

SECOND REGULAR SESSION

[C O R R E C T E D]

[P E R F E C T E D]

SENATE SUBSTITUTE NO. 2 FOR

SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILLS NOS. 747 & 736

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RIDGEWAY.

Offered March 6, 2008.

Senate Substitute No. 2 adopted, March 6, 2008.

Taken up for Perfection March 6, 2008. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

3364S.06P

## AN ACT

To repeal sections 160.545, 311.310, 311.325, 577.021, 577.023, 577.500, and 578.255, RSMo, and to enact in lieu thereof seven new sections relating to abuse of alcohol, with penalty provisions.

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

Section A. Sections 160.545, 311.310, 311.325, 577.021, 577.023, 577.500, and 578.255, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 160.545, 311.310, 311.325, 577.021, 577.023, 577.500, and 578.255, to read as follows:

160.545. 1. There is hereby established within the department of elementary and secondary education the "A+ Schools Program" to be administered by the commissioner of education. The program shall consist of grant awards made to public secondary schools that demonstrate a commitment to ensure that:

- (1) All students be graduated from school;
- (2) All students complete a selection of high school studies that is challenging and for which there are identified learning expectations; and
- (3) All students proceed from high school graduation to a college or postsecondary vocational or technical school or high-wage job with work place skill development opportunities.

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

11           2. The state board of education shall promulgate rules and regulations for  
12 the approval of grants made under the program to schools that:

13           (1) Establish measurable districtwide performance standards for the goals  
14 of the program outlined in subsection 1 of this section; and

15           (2) Specify the knowledge, skills and competencies, in measurable terms,  
16 that students must demonstrate to successfully complete any individual course  
17 offered by the school, and any course of studies which will qualify a student for  
18 graduation from the school; and

19           (3) Do not offer a general track of courses that, upon completion, can lead  
20 to a high school diploma; and

21           (4) Require rigorous coursework with standards of competency in basic  
22 academic subjects for students pursuing vocational and technical education as  
23 prescribed by rule and regulation of the state board of education; and

24           (5) Have a partnership plan developed in cooperation and with the advice  
25 of local business persons, labor leaders, parents, and representatives of college  
26 and postsecondary vocational and technical school representatives, with the plan  
27 then approved by the local board of education. The plan shall specify a  
28 mechanism to receive information on an annual basis from those who developed  
29 the plan in addition to senior citizens, community leaders, and teachers to update  
30 the plan in order to best meet the goals of the program as provided in subsection  
31 1 of this section. Further, the plan shall detail the procedures used in the school  
32 to identify students that may drop out of school and the intervention services to  
33 be used to meet the needs of such students. The plan shall outline counseling  
34 and mentoring services provided to students who will enter the work force upon  
35 graduation from high school, address apprenticeship and intern programs, and  
36 shall contain procedures for the recruitment of volunteers from the community  
37 of the school to serve in schools receiving program grants.

38           3. By rule and regulation, the state board of education may determine a  
39 local school district variable fund match requirement in order for a school or  
40 schools in the district to receive a grant under the program. However, no school  
41 in any district shall receive a grant under the program unless the district  
42 designates a salaried employee to serve as the program coordinator, with the  
43 district assuming a minimum of one-half the cost of the salary and other benefits  
44 provided to the coordinator. Further, no school in any district shall receive a  
45 grant under the program unless the district makes available facilities and  
46 services for adult literacy training as specified by rule of the state board of

47 education.

48           4. For any school that meets the requirements for the approval of the  
49 grants authorized by this section and specified in subsection 2 of this section for  
50 three successive school years, by August first following the third such school year,  
51 the commissioner of education shall present a plan to the superintendent of the  
52 school district in which such school is located for the waiver of rules and  
53 regulations to promote flexibility in the operations of the school and to enhance  
54 and encourage efficiency in the delivery of instructional services in the  
55 school. The provisions of other law to the contrary notwithstanding, the plan  
56 presented to the superintendent shall provide a summary waiver, with no  
57 conditions, for the pupil testing requirements pursuant to section 160.257 in the  
58 school. Further, the provisions of other law to the contrary notwithstanding, the  
59 plan shall detail a means for the waiver of requirements otherwise imposed on  
60 the school related to the authority of the state board of education to classify  
61 school districts pursuant to subdivision (9) of section 161.092, RSMo, and such  
62 other rules and regulations as determined by the commissioner of education,  
63 except such waivers shall be confined to the school and not other schools in the  
64 school district unless such other schools meet the requirements of this  
65 subsection. However, any waiver provided to any school as outlined in this  
66 subsection shall be void on June thirtieth of any school year in which the school  
67 fails to meet the requirements for the approval of the grants authorized by this  
68 section as specified in subsection 2 of this section.

