

SECOND REGULAR SESSION

# SENATE BILL NO. 443

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4277S.02I

## AN ACT

To repeal sections 301.147, 302.309, 302.341, 302.700, and 577.023, RSMo, and to enact in lieu thereof six new sections relating to the regulation of motor vehicles, with penalty provisions in existing language, a contingent effective date for certain sections, and an effective date for a certain section.

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

Section A. Sections 301.147, 302.309, 302.341, 302.700, and 577.023, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 301.147, 302.309, 302.341, 302.700, 302.768, and 577.023, to read as follows:

301.147. 1. Notwithstanding the provisions of section 301.020 to the contrary, beginning July 1, 2000, the director of revenue may provide owners of motor vehicles, other than commercial motor vehicles licensed in excess of [twelve] **fifty-four** thousand pounds gross weight, the option of biennially registering motor vehicles. Any vehicle manufactured as an even-numbered model year vehicle shall be renewed each even-numbered calendar year and any such vehicle manufactured as an odd-numbered model year vehicle shall be renewed each odd-numbered calendar year, subject to the following requirements:

(1) The fee collected at the time of biennial registration shall include the annual registration fee plus a pro rata amount for the additional twelve months of the biennial registration;

(2) Presentation of all documentation otherwise required by law for vehicle registration including, but not limited to, a personal property tax receipt or certified statement for the preceding year that no such taxes were due as set forth in section 301.025, proof of a motor vehicle safety inspection and any

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

16 applicable emission inspection conducted within sixty days prior to the date of  
17 application and proof of insurance as required by section 303.026.

18         2. The director of revenue may prescribe rules and regulations for the  
19 effective administration of this section. The director is authorized to adopt those  
20 rules that are reasonable and necessary to accomplish the limited duties  
21 specifically delegated within this section. Any rule or portion of a rule, as that  
22 term is defined in section 536.010, that is promulgated pursuant to the authority  
23 delegated in this section shall become effective only if it has been promulgated  
24 pursuant to the provisions of chapter 536. This section and chapter 536 are  
25 nonseverable and if any of the powers vested with the general assembly pursuant  
26 to chapter 536 to review, to delay the effective date or to disapprove and annul  
27 a rule are subsequently held unconstitutional, then the grant of rulemaking  
28 authority and any rule proposed or adopted after July 1, 2000, shall be invalid  
29 and void.

30         3. The director of revenue shall have the authority to stagger the  
31 registration period of motor vehicles other than commercial motor vehicles  
32 licensed in excess of twelve thousand pounds gross weight. Once the owner of a  
33 motor vehicle chooses the option of biennial registration, such registration must  
34 be maintained for the full twenty-four month period.

302.309. 1. Whenever any license is suspended pursuant to sections  
2 302.302 to 302.309, the director of revenue shall return the license to the operator  
3 immediately upon the termination of the period of suspension and upon  
4 compliance with the requirements of chapter 303.

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

8         3. (1) All circuit courts, the director of revenue, or a commissioner  
9 operating under section 478.007 shall have jurisdiction to hear applications and  
10 make eligibility determinations granting limited driving privileges. Any  
11 application may be made in writing to the director of revenue and the person's  
12 reasons for requesting the limited driving privilege shall be made therein.

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

16         (a) [A business, occupation, or] **Driving to or from the operator's**  
17 **places of** employment;

- 18 (b) [Seeking medical treatment for such operator;  
19 (c)] Attending school or other institution of higher education;  
20 [(d)] (c) Attending alcohol or drug treatment programs;  
21 [(e)] (d) Seeking the required services of a certified ignition interlock  
22 device provider; [or  
23 (f) Any other circumstance the court or director finds would create an  
24 undue hardship on the operator;]

25 the court or director may grant such limited driving privilege as the  
26 circumstances of the case justify if the court or director finds undue hardship  
27 would result to the individual, and while so operating a motor vehicle within the  
28 restrictions and limitations of the limited driving privilege the driver shall not  
29 be guilty of operating a motor vehicle without a valid license.

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

48 (4) No limited driving privilege shall be issued to any person otherwise  
49 eligible under the provisions of paragraph (a) of subdivision (6) of this subsection  
50 on a license revocation resulting from a conviction under subdivision (9) of  
51 subsection 1 of section 302.302, or a license denial under paragraph (a) or (b) of  
52 subdivision (8) of this subsection, until the applicant has filed proof with the  
53 department of revenue that any motor vehicle operated by the person is equipped

54 with a functioning, certified ignition interlock device as a required condition of  
55 limited driving privilege.

