

SECOND REGULAR SESSION

# SENATE BILL NO. 1107

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS SCOTT, VOGEL, GOODMAN, PURGASON,  
CLEMENS, RUPP, DEMPSEY, GIBBONS AND SHIELDS.

Read 1st time February 7, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4840S.011

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## AN ACT

To repeal sections 304.157, 306.010, 306.015, 306.100, 306.111, 306.112, 306.114, 306.117, 306.124, 306.125, 306.126, 306.127, 306.132, 306.147, 306.163, 306.221, 565.024, 565.082, and 577.080, RSMo, and to enact in lieu thereof twenty new sections relating to the water patrol, with penalty provisions.

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

Section A. Sections 304.157, 306.010, 306.015, 306.100, 306.111, 306.112, 2 306.114, 306.117, 306.124, 306.125, 306.126, 306.127, 306.132, 306.147, 306.163, 3 306.221, 565.024, 565.082, and 577.080, RSMo, are repealed and twenty new 4 sections enacted in lieu thereof, to be known as sections 304.157, 306.010, 5 306.015, 306.100, 306.111, 306.112, 306.114, 306.117, 306.118, 306.124, 306.125, 6 306.126, 306.127, 306.132, 306.147, 306.163, 306.221, 565.024, 565.082, and 7 577.080, to read as follows:

304.157. 1. If a person abandons property, as defined in section 304.001, 2 on any real property owned by another without the consent of the owner or person 3 in possession of the property, at the request of the person in possession of the real 4 property, any member of the state highway patrol, state water patrol, sheriff, or 5 other law enforcement officer within his jurisdiction may authorize a towing 6 company to remove such abandoned property from the property in the following 7 circumstances:

8 (1) The abandoned property is left unattended for more than forty-eight 9 hours; or

10 (2) In the judgment of a law enforcement officer, the abandoned property 11 constitutes a safety hazard or unreasonably interferes with the use of the real

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

12 property by the person in possession.

13           2. A local government agency may also provide for the towing of motor  
14 vehicles **or vessels** from real property under the authority of any local ordinance  
15 providing for the towing of vehicles **or vessels** which are derelict, junk, scrapped,  
16 disassembled or otherwise harmful to the public health under the terms of the  
17 ordinance. Any local government agency authorizing a tow under this subsection  
18 shall report the tow to the local law enforcement agency within two hours with  
19 a crime inquiry and inspection report pursuant to section 304.155.

20           3. Neither the law enforcement officer, local government agency nor  
21 anyone having custody of abandoned property under his or her direction shall be  
22 liable for any damage to such abandoned property occasioned by a removal  
23 authorized by this section other than damages occasioned by negligence or by  
24 willful or wanton acts or omissions.

25           4. The owner of real property or lessee in lawful possession of the real  
26 property or the property or security manager of the real property may authorize  
27 a towing company to remove abandoned property or property parked in a  
28 restricted or assigned area without authorization by a law enforcement officer  
29 only when the owner, lessee or property or security manager of the real property  
30 is present. A property or security manager must be a full-time employee of a  
31 business entity. An authorization to tow pursuant to this subsection may be  
32 made only under any of the following circumstances:

33           (1) There is displayed, in plain view at all entrances to the property, a  
34 sign not less than seventeen by twenty-two inches in size, with lettering not less  
35 than one inch in height, prohibiting public parking and indicating that  
36 unauthorized abandoned property or property parked in a restricted or assigned  
37 area will be removed at the owner's expense, disclosing the maximum fee for all  
38 charges related to towing and storage, and containing the telephone number of  
39 the local traffic law enforcement agency where information can be obtained or a  
40 twenty-four-hour staffed emergency information telephone number by which the  
41 owner of the abandoned property or property parked in a restricted or assigned  
42 area may call to receive information regarding the location of such owner's  
43 property;

44           (2) The abandoned property is left unattended on owner-occupied  
45 residential property with four residential units or less, and the owner, lessee or  
46 agent of the real property in lawful possession has notified the appropriate law  
47 enforcement agency, and ten hours have elapsed since that notification; or

48           (3) The abandoned property is left unattended on private property, and  
49 the owner, lessee or agent of the real property in lawful possession of real  
50 property has notified the appropriate law enforcement agency, and ninety-six  
51 hours have elapsed since that notification.

52           5. Pursuant to this section, any owner or lessee in lawful possession of  
53 real property that requests a towing company to tow abandoned property without  
54 authorization from a law enforcement officer shall at that time complete an  
55 abandoned property report which shall be considered a legal declaration subject  
56 to criminal penalty pursuant to section 575.060, RSMo. The report shall be in the  
57 form designed, printed and distributed by the director of revenue and shall  
58 contain the following:

59           (1) The year, model, make and abandoned property identification number  
60 of the property and the owner and any lienholders, if known;

61           (2) A description of any damage to the abandoned property noted by  
62 owner, lessee or property or security manager in possession of the real property;

63           (3) The license plate or registration number and the state of issuance, if  
64 available;

65           (4) The physical location of the property and the reason for requesting the  
66 property to be towed;

67           (5) The date the report is completed;

68           (6) The printed name, address and phone number of the owner, lessee or  
69 property or security manager in possession of the real property;

70           (7) The towing company's name and address;

71           (8) The signature of the towing operator;

72           (9) The signature of the owner, lessee or property or security manager  
73 attesting to the facts that the property has been abandoned for the time required  
74 by this section and that all statements on the report are true and correct to the  
75 best of the person's knowledge and belief and that the person is subject to the  
76 penalties for making false statements;

77           (10) Space for the name of the law enforcement agency notified of the  
78 towing of the abandoned property and for the signature of the law enforcement  
79 official receiving the report; and

80           (11) Any additional information the director of revenue deems  
81 appropriate.

82           6. Any towing company which tows abandoned property without  
83 authorization from a law enforcement officer pursuant to subsection 4 of this

84 section shall deliver a copy of the abandoned property report to the local law  
85 enforcement agency having jurisdiction over the location from which the  
86 abandoned property was towed. The copy may be produced and sent by facsimile  
87 machine or other device which produces a near exact likeness of the print and  
88 signatures required, but only if the law enforcement agency receiving the report  
89 has the technological capability of receiving such copy and has registered the  
90 towing company for such purpose. The registration requirements shall not apply  
91 to law enforcement agencies located in counties of the third or fourth  
92 classification. The report shall be delivered within two hours if the tow was made  
93 from a signed location pursuant to subdivision (1) of subsection 4 of this section,  
94 otherwise the report shall be delivered within twenty-four hours.

95           7. The law enforcement agency receiving such abandoned property report  
96 must record the date on which the abandoned property report is filed with such  
97 agency and shall promptly make an inquiry into the national crime information  
98 center and any statewide Missouri law enforcement computer system to  
99 determine if the abandoned property has been reported as stolen. The law  
100 enforcement agency shall enter the information pertaining to the towed property  
101 into the statewide law enforcement computer system, and an officer shall sign the  
102 abandoned property report and provide the towing company with a signed  
103 copy. The department of revenue may design and sell to towing companies  
104 informational brochures outlining owner or lessee of real property obligations  
105 pursuant to this section.