69           5. For any school year, grants authorized by subsections 1 to 3 of this  
70 section shall be funded with the amount appropriated for this program, less those  
71 funds necessary to reimburse eligible students pursuant to subsection 6 of this  
72 section.

73           6. The commissioner of education shall, by rule and regulation of the state  
74 board of education and with the advice of the coordinating board for higher  
75 education, establish a procedure for the reimbursement of the cost of tuition,  
76 books and fees to any public community college or vocational or technical school  
77 for any student:

78           (1) Who has attended a public high school in the state for at least three  
79 years immediately prior to graduation that meets the requirements of subsection  
80 2 of this section, except that students who are active duty military dependents  
81 who, in the school year immediately preceding graduation, meet all other  
82 requirements of this subsection and are attending a school that meets the

83 requirements of subsection 2 of this section shall be exempt from the three-year  
84 attendance requirement of this subdivision; and

85 (2) Who has made a good faith effort to first secure all available federal  
86 sources of funding that could be applied to the reimbursement described in this  
87 subsection; and

88 (3) Who has earned a minimal grade average while in high school as  
89 determined by rule of the state board of education, and other requirements for the  
90 reimbursement authorized by this subsection as determined by rule and  
91 regulation of said board.

92 **7. Any person who pleads guilty to, is found guilty of, or is**  
93 **adjudicated for violating section 311.325, RSMo, as a third offense shall**  
94 **not be eligible for initial or continual reimbursement under subsection**  
95 **6 of this section.**

96 8. The commissioner of education shall develop a procedure for evaluating  
97 the effectiveness of the program described in this section. Such evaluation shall  
98 be conducted annually with the results of the evaluation provided to the governor,  
99 speaker of the house, and president pro tempore of the senate.

311.310. 1. Any licensee under this chapter, or his employee, who shall  
2 sell, vend, give away or otherwise supply any intoxicating liquor in any quantity  
3 whatsoever to any person under the age of twenty-one years, or to any person  
4 intoxicated or appearing to be in a state of intoxication, or to a habitual  
5 drunkard, and any person whomsoever except his parent or guardian who shall  
6 procure for, sell, give away or otherwise supply intoxicating liquor to any person  
7 under the age of twenty-one years, or to any intoxicated person or any person  
8 appearing to be in a state of intoxication, or to a habitual drunkard, shall be  
9 deemed guilty of a misdemeanor, except that this section shall not apply to the  
10 supplying of intoxicating liquor to a person under the age of twenty-one years for  
11 medical purposes only, or to the administering of such intoxicating liquor to any  
12 person by a duly licensed physician. No person shall be denied a license or  
13 renewal of a license issued under this chapter solely due to a conviction for  
14 unlawful sale or supply to a minor when serving in the capacity as an employee  
15 of a licensed establishment.

16 2. Any owner, occupant, or other person or legal entity with a lawful right  
17 to the exclusive use and enjoyment of any property who knowingly allows a  
18 person under the age of twenty-one to drink or possess intoxicating liquor or  
19 knowingly fails to stop a person under the age of twenty-one from drinking or

20 possessing intoxicating liquor on such property, unless such person allowing the  
21 person under the age of twenty-one to drink or possess intoxicating liquor is his  
22 or her parent or guardian, is guilty of a class B misdemeanor. Any second or  
23 subsequent violation of this subsection is a class A misdemeanor.