56 (5) The court order or the director's grant of the limited or restricted  
57 driving privilege shall indicate the termination date of the privilege, which shall  
58 be not later than the end of the period of suspension or revocation. A copy of any  
59 court order shall be sent by the clerk of the court to the director, and a copy shall  
60 be given to the driver which shall be carried by the driver whenever such driver  
61 operates a motor vehicle. The director of revenue upon granting a limited driving  
62 privilege shall give a copy of the limited driving privilege to the applicant. The  
63 applicant shall carry a copy of the limited driving privilege while operating a  
64 motor vehicle. A conviction which results in the assessment of points pursuant  
65 to section 302.302, other than a violation of a municipal stop sign ordinance  
66 where no accident is involved, against a driver who is operating a vehicle  
67 pursuant to a limited driving privilege terminates the privilege, as of the date the  
68 points are assessed to the person's driving record. If the date of arrest is prior  
69 to the issuance of the limited driving privilege, the privilege shall not be  
70 terminated. Failure of the driver to maintain proof of financial responsibility, as  
71 required by chapter 303, or to maintain proof of installation of a functioning,  
72 certified ignition interlock device, as applicable, shall terminate the  
73 privilege. The director shall notify by ordinary mail the driver whose privilege  
74 is so terminated.

75 (6) Except as provided in subdivision (8) of this subsection, no person is  
76 eligible to receive a limited driving privilege who at the time of application for a  
77 limited driving privilege has previously been granted such a privilege within the  
78 immediately preceding five years, or whose license has been suspended or revoked  
79 for the following reasons:

80 (a) A conviction of violating the provisions of section 577.010 or 577.012,  
81 or any similar provision of any federal or state law, or a municipal or county law  
82 where the judge in such case was an attorney and the defendant was represented  
83 by or waived the right to an attorney in writing, until the person has completed  
84 the first thirty days of a suspension or **forty-five days of a** revocation imposed  
85 pursuant to this chapter;

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

88 (c) Ineligibility for a license because of the provisions of subdivision (1),  
89 (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

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

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

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

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

104 (7) No person who possesses a commercial driver's license shall receive a  
105 limited driving privilege issued for the purpose of operating a commercial motor  
106 vehicle if such person's driving privilege is suspended, revoked, canceled, denied,  
107 or disqualified. Nothing in this section shall prohibit the issuance of a limited  
108 driving privilege for the purpose of operating a noncommercial motor vehicle  
109 provided that pursuant to the provisions of this section, the applicant is not  
110 otherwise ineligible for a limited driving privilege.

111 (8) (a) Provided that pursuant to the provisions of this section, the  
112 applicant is not otherwise ineligible for a limited driving privilege, a circuit court  
113 or the director may, in the manner prescribed in this subsection, allow a person  
114 who has had such person's license to operate a motor vehicle revoked where that  
115 person cannot obtain a new license for a period of ten years, as prescribed in  
116 subdivision (9) of section 302.060, to apply for a limited driving privilege  
117 pursuant to this subsection if such person has served at least three years of such  
118 disqualification or revocation. Such person shall present evidence satisfactory to  
119 the court or the director that such person has not been convicted of any offense  
120 related to alcohol, controlled substances or drugs during the preceding three  
121 years and that the person's habits and conduct show that the person no longer  
122 poses a threat to the public safety of this state.

123 (b) Provided that pursuant to the provisions of this section, the applicant  
124 is not otherwise ineligible for a limited driving privilege or convicted of  
125 involuntary manslaughter while operating a motor vehicle in an intoxicated

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

141 (9) A DWI docket or court established under section 478.007 may grant  
142 a limited driving privilege to a participant in or graduate of the program who  
143 would otherwise be ineligible for such privilege under another provision of  
144 law. The DWI docket or court shall not grant a limited driving privilege to a  
145 participant during his or her initial forty-five days of participation.

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

154 5. The director of revenue shall promulgate rules and regulations  
155 necessary to carry out the provisions of this section. Any rule or portion of a rule,  
156 as that term is defined in section 536.010, that is created under the authority  
157 delegated in this section shall become effective only if it complies with and is  
158 subject to all of the provisions of chapter 536 and, if applicable, section  
159 536.028. This section and chapter 536 are nonseverable and if any of the powers  
160 vested with the general assembly pursuant to chapter 536 to review, to delay the  
161 effective date or to disapprove and annul a rule are subsequently held

162 unconstitutional, then the grant of rulemaking authority and any rule proposed  
163 or adopted after August 28, 2001, shall be invalid and void.