106           8. The law enforcement agency receiving notification that abandoned  
107 property has been towed by a towing company shall search the records of the  
108 department of revenue and provide the towing company with the latest owner and  
109 lienholder information, **if available** on the abandoned property, and if the tower  
110 has online access to the department of revenue's records, the tower shall comply  
111 with the requirements of section 301.155, RSMo. If the abandoned property is not  
112 claimed within ten working days, the towing company shall send a copy of the  
113 abandoned property report signed by a law enforcement officer to the department  
114 of revenue.

115           9. If any owner or lessee of real property knowingly authorizes the  
116 removal of abandoned property in violation of this section, then the owner or  
117 lessee shall be deemed guilty of a class C misdemeanor.

306.010. As used in this chapter the following terms mean:

2           (1) "Motorboat", any vessel propelled by machinery, whether or not such

3 machinery is a principal source of propulsion;

4 (2) "Operate", to navigate or otherwise use a motorboat or a vessel;

5 (3) "Operator", the person who operates or has charge of the navigation  
6 or use of a vessel;

7 (4) "Owner", a person other than a lienholder, having the property in or  
8 title to a motorboat. The term includes a person entitled to the use or possession  
9 of a motorboat subject to an interest of another person, reserved or created by  
10 agreement and securing payment or performance of an obligation, but the term  
11 excludes a lessee under a lease not intended as security;

12 (5) "Parasailing", the towing of any person equipped with a parachute or  
13 kite equipment by any watercraft operating on the waters of this state;

14 (6) "Personal watercraft", a class of vessel, which is less than sixteen feet  
15 in length, propelled by machinery which is designed to be operated by a person  
16 sitting, standing or kneeling on the vessel, rather than being operated by a  
17 person sitting or standing inside the vessel;

18 (7) **"Skiing", an activity that involves a person or persons being**  
19 **towed by a vessel, including but not limited to, water skiing, wake**  
20 **boarding, wake surfing, knee boarding, and tubing;**

21 (8) "Vessel", every motorboat and every description of motorized  
22 watercraft, and any watercraft more than twelve feet in length which is powered  
23 by sail alone or by a combination of sail and machinery, used or capable of being  
24 used as a means of transportation on water, but not any watercraft having as the  
25 only means of propulsion a paddle or oars;

26 [(8)] (9) "Watercraft", any boat or craft, including a vessel, used or  
27 capable of being used as a means of transport on waters;

28 [(9)] (10) "Waters of this state", any waters within the territorial limits  
29 of this state and lakes constructed or maintained by the United States Army  
30 Corps of Engineers except bodies of water owned by a person, corporation,  
31 association, partnership, municipality or other political subdivision, public water  
32 supply impoundments, and except drainage ditches constructed by a drainage  
33 district, but the term does include any body of water which has been leased to or  
34 owned by the state department of conservation.

306.015. 1. The owner of a vessel kept within this state shall cause it to  
2 be registered in the office of the director of revenue who shall issue a certificate  
3 of title for the same.

4 2. The owner of any vessel acquired or brought into the state shall file his

5 application for title within sixty days after it is acquired or brought into this  
6 state. The director of revenue may grant extensions of time for titling to any  
7 person in deserving cases.

8           3. The fee for the certificate of title shall be seven dollars fifty cents and  
9 shall be paid to the director of revenue at the time of making application. If  
10 application for certificate of title is not made within sixty days after the vessel  
11 is acquired or brought into the state, a delinquency penalty fee of ten dollars for  
12 each thirty days of delinquency, not to exceed a total of thirty dollars, shall be  
13 imposed. If the director of revenue learns that any person has failed to make  
14 application for certificate of title within sixty days after acquiring or bringing into  
15 the state a vessel or has sold a vessel without obtaining a certificate of title, he  
16 shall cancel the registration of all motorboats, vessels, and watercraft registered  
17 in the name of the person, either as sole owner or as co-owner, and shall notify  
18 the person that the cancellation will remain in force until the person pays the  
19 delinquency penalty fee provided in this section together with all fees, charges,  
20 and payments which he should have paid in connection with the certificate of title  
21 of the vessel.

22           **4. In the event of a sale or transfer of ownership of a vessel or**  
23 **outboard motor for which a certificate of ownership or manufacturer's**  
24 **statement of origin has been issued, the holder of such certificate shall**  
25 **endorse on the same an assignment thereof, with warranty of title in**  
26 **form printed thereon, and prescribed by the director of the department**  
27 **of revenue, with a statement of all liens or encumbrances on such**  
28 **vessel or outboard motor, and deliver the same to the buyer at the time**  
29 **of the delivery of such vessel or outboard motor; provided that, when**  
30 **the transfer of a vessel or outboard motor occurs within a corporation**  
31 **which holds a license to operate as a motor vehicle or boat dealer**  
32 **under this section and sections 301.550 to 301.575, RSMo, the provisions**  
33 **of subdivision (3) of subsection 6 of section 144.070, RSMo, shall not**  
34 **apply.**

          306.100. 1. For the purpose of this section, vessels shall be divided into  
2 four classes as follows:

- 3           (1) Class A, less than sixteen feet in length;
- 4           (2) Class 1, at least sixteen and less than twenty-six feet in length;
- 5           (3) Class 2, at least twenty-six and less than forty feet in length;
- 6           (4) Class 3, forty feet and over.

7           2. All vessels shall display from sunset to sunrise the following lights  
8 when under way, and during such time no other lights [which may be mistaken  
9 for those prescribed], **continuous spotlights, or docking lights, or other**  
10 **non-prescribed lights** shall be exhibited:

11           (1) Vessels of classes A and 1:

12           (a) A bright white light aft to show all around the horizon;

13           (b) A combined light in the forepart of the vessel and lower than the white  
14 light aft, showing green to starboard and red to port, so fixed as to throw the  
15 light from right ahead to two points (22 1/2 degrees) abaft the beam on their  
16 respective sides.

17           (2) Vessels of classes 2 and 3:

18           (a) A bright white light in the forepart of the vessel as near the stem as  
19 practicable, so constructed as to show the unbroken light over an arc of the  
20 horizon of twenty points (225 degrees) of the compass, so fixed as to throw the  
21 light ten points (112 1/2 degrees) on each side of the vessel; namely, from right  
22 ahead to two points (22 1/2 degrees) abaft the beam on either side;

23           (b) A bright white light aft to show all around the horizon and higher  
24 than the white light forward;

25           (c) On the starboard side a green light so constructed as to show an  
26 unbroken light over an arc of the horizon of ten points (112 1/2 degrees) of the  
27 compass, so fixed as to throw the light from right ahead to two points (22 1/2  
28 degrees) abaft the beam on the starboard side; on the port side a red light so  
29 constructed as to show an unbroken light over an arc of the horizon of ten points  
30 (112 1/2 degrees) of the compass, so fixed as to throw the light from right ahead  
31 to two points (22 1/2 degrees) abaft the beam on the portside. The side lights  
32 shall be fitted with inboard screens so set as to prevent these lights from being  
33 seen across the bow.