24 **3. Any person who pleads guilty to or is found guilty of a**  
25 **violation of this section for:**

26 **(1) Knowingly procuring, selling, giving away, or otherwise**  
27 **supplying intoxicating liquor to any person under the age of twenty-one**  
28 **years of age;**

29 **(2) Knowingly allowing a person under the age of twenty-one**  
30 **years of age to drink or possess intoxicating liquor on property as**  
31 **described in subsection 2 of this section; or**

32 **(3) Knowingly failing to stop a person under the age of twenty-**  
33 **one from drinking or possessing intoxicating liquor on property as**  
34 **described under subsection 2 of this section;**

35 **may be subject to a claim by the parent or legal guardian of the person**  
36 **under twenty-one years of age for any resulting damages suffered by**  
37 **the person under twenty-one years of age. Proof that the person**  
38 **knowingly committed the acts described in subdivision (1) of this**  
39 **subsection shall be proven by clear and convincing evidence. The**  
40 **provisions of this subsection shall not apply to any licensee under this**  
41 **chapter or chapter 312, RSMo, or their employees.**

42 **4. It shall be a defense to prosecution under this section if:**

43 **(1) The defendant is a licensed retailer, club, drinking establishment, or**  
44 **caterer or holds a temporary permit, or an employee thereof;**

45 **(2) The defendant sold the intoxicating liquor to the minor with**  
46 **reasonable cause to believe that the minor was twenty-one or more years of age;**  
47 **and**

48 **(3) To purchase the intoxicating liquor, the person exhibited to the**  
49 **defendant a driver's license, Missouri nondriver's identification card, or other**  
50 **official or apparently official document, containing a photograph of the minor and**  
51 **purporting to establish that such minor was twenty-one years of age and of the**  
52 **legal age for consumption of intoxicating liquor.**

311.325. 1. Any person under the age of twenty-one years, who purchases  
2 or attempts to purchase, or has in his or her possession, any intoxicating liquor  
3 as defined in section 311.020 or who is visibly intoxicated as defined in section

4 577.001, RSMo, or has a detectable blood alcohol content of more than  
5 two-hundredths of one percent or more by weight of alcohol in such person's blood  
6 is guilty of a misdemeanor. For purposes of prosecution under this section or any  
7 other provision of this chapter involving an alleged illegal sale or transfer of  
8 intoxicating liquor to a person under twenty-one years of age, a  
9 manufacturer-sealed container describing that there is intoxicating liquor therein  
10 need not be opened or the contents therein tested to verify that there is  
11 intoxicating liquor in such container. The alleged violator may allege that there  
12 was not intoxicating liquor in such container, but the burden of proof of such  
13 allegation is on such person, as it shall be presumed that such a sealed container  
14 describing that there is intoxicating liquor therein contains intoxicating liquor.

15 2. For purposes of determining violations of any provision of this chapter,  
16 or of any rule or regulation of the supervisor of alcohol and tobacco control, a  
17 manufacturer-sealed container describing that there is intoxicating liquor therein  
18 need not be opened or the contents therein tested to verify that there is  
19 intoxicating liquor in such container. The alleged violator may allege that there  
20 was not intoxicating liquor in such container, but the burden of proof of such  
21 allegation is on such person, as it shall be presumed that such a sealed container  
22 describing that there is intoxicating liquor therein contains intoxicating liquor.

23 3. The provisions of this section shall not apply to a student who:

24 (1) Is eighteen years of age or older;

25 (2) Is enrolled in an accredited college or university and is a student in  
26 a culinary course;

27 (3) Is required to taste, but not consume or imbibe, any beer, ale, porter,  
28 wine, or other similar malt or fermented beverage as part of the required  
29 curriculum; and

30 (4) Tastes a beverage under subdivision (3) of this subsection only for  
31 instructional purposes during classes that are part of the curriculum of the  
32 accredited college or university.

33 The beverage must at all times remain in the possession and control of an  
34 authorized instructor of the college or university, who must be twenty-one years  
35 of age or older. Nothing in this subsection may be construed to allow a student  
36 under the age of twenty-one to receive any beer, ale, porter, wine, or other similar  
37 malt or fermented beverage unless the beverage is delivered as part of the  
38 student's required curriculum and the beverage is used only for instructional  
39 purposes during classes conducted as part of the curriculum.

40           4. Any peace officer, as defined in section 590.010, RSMo, who  
41 has probable cause to believe that a person less than twenty-one years  
42 of age is in violation of this section by being intoxicated, may request  
43 that such person submit to a chemical test prescribed under section  
44 577.021, RSMo. Any person less than twenty-one years of age who  
45 refuses, upon the request of the peace officer, to submit to such  
46 chemical test to determine his or her blood alcohol content shall be  
47 deemed visibly intoxicated for the purposes of this section.

