this section and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

7. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the driver and passengers are not in violation of this section.

307.179. 1. As used in this section, the following terms shall mean:

(1) "Child booster seat", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;

(2) "Child passenger restraint system", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such

vehicle by a safety belt or a universal attachment system;

(3) "Driver", a person who is in actual physical control of a motor vehicle.

2. Every person transporting a child under the age of sixteen years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child as follows:

(1) Children less than four years of age shall be secured in a child passenger restraint system appropriate for that child;

(2) Children four through five years of age shall be secured in a child booster seat appropriate for that child;

(3) Children six years of age or older shall be secured by a vehicle safety belt.

3. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars. No court costs shall be charged for a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for violation of this section. If a person receives a citation for violating this section, the charges shall be dismissed or withdrawn if the person prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the person's citation.

4. The provisions of this section shall not apply to any public carrier for hire or to school buses as defined in section 301.010, RSMo, unless such school bus is required to be equipped with safety belts pursuant to federal motor vehicle safety standards.

5. The state highways and transportation commission shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of this section. The commission may promulgate rules and regulations for the enforcement 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, 2005, shall be invalid and void.

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 **state, county, or municipal** 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. No prior offender shall be eligible for parole or probation until he has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least 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 **state, county, or municipal** 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, county, or municipality** 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.

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit

to any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a [sworn] **certified** report [to the director of revenue, which] **under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue** and shall include the following:

(1) That the officer has:

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

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

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

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

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

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

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

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

3. Upon receipt of the officer's report, the director shall revoke the license of the

person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

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

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

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

(3) Whether or not the person refused to submit to the test.

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

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

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment

as described in subdivision (22) of section 302.010, RSMo, 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 of the county in which such assignment was given, 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. 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. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. 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.

8. The fees for the substance abuse traffic offender program, 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 to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest 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.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the

supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

[210.104. 1. Every person transporting a child under the age of four years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child. Such child shall be protected by a child passenger restraint system approved by the department of public safety.

2. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars and court costs.

3. The provisions of sections 210.104 to 210.107 shall not apply to any public carrier for hire.]

[210.107. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of sections 210.104 to 210.107. The department of public safety shall, within thirty days of September 28, 1983, promulgate standards for the performance, design, and installation of passenger restraint systems for children under four years of age in accordance with federal motor vehicle safety standards and shall approve those systems which meet such standards. No rule or portion of a rule promulgated under the authority of sections 210.104 to 210.107 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

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