34           (3) Vessels of classes A and 1 when propelled by sail alone shall exhibit  
35 the combined light prescribed by this section and a twelve point (135 degree)  
36 white light aft. Vessels of classes 2 and 3, when so propelled, shall exhibit the  
37 colored side lights, suitably screened, prescribed by this section and a twelve  
38 point (135 degree) white light aft.

39           (4) All vessels between the hours of sunset and sunrise that are not under  
40 way, moored at permanent dockage or attached to an immovable object on shore  
41 so that they do not extend more than fifty feet from the shore shall display one  
42 three-hundred-sixty-degree white light visible three hundred sixty degrees around

43 the horizon.

44 (5) Every white light prescribed by this section shall be of such character  
45 as to be visible at a distance of at least two miles. Every colored light prescribed  
46 by this section shall be of such character as to be visible at a distance of at least  
47 one mile. The word "visible" in this subsection, when applied to lights, shall  
48 mean visible on a dark night with clear atmosphere.

49 (6) When propelled by sail and machinery every vessel shall carry the  
50 lights required by this section for a motorboat propelled by machinery only.

51 3. Any watercraft not defined as a vessel shall, from sunset to sunrise,  
52 carry, ready at hand, a lantern or flashlight showing a white light which shall be  
53 exhibited in sufficient time to avert collision.

54 4. Any vessel may carry and exhibit the lights required by the federal  
55 regulations for preventing collisions at sea, in lieu of the lights required by  
56 subsection 2 of this section.

57 5. All other watercraft over sixty-five feet in length and those propelled  
58 solely by wind effect on the sail shall display lights prescribed by federal  
59 regulations.

60 6. Any watercraft used by a person engaged in the act of sport fishing is  
61 not required to display any lights required by this section if no other vessel is  
62 within the immediate vicinity of the first vessel, the vessel is using an electric  
63 trolling motor and the vessel is within fifty feet of the shore.

64 7. Every vessel, except those in class A, shall have on board at least one  
65 wearable personal flotation device of type I, II or III for each person on board and  
66 each person being towed who is not wearing one. Every such vessel shall also  
67 have on board at least one type IV throwable personal flotation device.

68 8. All class A motorboats and all watercraft traveling on the waters of this  
69 state shall have on board at least one type I, II, III or IV personal flotation device  
70 for each person on board and each person being towed who is not wearing one.

71 9. All lifesaving devices required by subsections 7 and 8 of this section  
72 shall be United States Coast Guard approved, in serviceable condition and so  
73 placed as to be readily accessible.

74 10. Every vessel which is carrying or using flammable or toxic fluid in any  
75 enclosure for any purpose, and which is not an entirely open vessel, shall have  
76 an efficient natural or mechanical ventilation system which must be capable of  
77 removing resulting gases prior to and during the time the vessel is occupied by  
78 any person.



79 11. Motorboats shall carry on board at least the following United States  
80 Coast Guard approved fire extinguishers:

81 (1) Every class A and every class 1 motorboat carrying or using gasoline  
82 or any other flammable or toxic fluid, one B1 type fire extinguisher;

83 (2) Every class 2 motorboat, one B2 or two B1 type fire extinguishers;

84 (3) Every class 3 motorboat:

85 (a) Three B1 type fire extinguishers; or

86 (b) One B2 type and one B1 type fire extinguisher; or

87 (c) A fixed fire extinguishing system and one B2 type fire extinguisher; or

88 (d) A fixed fire extinguishing system and two B1 type fire extinguishers.

89 12. All class 1 and 2 motorboats and vessels shall have a sounding device.  
90 All class 3 motorboats and vessels shall have at least a sounding device and one  
91 bell.

92 13. No person shall operate any watercraft which is not equipped as  
93 required by this section.

94 14. A Missouri state water patrol officer may direct the operator of any  
95 watercraft being operated without sufficient personal flotation devices,  
96 fire-fighting devices or in an overloaded or other unsafe condition or manner to  
97 take whatever immediate and reasonable steps are necessary for the safety of  
98 those aboard when, in the judgment of the officer, such operation creates a  
99 hazardous condition. The officer may direct the operator to return the watercraft  
100 to the nearest safe mooring and to remain there until the situation creating the  
101 hazardous condition is corrected.

102 15. A Missouri state water patrol officer may remove any unmanned or  
103 unattended watercraft from the water when, in the judgment of the officer, the  
104 watercraft creates a hazardous condition.

306.111. 1. A person commits the crime of negligent operation of a vessel  
2 if when operating a vessel [on the Mississippi River, Missouri River or the lakes  
3 of this state] he **or she** acts with criminal negligence, as defined in subsection  
4 5 of section 562.016, RSMo, to cause physical injury to any other person or  
5 damage to the property of any other person. A person convicted of negligent  
6 operation of a vessel is guilty of a class B misdemeanor upon conviction for the  
7 first violation, guilty of a class A misdemeanor upon conviction for the second  
8 violation, and guilty of a class D felony for conviction for the third and  
9 subsequent violations.

10 2. A person commits the crime of operating a vessel while intoxicated if

11 he **or she** operates a vessel [on the Mississippi River, Missouri River or the lakes  
12 of this state] while in an intoxicated condition. [A person convicted of] Operating  
13 a vessel while intoxicated is [guilty of] a class B misdemeanor [upon conviction  
14 for the first violation, guilty of a class A misdemeanor upon conviction for the  
15 second violation, and guilty of a class D felony for conviction for the third and  
16 subsequent violations].

17 3. A person commits the crime of involuntary manslaughter with a vessel  
18 if, while in an intoxicated condition, he **or she** operates any vessel [on the  
19 Mississippi River, Missouri River or the lakes of this state] and, when so  
20 operating, acts with criminal negligence to cause the death of any  
21 person. Involuntary manslaughter with a vessel is a class C felony.

22 4. A person commits the crime of assault with a vessel in the second  
23 degree if, while in an intoxicated condition, he **or she** operates any vessel [on the  
24 Mississippi River, Missouri River or the lakes of this state] and, when so  
25 operating, acts with criminal negligence to cause physical injury to any other  
26 person. Assault with a vessel in the second degree is a class D felony.

27 5. For purposes of this section, a person is in an intoxicated condition  
28 when he **or she** is under the influence of alcohol, a controlled substance or drug,  
29 or any combination thereof.

306.112. 1. A person commits the crime of operating a vessel with  
2 excessive blood alcohol content if such person operates a vessel [on the  
3 Mississippi River, Missouri River or the lakes of this state] with [ten-hundredths]  
4 **eight-hundredths** of one percent or more by weight of alcohol in such person's  
5 blood.

6 2. As used in this section, percent by weight of alcohol in the blood shall  
7 be based upon grams of alcohol per one hundred milliliters of blood and may be  
8 shown by chemical analysis of the person's blood, breath, urine, or saliva.

9 3. [Any person convicted of] Operating a vessel with excessive blood  
10 alcohol content is [guilty of] a class B misdemeanor [upon conviction for the first  
11 violation, guilty of a class A misdemeanor upon conviction for the second  
12 violation, and guilty of a class D felony for conviction for the third and  
13 subsequent violations].