48           5. As of August 28, 2008, the clerks of the courts shall forward a  
49 copy of the judgement and date of birth of any person who is convicted  
50 of, pleads guilty or nolo contendere to, is found guilty of, or is  
51 adjudicated for violating section 311.325. The information shall be  
52 forwarded to the highway patrol within twenty days of the date of  
53 judgement. The highway patrol shall enter the information into the  
54 Missouri uniform laws enforcement system (MULES) where it is  
55 available to members of the criminal justice system, and other entities  
56 as provided by law, upon request. No record or information shall be  
57 made public in violation of chapter 610, RSMo.

577.021. 1. Any state, county or municipal law enforcement officer who  
2 has the power of arrest for violations of section 311.325, RSMo, section 577.010,  
3 or section 577.012 and who is certified pursuant to chapter 590, RSMo, may,  
4 prior to arrest, administer a chemical test to any person suspected of operating  
5 a motor vehicle in violation of section 577.010 or 577.012 or any person  
6 suspected of being intoxicated in violation of section 311.325, RSMo.

7           2. Any state, county, or municipal law enforcement officer who has the  
8 power of arrest for violations of section 577.010 or 577.012 and who is certified  
9 under chapter 590, RSMo, shall make all reasonable efforts to administer a  
10 chemical test to any person suspected of driving a motor vehicle involved in a  
11 collision which resulted in a fatality or serious physical injury as defined in  
12 section 565.002, RSMo.

13           3. A test administered pursuant to this section shall be admissible as  
14 evidence of probable cause to arrest and as exculpatory evidence, but shall not be  
15 admissible as evidence of blood alcohol content. The provisions of sections  
16 577.019 and 577.020 shall not apply to a test administered prior to arrest  
17 pursuant to this section.

18 [The provisions changing chapter 577 are severable from this legislation. The

19 general assembly would have enacted the remainder of this legislation without  
20 the changes made to chapter 577, and the remainder of the legislation is not  
21 essentially and inseparably connected with or dependent upon the changes to  
22 chapter 577.]

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

3 (1) An "aggravated offender" is a person who:

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

6 (b) Has pleaded guilty to or has been found guilty of one or more  
7 intoxication-related traffic offense and, in addition, any of the following:  
8 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section  
9 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where  
10 the underlying felony is an intoxication-related traffic offense; or assault in the  
11 second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or  
12 assault of a law enforcement officer in the second degree under subdivision (4) of  
13 subsection 1 of section 565.082, RSMo;

14 (2) A "chronic offender" is:

15 (a) A person who has pleaded guilty to or has been found guilty of four or  
16 more intoxication-related traffic offenses; or

17 (b) A person who has pleaded guilty to or has been found guilty of, on two  
18 or more separate occasions, any combination of the following: involuntary  
19 manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024,  
20 RSMo; murder in the second degree under section 565.021, RSMo, where the  
21 underlying felony is an intoxication-related traffic offense; assault in the second  
22 degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault  
23 of a law enforcement officer in the second degree under subdivision (4) of  
24 subsection 1 of section 565.082, RSMo; or

25 (c) A person who has pleaded guilty to or has been found guilty of two or  
26 more intoxication-related traffic offenses and, in addition, any of the following:  
27 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section  
28 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where  
29 the underlying felony is an intoxication-related traffic offense; assault in the  
30 second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or  
31 assault of a law enforcement officer in the second degree under subdivision (4) of  
32 subsection 1 of section 565.082, RSMo;



33 (3) An "intoxication-related traffic offense" is driving while intoxicated,  
34 driving with excessive blood alcohol content, involuntary manslaughter pursuant  
35 to subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, murder in the  
36 second degree under section 565.021, RSMo, where the underlying felony is an  
37 intoxication-related traffic offense, assault in the second degree pursuant to  
38 subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law  
39 enforcement officer in the second degree pursuant to subdivision (4) of subsection  
40 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in  
41 violation of state law or a county or municipal ordinance, where the defendant  
42 was represented by or waived the right to an attorney in writing;

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

44 (a) A person who has pleaded guilty to or has been found guilty of two or  
45 more intoxication-related traffic offenses;

46 (b) A person who has pleaded guilty to or has been found guilty of  
47 involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of  
48 section 565.024, RSMo, assault in the second degree pursuant to subdivision (4)  
49 of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in  
50 the second degree pursuant to subdivision (4) of subsection 1 of section 565.082,  
51 RSMo; and

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

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

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

62 4. Any person who pleads guilty to or is found guilty of a violation of  
63 section 577.010 or section 577.012 who is alleged and proved to be an aggravated  
64 offender shall be guilty of a class C felony.