306.114. 1. No person convicted of or pleading guilty to a violation of  
2 section 306.111 or 306.112 shall be granted a suspended imposition of sentence,  
3 unless such person is placed on probation for a minimum of two years and a  
4 record of the conviction or plea of guilty is entered into the records of the

5 Missouri uniform law enforcement system maintained by the Missouri state  
6 highway patrol.

7           2. Chemical tests of a person's blood, breath, urine, or saliva to be  
8 considered valid under the provisions of sections 306.111 to 306.119 shall be  
9 performed according to methods and devices approved by the department of  
10 health and senior services by licensed medical personnel or by a person  
11 possessing a valid permit issued by the department of health and senior services  
12 for this purpose. In addition, any state, county, or municipal law enforcement  
13 officer who is certified pursuant to chapter 590, RSMo, may, prior to arrest,  
14 administer a portable chemical test to any person suspected of operating any  
15 vessel in violation of section 306.111 or 306.112. A portable chemical test shall  
16 be admissible as evidence of probable cause to arrest and as exculpatory evidence,  
17 but shall not be admissible as evidence of blood alcohol content. The provisions  
18 of section 306.116 shall not apply to a test administered prior to arrest pursuant  
19 to this section.

20           3. The department of health and senior services shall approve satisfactory  
21 techniques, devices, equipment, or methods to conduct tests required by sections  
22 306.111 to 306.119, and shall establish standards as to the qualifications and  
23 competence of individuals to conduct analyses and to issue permits which shall  
24 be subject to termination, suspension or revocation by the department of health  
25 and senior services.

26           4. A licensed physician, registered nurse, or trained medical technician,  
27 acting at the request and direction of a law enforcement officer, shall withdraw  
28 blood for the purpose of determining the alcohol content of the blood, unless the  
29 medical personnel, in the exercise of good faith medical judgment, believes such  
30 procedure would endanger the life or health of the person in custody. Blood may  
31 be withdrawn only by such medical personnel, but such restriction shall not apply  
32 to the taking of a breath test or a urine or saliva specimen. In withdrawing blood  
33 for the purpose of determining the alcohol content in the blood, only a previously  
34 unused and sterile needle and sterile vessel shall be used and the withdrawal  
35 shall otherwise be in strict accord with accepted medical practices. [A  
36 nonalcoholic antiseptic shall be used for cleansing the skin prior to a  
37 venapuncture.] Upon the request of the person who is tested, full information  
38 concerning the test taken at the direction of the law enforcement officer shall be  
39 made available to such person.

40           5. No person who administers any test pursuant to the provisions of

41 sections 306.111 to 306.119 upon the request of a law enforcement officer, no  
42 hospital in or with which such person is employed or is otherwise associated or  
43 in which such test is administered, and no other person, firm, or corporation by  
44 whom or with which such person is employed or is in any way associated shall be  
45 civilly liable for damages to the person tested, except for negligence in  
46 administering of the test or for willful and wanton acts or omissions.

47 6. Any person who is dead, unconscious or who is otherwise in a condition  
48 rendering such person incapable of refusing to take a test as provided in sections  
49 306.111 to 306.119 shall be deemed not to have withdrawn the consent provided  
50 by section 306.116 and the test or tests may be administered.

306.117. 1. Upon the trial of any person for violation of any of the  
2 provisions of section 306.111 or 306.112 the amount of alcohol or drugs in the  
3 person's blood at the time of the act alleged as shown by any chemical analysis  
4 of the person's blood, breath, urine, or saliva is admissible in evidence and the  
5 provisions of subdivision (5) of section 491.060, RSMo, shall not prevent the  
6 admissibility or introduction of such evidence if otherwise admissible. Evidence  
7 of alcohol in a person's blood shall be given the following effect:

8 (1) If there was five-hundredths of one percent or less by weight of alcohol  
9 in such person's blood, it shall be presumed that the person was not intoxicated  
10 at the time the specimen was obtained;

11 (2) If there was in excess of five-hundredths of one percent but less than  
12 ~~[ten-hundredths]~~ **eight-hundredths** of one percent by weight of alcohol in such  
13 person's blood, the fact shall not give rise to any presumption that the person was  
14 or was not intoxicated, but the fact may be considered with other competent  
15 evidence in determining whether the person was intoxicated;

16 (3) If there was ~~[ten-hundredths]~~ **eight-hundredths** of one percent or  
17 more by weight of alcohol in the person's blood, this shall be prima facie evidence  
18 that the person was intoxicated at the time the specimen was taken.

19 2. Percent by weight of alcohol in the blood shall be based upon grams of  
20 alcohol per one hundred milliliters of blood.

21 3. A chemical analysis of a person's breath, blood, urine, or saliva, in  
22 order to give rise to the presumption or to have the effect provided for in  
23 subsection 1 of this section, shall have been performed as provided in sections  
24 306.111 to 306.119 and in accordance with methods and standards approved by  
25 the department of health and senior services.

26 4. The provisions of this section shall not be construed as limiting the

27 introduction of any other competent evidence bearing upon the question whether  
28 the person was intoxicated or under the influence of a controlled substance, or  
29 drug, or a combination of either or both with or without alcohol.

**306.118. 1. For purposes of this section, unless the context  
2 clearly indicates otherwise, the following terms mean:**

**3 (1) "Aggravated offender", a person who:**

**4 (a) Has pleaded guilty to or has been found guilty of three or  
5 more intoxication-related boating offenses; or**

**6 (b) Has pleaded guilty to or has been found guilty of one or more  
7 intoxication-related boating offenses and, in addition, any of the  
8 following: involuntary manslaughter under subsection 3 of section  
9 306.111; assault with a vessel in the second degree under subsection 4  
10 of section 306.111; or assault of a law enforcement officer in the second  
11 degree under subdivision (4) of subsection 1 of section 565.082, RSMo;**

**12 (2) "Chronic offender", a person who:**

**13 (a) Has pleaded guilty to or has been found guilty of four or  
14 more intoxication-related boating offenses; or**

**15 (b) Has pleaded guilty to or has been found guilty of, on two or  
16 more separate occasions, any combination of the following: involuntary  
17 manslaughter under subsection 3 of section 306.111; assault with a  
18 vessel in the second degree under subsection 4 of section 306.111; or  
19 assault of a law enforcement officer in the second degree under  
20 subdivision (4) of subsection 1 of section 565.082, RSMo; or**

**21 (c) Has pleaded guilty to or has been found guilty of two or more  
22 intoxication-related boating offenses and, in addition, any of the  
23 following: involuntary manslaughter under subsection 3 of section  
24 306.111; assault with a vessel in the second degree under subsection 4  
25 of section 306.111; or assault of a law enforcement officer in the second  
26 degree under subdivision (4) of subsection 1 of section 565.082, RSMo;**

**27 (3) "Intoxication-related boating offense", operating a vessel  
28 while intoxicated under subsection 2 of section 306.111; operating a  
29 vessel with excessive blood alcohol content under section 306.112;  
30 involuntary manslaughter under subsection 3 of section 306.111; assault  
31 with a vessel in the second degree under subsection 4 of section  
32 306.111; any violation of subsection 2 of section 306.110; or assault of a  
33 law enforcement officer in the second degree under subdivision (4) of  
34 subsection 1 of section 565.082, RSMo;**

35 (4) "Persistent offender", is a person who:

36 (a) Has pleaded guilty to or has been found guilty of two or more  
37 intoxication-related boating offenses; or

38 (b) Has pleaded guilty to or has been found guilty of involuntary  
39 manslaughter under subsection 3 of section 306.111; assault in the  
40 second degree under subsection 4 of section 306.111; or assault of a law  
41 enforcement officer in the second degree under subdivision (4) of  
42 subsection 1 of section 565.082, RSMo;

43 (5) "Prior offender", a person who has pleaded guilty to or has  
44 been found guilty of one intoxication-related boating offense, where  
45 such prior offense occurred within five years of the occurrence of the  
46 intoxication-related boating offense for which the person is charged.

47 2. Any person who pleads guilty to or is found guilty of a  
48 violation of subsection 2 of section 306.110, section 306.111, or section  
49 306.112 who is alleged and proved to be a prior offender shall be guilty  
50 of a class A misdemeanor.

51 3. Any person who pleads guilty to or is found guilty of a  
52 violation of subsection 2 of section 306.110, section 306.111, or section  
53 306.112 who is alleged and proved to be a persistent offender shall be  
54 guilty of a class D felony.

55 4. Any person who pleads guilty to or is found guilty of a  
56 violation of subsection 2 of section 306.110, section 306.111, or section  
57 306.112 who is alleged and proved to be an aggravated offender shall be  
58 guilty of a class C felony.

59 5. Any person who pleads guilty to or is found guilty of a  
60 violation of subsection 2 of section 306.110, section 306.111, or section  
61 306.112 who is alleged and proved to be a chronic offender shall be  
62 guilty of a class B felony.

63 6. Notwithstanding the provisions of section 557.011, RSMo, to  
64 the contrary, no state, county, or municipal court shall suspend the  
65 imposition of sentence as to a prior offender, persistent offender,  
66 aggravated offender, or chronic offender under this section nor  
67 sentence such person to pay a fine in lieu of a term of imprisonment.  
68 No prior offender shall be eligible for parole or probation until he or  
69 she has served a minimum of five days imprisonment, unless as a  
70 condition of such parole or probation such person performs at least  
71 thirty days of community service under the supervision of the court in

72 those jurisdictions which have a recognized program for community  
73 service. No persistent offender shall be eligible for parole or probation  
74 until he or she has served a minimum of ten days imprisonment, unless  
75 as a condition of such parole or probation such person performs at  
76 least sixty days of community service under the supervision of the  
77 court. No aggravated offender shall be eligible for parole or probation  
78 until he or she has served a minimum of sixty days imprisonment. No  
79 chronic offender shall be eligible for parole or probation until he or she  
80 has served a minimum of two years imprisonment.

81 7. The state, county, or municipal court shall find the defendant  
82 to be a prior offender, persistent offender, aggravated offender, or  
83 chronic offender if:

84 (1) The indictment or information, original or amended, or the  
85 information in lieu of an indictment pleads all essential facts  
86 warranting a finding that the defendant is a prior, persistent,  
87 aggravated, or chronic offender; and

88 (2) Evidence is introduced that establishes sufficient facts  
89 pleaded to warrant a finding beyond a reasonable doubt the defendant  
90 is a prior offender, persistent offender, aggravated offender, or chronic  
91 offender; and

92 (3) The court makes findings of fact that warrant a finding  
93 beyond a reasonable doubt by the court that the defendant is a prior  
94 offender, persistent offender, aggravated offender, or chronic offender.

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

97 9. In a trial without a jury or upon a plea of guilty, the court may  
98 defer the proof in findings of such facts to a later time, but prior to  
99 sentencing.

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

103 11. The defendant may waive proof of the facts alleged.

104 12. Nothing in this section shall prevent the use of presentence  
105 investigations or commitments.

106 13. At the sentencing hearing, both the state, county, or  
107 municipality and the defendant shall be permitted to present additional  
108 information bearing on the issue of sentence.

109           **14. The pleas or findings of guilty shall be prior to the date of**  
110 **commission of the present offense.**

111           **15. The court shall not instruct the jury as to the range of**  
112 **punishment or allow the jury, upon a finding of guilty, to assess and**  
113 **declare the punishment as part of its verdict in cases of prior offenders,**  
114 **persistent offenders, aggravated offenders, or chronic offenders.**

          306.124. 1. (1) "Aids to navigation" means buoys, beacons or other fixed  
2 objects in the water which are used to mark obstructions to navigation or to direct  
3 navigation through safe channels.

4           (2) "Regulatory markers" means any anchored or fixed markers in or on  
5 the water or signs on the shore or on bridges over the water other than aids to  
6 navigation and shall include but not be limited to bathing markers, speed zone  
7 markers, information markers, danger zone markers, boat keep-out areas, and  
8 mooring buoys.

9           2. The Missouri state water patrol after a public hearing pursuant to  
10 notice thereof published not less than ten days prior thereto in each county to be  
11 affected may provide for the uniform marking of the water areas in this state  
12 through the placement of aids to navigation and regulatory markers. The  
13 Missouri state water patrol shall establish a marking system compatible with the  
14 system of aids to navigation prescribed by the United States Coast Guard. No  
15 city, county, or person shall mark or obstruct the water of this state in any  
16 manner so as to endanger the operation of watercraft or conflict with the marking  
17 system prescribed by the state water patrol.

18           3. Whenever, due to any actual or imminent man-made or natural  
19 disaster, the navigation or use of any waters of this state presents an  
20 unreasonable danger to persons or property, the Missouri state water patrol may,  
21 with the consent of the director of the department of public safety, close such  
22 waters [by the placement of regulatory markers].

23           4. The operation of any watercraft within prohibited areas that are  
24 marked shall be prima facie evidence of negligent operation.

25           5. It shall be unlawful for any person to operate a watercraft on the  
26 waters of this state in a manner other than that prescribed or permitted by  
27 regulatory markers.

28           6. No person shall moor or fasten a watercraft to or willfully damage,  
29 tamper, remove, obstruct, or interfere with any aid to navigation or regulatory  
30 marker established pursuant to sections 306.010 to 306.126.



306.125. 1. Every person shall operate a motorboat, vessel or watercraft  
2 in a careful and prudent manner and at a rate of speed so as not to endanger the  
3 property of another or the life or limb of any person and shall exercise the highest  
4 degree of care.

5 2. No person shall operate a motorboat, vessel or watercraft at any time  
6 from a half-hour after sunset until an hour before sunrise the following day at a  
7 speed exceeding thirty miles per hour. [This subsection shall only apply to the  
8 waters of the Mississippi River, the waters of the Missouri River, and lakes with  
9 an aggregate shoreline in excess of one hundred sixty miles.]