65 5. Any person who pleads guilty to or is found guilty of a violation of  
66 section 577.010 or section 577.012 who is alleged and proved to be a chronic  
67 offender shall be guilty of a class B felony.

68 6. No state, county, or municipal court shall suspend the imposition of

69 sentence as to a prior offender, persistent offender, aggravated offender, or  
70 chronic offender under this section nor sentence such person to pay a fine in lieu  
71 of a term of imprisonment, section 557.011, RSMo, to the contrary  
72 notwithstanding. No prior offender shall be eligible for parole or probation until  
73 he or she has served a minimum of five days imprisonment, unless as a condition  
74 of such parole or probation such person performs at least thirty days of  
75 community service under the supervision of the court in those jurisdictions which  
76 have a recognized program for community service. No persistent offender shall  
77 be eligible for parole or probation until he or she has served a minimum of ten  
78 days imprisonment, unless as a condition of such parole or probation such person  
79 performs at least sixty days of community service under the supervision of the  
80 court. No aggravated offender shall be eligible for parole or probation until he  
81 or she has served a minimum of sixty days imprisonment. No chronic offender  
82 shall be eligible for parole or probation until he or she has served a minimum of  
83 two years imprisonment.

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

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

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

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

95 8. In a jury trial, the facts shall be pleaded, established and found prior  
96 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 defer  
98 the proof in findings of such facts to a later time, but prior to sentencing.

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

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

102 12. Nothing in this section shall prevent the use of presentence  
103 investigations or commitments.

104 13. At the sentencing hearing both the state, county, or municipality and

105 the defendant shall be permitted to present additional information bearing on the  
106 issue of sentence.

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

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

113 16. Evidence of prior convictions shall be heard and determined by the  
114 trial court out of the hearing of the jury prior to the submission of the case to the  
115 jury, and shall include but not be limited to evidence of convictions received by  
116 a search of the records of the Missouri uniform law enforcement system  
117 maintained by the Missouri state highway patrol. After hearing the evidence, the  
118 court shall enter its findings thereon. A conviction of a violation of a municipal  
119 or county ordinance in a county or municipal court for driving while intoxicated  
120 or a conviction or a plea of guilty or a finding of guilty followed by a suspended  
121 imposition of sentence, suspended execution of sentence, probation or parole or  
122 any combination thereof in a state **or municipal** court shall be treated as a prior  
123 conviction.

577.500. 1. A court of competent jurisdiction shall, upon a plea of guilty,  
2 conviction or finding of guilt, or, if the court is a juvenile court, upon a finding of  
3 fact that the offense was committed by a juvenile, enter an order suspending or  
4 revoking the driving privileges of any person determined to have committed one  
5 of the following offenses and who, at the time said offense was committed, was  
6 under twenty-one years of age:

7 (1) Any alcohol-related traffic offense in violation of state law or a county  
8 or, beginning July 1, 1992, municipal ordinance, where the defendant was  
9 represented by or waived the right to an attorney in writing;

10 (2) Any offense in violation of state law or, beginning July 1, 1992, a  
11 county or municipal ordinance, where the defendant was represented by or  
12 waived the right to an attorney in writing, involving the possession or use of  
13 alcohol, committed while operating a motor vehicle;

14 (3) Any offense involving the possession or use of a controlled substance  
15 as defined in chapter 195, RSMo, in violation of the state law or, beginning July  
16 1, 1992, a county or municipal ordinance, where the defendant was represented  
17 by or waived the right to an attorney in writing;

18           (4) Any offense involving the alteration, modification or misrepresentation  
19 of a license to operate a motor vehicle in violation of section 311.328, RSMo;

20           (5) Any offense in violation of state law or, beginning July 1, 1992, a  
21 county or municipal ordinance, where the defendant was represented by or  
22 waived the right to an attorney in writing, involving the possession or use of  
23 alcohol for a second time; except that a determination of guilt or its equivalent  
24 shall have been made for the first offense and both offenses shall have been  
25 committed by the person when the person was under eighteen years of age.