10 3. Vessels shall not be operated within one hundred feet of any dock, pier,  
11 occupied anchored boat or buoyed restricted area on any lake at a speed in excess  
12 of slow-no wake speed.

13 4. Subsection 1 of this section shall not apply to a motorboat or other boat  
14 race authorized under section 306.130.

306.126. 1. The operator of a motorboat shall not allow any person to ride  
2 or sit on the gunwales, decking over the bow, railing, top of seat back or decking  
3 over the back of the motorboat while under way, unless such person is inboard  
4 of adequate guards or railing provided on the motorboat to prevent a passenger  
5 from being lost overboard. As used in this section, the term "adequate guards or  
6 railing" means guards or railings having a height parameter of at least six inches  
7 but not more than eighteen inches. Nothing in this section shall be construed to  
8 mean that passengers or other persons aboard a motorboat cannot occupy the  
9 decking over the bow of the boat to moor it to a mooring buoy or to cast off from  
10 such a buoy, or for any other necessary purpose. The provisions of this section  
11 shall not apply to vessels propelled by sail.

12 2. Whenever any person leaves any watercraft, other than a personal  
13 watercraft, on the waters of [the Mississippi River, the waters of the Missouri  
14 River or the lakes of] this state and enters the water [between the hours of 11:00  
15 a.m. and sunset], the operator of such watercraft shall display on the watercraft  
16 a red or orange flag measuring not less than twelve inches by twelve inches. The  
17 provisions of this subsection shall not apply to watercraft that is moored or  
18 anchored. The flag required by this subsection shall be visible for three hundred  
19 sixty degrees around the horizon when displayed and shall be displayed only  
20 when an occupant of the watercraft has left the confines of the watercraft and  
21 entered the water. [The flag required by this subsection shall not be displayed  
22 when the watercraft is engaged in towing any person, but shall be displayed when

23 such person has ceased being towed and has reentered the water.]

24           3. No operator shall knowingly operate any watercraft within fifty yards  
25 of a flag required by subsection 2 of this section at a speed in excess of a slow-no  
26 wake speed.

          306.127. 1. Beginning January 1, 2005, every person born after January  
2 1, 1984, or as required pursuant to section 306.128, who operates a vessel on the  
3 [lakes] **waters** of this state shall possess, on the vessel, a boating safety  
4 identification card issued by the Missouri state water patrol or its agent which  
5 shows that he or she has:

6           (1) Successfully completed a boating safety course approved by the  
7 National Association of State Boating Law Administrators and certified by the  
8 Missouri state water patrol. The boating safety course may include a course  
9 sponsored by the United States Coast Guard Auxiliary or the United States  
10 Power Squadron. The Missouri state water patrol may appoint agents to  
11 administer a boater education course or course equivalency examination and issue  
12 boater identification cards under guidelines established by the water patrol. The  
13 Missouri state water patrol shall maintain a list of approved courses; or

14           (2) Successfully passed an equivalency examination prepared by the  
15 Missouri state water patrol and administered by the Missouri state water patrol  
16 or its agent. The equivalency examination shall have a degree of difficulty equal  
17 to, or greater than, that of the examinations given at the conclusion of an  
18 approved boating safety course; or

19           (3) A valid master's, mate's, or operator's license issued by the United  
20 States Coast Guard.

21           2. The Missouri state water patrol or its agent shall issue a permanent  
22 boating safety identification card to each person who complies with the  
23 requirements of this section which is valid for life unless invalidated pursuant to  
24 law.

25           3. The Missouri state water patrol may charge a fee for such card or any  
26 replacement card that does not substantially exceed the costs of administrating  
27 this section. The Missouri state water patrol or its designated agent shall collect  
28 such fees. These funds shall be forwarded to general revenue.

29           4. The provisions of this section shall not apply to any person who:

30           (1) Is licensed by the United States Coast Guard to serve as master of a  
31 vessel;

32           (2) Operates a vessel only on a private lake or pond that is not classified

33 as waters of the state;

34 (3) Until January 1, 2006, is a nonresident who is visiting the state for  
35 sixty days or less;

36 (4) Is participating in an event or regatta approved by the water patrol;

37 (5) Is a nonresident who has proof of a valid boating certificate or license  
38 issued by another state if the boating course is approved by the National  
39 Association of State Boating Law Administrators (NASBLA);

40 (6) Is exempted by rule of the water patrol;

41 (7) Is currently serving in any branch of the United States armed forces,  
42 reserves, or Missouri national guard, or any spouse of a person currently in such  
43 service; or

44 (8) Has previously successfully completed a boating safety education  
45 course approved by the National Association of State Boating Law Administrators  
46 (NASBLA).

47 5. The Missouri state water patrol shall inform other states of the  
48 requirements of this section.

49 6. No individual shall be detained or stopped strictly for the purpose of  
50 checking whether the individual possesses a boating safety identification card or  
51 a temporary boater education permit.

52 7. Beginning January 1, 2006, any nonresident born after January 1,  
53 1984, desiring to operate a rental vessel on the lakes of this state, may obtain a  
54 temporary boater education permit by completing and passing a written  
55 examination developed by the Missouri state water patrol, provided the person  
56 meets the minimum age requirements for operating a vessel in this state. The  
57 Missouri state water patrol is authorized to promulgate rules for developing the  
58 examination and any requirements necessary for issuance of the temporary boater  
59 education permit. The temporary boater education permit shall expire when the  
60 nonresident obtains a permanent identification card pursuant to subsection 2 of  
61 this section or thirty days after issuance, whichever occurs first. The Missouri  
62 state water patrol may charge a fee not to exceed ten dollars for such temporary  
63 permit. Upon successful completion of an examination and prior to renting a  
64 vessel, the business entity responsible for giving the examination shall collect  
65 such fee and forward all collected fees to the Missouri state water patrol on a  
66 monthly basis for deposit in the state general revenue fund. Such business entity  
67 shall incur no additional liability in accepting the responsibility for administering  
68 the examination. This subsection shall terminate on December 31, 2010.

306.132. 1. Any person operating a watercraft on the waters of this state shall stop such watercraft upon a signal of any member of the Missouri state water patrol and obey any other reasonable signal or direction of such member of the Missouri state water patrol given in directing the movement of traffic on the waters of this state.

2. Any person operating a watercraft upon the waters of this state shall immediately stop or position such watercraft in such a way as to give the right-of-way on the water to any emergency watercraft, as established by the Missouri state water patrol, when such emergency watercraft gives an audible signal by siren or gives a visible signal by having at least one lighted lamp exhibiting a red or blue light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such emergency watercraft.

**3. Vessels shall not be operated at a speed in excess of slow no-wake speed within one hundred feet of any emergency vessel that has red or blue lighting displayed.**

4. Any person who violates the provisions of this section is guilty of a class C misdemeanor.

306.147. 1. As used in this section, the term "muffler" means a sound suppression device or system designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and which prevents excessive or unusual noise.

2. Effective January 1, 1996, a person shall not manufacture, sell or offer for sale or operate in this state any motorboat manufactured after that date that exceeds the noise level of 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. All motorboats manufactured prior to January 1, 1996, shall not exceed eighty-six decibels on an A-weighted scale when subjected to a sound level test as prescribed by SAE J34 when measured from a distance of fifty or more feet from the motorboat.

3. No person shall remove, alter or otherwise modify in any way a muffler or muffler system in a manner which will prevent it from being operated in accordance with this section. Nothing in this section shall preclude a person from removing, altering or modifying a muffler or muffler system so long as the muffler or muffler system continues to comply with subsection 2 of this section. This section shall not be construed so as to prohibit the use of any exhaust system or device, including but not limited to those not discharging water with exhaust gases, so long as the device or system is in compliance with subsection 2 of this

20 section.

21           4. No motorboat shall be equipped with any electrical or mechanical  
22 device or switch that when manipulated in any manner would allow the muffler  
23 or exhaust system to emit a noise level that exceeds the maximums in subsection  
24 2 of this section.

25           5. Effective January 1, 1996, a person shall not manufacture, nor shall  
26 any person sell or offer for sale any motorboat which is manufactured after  
27 January 1, 1996, which is equipped with a muffler or muffler system which does  
28 not comply with this section. The subsection shall not apply to power vessels  
29 designed, manufactured and sold for the sole purpose of competing in racing  
30 events and for no other purpose. Any such exemption or exception shall be  
31 documented in every sale agreement and shall be formally acknowledged by  
32 signature on the part of both the buyer and the seller. Copies of such agreement  
33 shall be maintained by both parties. A copy of such agreement shall be kept on  
34 board whenever the motorboat is operated. Any motorboat sold under this  
35 exemption may only be operated on the waters of this state in accordance with  
36 subsection 7 of this section.

37           6. As of January 1, 1996, every manufacturer which delivers a new  
38 motorboat for sale in this state shall certify, if the purchaser or dealer makes a  
39 request in writing, that the decibel level of the motorboat engine, muffler and  
40 exhaust system, as delivered to any licensed dealer in this state, does not exceed  
41 the noise level of 90dB(A) when subjected to a stationary sound level test as  
42 prescribed by SAE J2005. Such certificate of decibel level from the manufacturer  
43 shall be given by the dealer to the purchaser of the new motorboat if the  
44 motorboat is sold for use upon the waters of this state. The purchaser shall sign  
45 a statement acknowledging receipt of the certificate of decibel level which shall  
46 be supplied by the dealer. The dealer shall represent by affidavit whether or not  
47 the engine or muffler system of the new motorboat being sold has been altered or  
48 modified in any way.

49           7. The provisions of this section shall not apply to motorboats registered  
50 and actually participating in a racing event or tune-up periods for such racing  
51 events or to a motorboat being operated by a boat or engine manufacturer for the  
52 purpose of testing or development. The operator of any motorboat operated upon  
53 the waters of this state for the purpose of a tune-up for a sanctioned race or for  
54 testing or development by a boat or engine manufacturer shall at all times have  
55 in such operator's possession and produce on demand by a law enforcement officer

56 a test permit issued by the state water patrol. For the purpose of races or racing  
57 events, such race shall only be sanctioned when conducted in accordance with and  
58 approved by the United States Coast Guard or this state.

59 8. Any officer authorized to enforce the provisions of this section who has  
60 probable cause to believe that a motorboat is not in compliance with the noise  
61 levels established in this section may direct the operator of such motorboat to  
62 submit the motorboat to an on-site test to measure noise levels, with the officer  
63 on board if such officer chooses, and the operator shall comply with such  
64 request. The owner of any motorboat which violates any provision of this section  
65 shall have sixty days from the date of the violation to bring the motorboat into  
66 compliance with the provisions of this section. Thereafter, it shall be the owner's  
67 responsibility to have the motorboat tested by the state water patrol. If the  
68 motorboat fails the state water patrol test, the owner shall immediately moor the  
69 motorboat and shall keep the motorboat moored until the state water patrol  
70 certifies that the motorboat is in compliance with the provisions of this  
71 section. Any person who fails to comply with a request or direction of an officer  
72 made pursuant to this subsection is guilty of a class C misdemeanor. Nothing in  
73 this subsection shall be construed to limit the officer's ability to enforce this  
74 section and to issue citations to the owner or operator of any motorboat during  
75 the sixty-day compliance period.

76 9. Any officer who conducts motorboat sound level tests as provided in  
77 this section shall be qualified in motorboat noise testing by the department of  
78 public safety. Such qualifications shall include but may not be limited to the  
79 selection of the measurement site, and the calibration and use of noise testing  
80 equipment in accordance with the testing procedure prescribed by SAE J2005 and  
81 SAE J34.

82 10. Unless otherwise indicated, any person who knowingly violates this  
83 section is guilty of an infraction for a first offense with a penalty not to exceed  
84 one hundred dollars, is guilty of an infraction for a second offense with a penalty  
85 not to exceed two hundred dollars, and is guilty of an infraction for a third or  
86 subsequent offense with a penalty not to exceed three hundred dollars.

87 11. [This section shall only apply to the waters of the Mississippi River,  
88 the waters of the Missouri River, and lakes with an aggregate shoreline in excess  
89 of one hundred sixty miles.] This section shall not apply to motorboats not  
90 intended for use in this state.

306.163. 1. The governor, by and with the advice and consent of the

2 senate, shall appoint a commissioner of the Missouri state water patrol **from its**  
3 **uniformed membership** to serve at the pleasure of the governor. The  
4 commissioner shall take and subscribe an oath of office to perform the  
5 commissioner's duties faithfully and impartially.

6         2. The commissioner shall prescribe rules for instruction and discipline  
7 and make administrative rules and regulations and fix the hours of duty for the  
8 members of the patrol. The commissioner shall have charge of the office of the  
9 patrol, shall be custodian of the records of the patrol, and shall direct the  
10 day-to-day activities of the officers, patrolmen and office personnel.

11         3. The commissioner shall be given a certificate of appointment, a copy of  
12 which shall be filed with the secretary of state, granting him or her all the powers  
13 of a peace officer to enforce all the laws of this state within the jurisdiction of the  
14 water patrol as listed in section 306.165, provided that he has completed a law  
15 enforcement training course which meets the standards established in chapter  
16 590, RSMo.

17         4. In the absence, or upon the disability, of the commissioner, or at the  
18 time the commissioner designates, the lieutenant colonel shall assume the duties  
19 of the commissioner. In case of the disability of the commissioner and the  
20 lieutenant colonel, the governor may designate a major as acting commissioner  
21 and when so designated, the acting commissioner shall have all the powers and  
22 duties of the commissioner.

306.221. 1. No person shall operate or otherwise position a vessel or other  
2 object or any person in such manner as to obstruct or impede the normal flow of  
3 traffic on the [lakes] **waters** of this state.

4         2. Any person who violates subsection 1 of this section is guilty upon the  
5 first conviction of a class C misdemeanor and upon the second and any  
6 subsequent conviction of a class B misdemeanor.