26           2. A court of competent jurisdiction shall, upon a plea of guilty or nolo  
27 contendere, conviction or finding of guilt, or, if the court is a juvenile court, upon  
28 a finding of fact that the offense was committed by a juvenile, enter an order  
29 suspending or revoking the driving privileges of any person determined to have  
30 committed a crime or violation of section 311.325, RSMo, and who, at the time  
31 said crime or violation was committed, was more than fifteen years of age and  
32 under twenty-one years of age.

33           3. The court shall require the surrender to it of any license to operate a  
34 motor vehicle, temporary instruction permit, intermediate driver's license or any  
35 other driving privilege then held by any person against whom a court has entered  
36 an order suspending or revoking driving privileges under subsections 1 and 2 of  
37 this section.

38           4. The court, if other than a juvenile court, shall forward to the director  
39 of revenue the order of suspension or revocation of driving privileges and any  
40 licenses, temporary instruction permits, intermediate driver's licenses, or any  
41 other driving privilege acquired under subsection 3 of this section.

42           5. (1) The court, if a juvenile court, shall forward to the director of  
43 revenue the order of suspension or revocation of driving privileges and any  
44 licenses, temporary instruction permits, intermediate driver's licenses, or any  
45 other driving privilege acquired under subsection 3 of this section for any person  
46 sixteen years of age or older, the provision of chapter 211, RSMo, to the contrary  
47 notwithstanding.

48           (2) The court, if a juvenile court, shall hold the order of suspension or  
49 revocation of driving privileges for any person less than sixteen years of age until  
50 thirty days before the person's sixteenth birthday, at which time the juvenile  
51 court shall forward to the director of revenue the order of suspension or  
52 revocation of driving privileges, the provision of chapter 211, RSMo, to the  
53 contrary notwithstanding.

54           6. The period of suspension for a first offense under subsection 1 of this  
55 section shall be ninety days. Any second or subsequent offense under subsection  
56 1 of this section shall result in revocation of the offender's driving privileges for  
57 one year. The period of suspension for a first offense under subsection 2 of this  
58 section shall be thirty days. The period of suspension for a second offense under  
59 subsection 2 of this section shall be ninety days. Any third or subsequent offense  
60 under subsection 2 of this section shall result in revocation of the offender's  
61 driving privileges for one year. **The suspension of driving privileges for a**  
62 **first offense under this subsection shall not be included on the person's**  
63 **driving record. However, internal use of such information by the**  
64 **department of revenue for administrative purposes shall be allowed.**

578.255. 1. As used in this section "alcohol beverage vaporizer"  
2 **means any device which, by means of heat, a vibrating element, or any**  
3 **other method, is capable of producing a breathable mixture containing**  
4 **one or more alcoholic beverages to be dispensed for inhalation into the**  
5 **lungs via the nose or mouth or both.**

6           2. No person shall intentionally or willfully induce the symptoms of  
7 intoxication, elation, euphoria, dizziness, excitement, irrational behavior,  
8 exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system,  
9 distortion of audio, visual or mental processes by the use of any [solvent,  
10 particularly toluol] **of the following substances:**

11           (1) Solvents, particularly toluol; or

12           (2) Ethyl alcohol.

13           3. This section shall not apply to substances that have been  
14 approved by the United States Food and Drug Administration as  
15 therapeutic drug products or are contained in approved over-the-  
16 counter drug products or administered lawfully pursuant to the order  
17 of an authorized medical practitioner.

18           [2.] 4. No person shall intentionally possess any solvent, particularly  
19 toluol, for the purpose of using it in the manner prohibited by section 578.250 and  
20 this section.

21           5. No person shall possess or use an alcoholic beverage  
22 vaporizer.

23           6. Nothing in this section shall be construed to prohibit the legal  
24 consumption of intoxicating liquor, as defined by section 311.020,  
25 RSMo, or nonintoxicating beer, as defined by section 312.010, RSMo.



Unofficial

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