565.024. 1. A person commits the crime of involuntary manslaughter in  
2 the first degree if he or she:

3         (1) Recklessly causes the death of another person; or

4         (2) While in an intoxicated condition operates a motor vehicle **or vessel**  
5 in this state and, when so operating, acts with criminal negligence to cause the  
6 death of any person; or

7         (3) While in an intoxicated condition operates a motor vehicle **or vessel**  
8 in this state, and, when so operating, acts with criminal negligence to:

9         (a) Cause the death of any person not a passenger in the vehicle **or**

10 vessel operated by the defendant, including the death of an individual that  
 11 results from the defendant's vehicle leaving a highway, as defined by section  
 12 301.010, RSMo, or the highway's right-of-way, **or vessel leaving the water**; or

13 (b) Cause the death of two or more persons; or

14 (c) Cause the death of any person while he or she has a blood alcohol  
 15 content of at least eighteen-hundredths of one percent by weight of alcohol in  
 16 such person's blood; or

17 (4) Operates a motor vehicle in violation of subsection 2 of section  
 18 304.022, RSMo, and when so operating, acts with criminal negligence to cause the  
 19 death of any person authorized to operate an emergency vehicle, as defined in  
 20 section 304.022, RSMo, while such person is in the performance of official duties;  
 21 **or**

22 **(5) Operates a vessel in violation of subsections 1 or 2 of section**  
 23 **306.132, RSMo, and when so operating, acts with criminal negligence to**  
 24 **cause the death of any person authorized to operate an emergency**  
 25 **watercraft, as described in section 306.132, RSMo, while such person is**  
 26 **in the performance of official duties.**

27 2. Involuntary manslaughter in the first degree under subdivision (1) or  
 28 (2) of subsection 1 of this section is a class C felony. Involuntary manslaughter  
 29 in the first degree under subdivision (3) of subsection 1 of this section is a class  
 30 B felony. A second or subsequent violation of subdivision (3) of subsection 1 of  
 31 this section is a class A felony. For any violation of subdivision (3) of subsection  
 32 1 of this section, the minimum prison term which the defendant must serve shall  
 33 be eighty-five percent of his or her sentence. Any violation of [subdivision]  
 34 **subdivisions (4) and (5)** of subsection 1 of this section is a class B felony.

35 3. A person commits the crime of involuntary manslaughter in the second  
 36 degree if he acts with criminal negligence to cause the death of any person.

37 4. Involuntary manslaughter in the second degree is a class D felony.

565.082. 1. A person commits the crime of assault of a law enforcement  
 2 officer, emergency personnel, or probation and parole officer in the second degree  
 3 if such person:

4 (1) Knowingly causes or attempts to cause physical injury to a law  
 5 enforcement officer, emergency personnel, or probation and parole officer by  
 6 means of a deadly weapon or dangerous instrument;

7 (2) Knowingly causes or attempts to cause physical injury to a law  
 8 enforcement officer, emergency personnel, or probation and parole officer by



9 means other than a deadly weapon or dangerous instrument;

10 (3) Recklessly causes serious physical injury to a law enforcement officer,  
11 emergency personnel, or probation and parole officer; or

12 (4) While in an intoxicated condition or under the influence of controlled  
13 substances or drugs, operates a motor vehicle **or vessel** in this state and when  
14 so operating, acts with criminal negligence to cause physical injury to a law  
15 enforcement officer, emergency personnel, or probation and parole officer;

16 (5) Acts with criminal negligence to cause physical injury to a law  
17 enforcement officer, emergency personnel, or probation and parole officer by  
18 means of a deadly weapon or dangerous instrument;

19 (6) Purposely or recklessly places a law enforcement officer, emergency  
20 personnel, or probation and parole officer in apprehension of immediate serious  
21 physical injury; or

22 (7) Acts with criminal negligence to create a substantial risk of death or  
23 serious physical injury to a law enforcement officer, emergency personnel, or  
24 probation and parole officer.

25 2. As used in this section, "emergency personnel" means any paid or  
26 volunteer firefighter, emergency room or trauma center personnel, or emergency  
27 medical technician as defined in subdivisions (15), (16), and (17) of section  
28 190.100, RSMo.

29 3. Assault of a law enforcement officer, emergency personnel, or probation  
30 and parole officer in the second degree is a class B felony unless committed  
31 pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of this section in which  
32 case it is a class C felony.

577.080. 1. A person commits the crime of abandoning a motor vehicle,  
2 **vessel**, or trailer if he abandons any motor vehicle, **vessel**, or trailer on the  
3 right-of-way of any public road or state highway or on or in any of the waters in  
4 this state or on the banks of any stream, or on any land or water owned, operated  
5 or leased by the state, any board, department, agency or commission thereof, or  
6 any political subdivision thereof or on any land or water owned, operated or  
7 leased by the federal government or on any private real property owned by  
8 another without his consent.

9 2. For purposes of this section, the last owner of record of a motor vehicle,  
10 **vessel**, or trailer found abandoned and not shown to be transferred pursuant to  
11 sections 301.196 and 301.197, RSMo, shall be deemed prima facie to have been  
12 the owner of such motor vehicle, **vessel**, or trailer at the time it was abandoned

13 and to have been the person who abandoned the motor vehicle, **vessel**, or trailer  
14 or caused or procured its abandonment. The registered owner of the abandoned  
15 motor vehicle, **vessel**, or trailer shall not be subject to the penalties provided by  
16 this section if the motor vehicle or trailer was in the care, custody, or control of  
17 another person at the time of the violation. In such instance, the owner shall  
18 submit such evidence in an affidavit permitted by the court setting forth the  
19 name, address, and other pertinent information of the person who leased, rented,  
20 or otherwise had care, custody, or control of the motor vehicle, **vessel**, or trailer  
21 at the time of the alleged violation. The affidavit submitted pursuant to this  
22 subsection shall be admissible in a court proceeding adjudicating the alleged  
23 violation and shall raise a rebuttable presumption that the person identified in  
24 the affidavit was in actual control of the motor vehicle, **vessel**, or trailer. In such  
25 case, the court has the authority to terminate the prosecution of the summons  
26 issued to the owner and issue a summons to the person identified in the affidavit  
27 as the operator. If the motor vehicle, **vessel**, or trailer is alleged to have been  
28 stolen, the owner of the motor vehicle, **vessel**, or trailer shall submit proof that  
29 a police report was filed in a timely manner indicating that the vehicle **or vessel**  
30 was stolen at the time of the alleged violation.

31 3. Abandoning a motor vehicle, **vessel**, or trailer is a class A  
32 misdemeanor.

33 4. Any person convicted pursuant to this section shall be civilly liable for  
34 all reasonable towing, storage, and administrative costs associated with the  
35 abandonment of the motor vehicle, **vessel**, or trailer. Any reasonable towing,  
36 storage, and administrative costs in excess of the value of the abandoned motor  
37 vehicle, **vessel**, or trailer that exist at the time the motor vehicle **or vessel** is  
38 transferred pursuant to section 304.156, RSMo, shall remain the liability of the  
39 person convicted pursuant to this section so long as the towing company, as  
40 defined in chapter 304, RSMo, provided the title owner and lienholders, as  
41 ascertained by the department of revenue records, a notice within the time frame  
42 and in the form as described in subsection 1 of section 304.156, RSMo.

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