302.341. 1. If a Missouri resident charged with a moving traffic violation  
2 of this state or any county or municipality of this state fails to dispose of the  
3 charges of which the resident is accused through authorized prepayment of fine  
4 and court costs and fails to appear on the return date or at any subsequent date  
5 to which the case has been continued, or without good cause fails to pay any fine  
6 or court costs assessed against the resident for any such violation within the  
7 period of time specified or in such installments as approved by the court or as  
8 otherwise provided by law, any court having jurisdiction over the charges shall  
9 within ten days of the failure to comply inform the defendant by ordinary mail  
10 at the last address shown on the court records that the court will order the  
11 director of revenue to suspend the defendant's driving privileges if the charges  
12 are not disposed of and fully paid within thirty days from the date of  
13 mailing. Thereafter, if the defendant fails to timely act to dispose of the charges  
14 and fully pay any applicable fines and court costs, the court shall notify the  
15 director of revenue of such failure and of the pending charges against the  
16 defendant. Upon receipt of this notification, the director shall suspend the  
17 license of the driver, effective immediately, and provide notice of the suspension  
18 to the driver at the last address for the driver shown on the records of the  
19 department of revenue. Such suspension shall remain in effect until the court  
20 with the subject pending charge requests setting aside the noncompliance  
21 suspension pending final disposition, or satisfactory evidence of disposition of  
22 pending charges and payment of fine and court costs, if applicable, is furnished  
23 to the director by the individual. Upon proof of disposition of charges and  
24 payment of fine and court costs, if applicable, and payment of the reinstatement  
25 fee as set forth in section 302.304, the director shall return the license and  
26 remove the suspension from the individual's driving record **if the individual**  
27 **was not operating a commercial motor vehicle or a commercial driver's**  
28 **license holder at the time of the offense.** The filing of financial  
29 responsibility with the bureau of safety responsibility, department of revenue,  
30 shall not be required as a condition of reinstatement of a driver's license  
31 suspended solely under the provisions of this section.

32 2. If any city, town or village receives more than thirty-five percent of its  
33 annual general operating revenue from fines and court costs for traffic violations  
34 occurring on state highways, all revenues from such violations in excess of

35 thirty-five percent of the annual general operating revenue of the city, town or  
36 village shall be sent to the director of the department of revenue and shall be  
37 distributed annually to the schools of the county in the same manner that  
38 proceeds of all penalties, forfeitures and fines collected for any breach of the  
39 penal laws of the state are distributed. For the purpose of this section the words  
40 "state highways" shall mean any state or federal highway, including any such  
41 highway continuing through the boundaries of a city, town or village with a  
42 designated street name other than the state highway number. The director of the  
43 department of revenue shall set forth by rule a procedure whereby excess  
44 revenues as set forth above shall be sent to the department of revenue. If any  
45 city, town, or village disputes a determination that it has received excess  
46 revenues required to be sent to the department of revenue, such city, town, or  
47 village may submit to an annual audit by the state auditor under the authority  
48 of article IV, section 13 of the Missouri Constitution. Any rule or portion of a  
49 rule, as that term is defined in section 536.010, that is created under the  
50 authority delegated in this section shall become effective only if it complies with  
51 and is subject to all of the provisions of chapter 536 and, if applicable, section  
52 536.028. This section and chapter 536 are nonseverable and if any of the powers  
53 vested with the general assembly under chapter 536 to review, to delay the  
54 effective date, or to disapprove and annul a rule are subsequently held  
55 unconstitutional, then the grant of rulemaking authority and any rule proposed  
56 or adopted after August 28, 2009, shall be invalid and void.

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform  
2 Commercial Driver's License Act".

3 2. When used in sections 302.700 to 302.780, the following words and  
4 phrases mean:

5 (1) "Alcohol", any substance containing any form of alcohol, including, but  
6 not limited to, ethanol, methanol, propanol and isopropanol;

7 (2) "Alcohol concentration", the number of grams of alcohol per one  
8 hundred milliliters of blood or the number of grams of alcohol per two hundred  
9 ten liters of breath or the number of grams of alcohol per sixty-seven milliliters  
10 of urine;

11 (3) **"CDLIS driver record", the electronic record of the individual**  
12 **commercial driver's status and history stored by the state of record as**  
13 **part of the Commercial Driver's License Information System (CDLIS)**  
14 **established under 49 U.S.C. Section 31309, et seq.;**

15           **(4) "CDLIS motor vehicle record (CDLIS MVR)", a report**  
16 **generated from the CDLIS driver record which meets the requirements**  
17 **for access to CDLIS information and is provided by states to users**  
18 **authorized in 49 CFR Part 384, subject to the provisions of the Driver**  
19 **Privacy Protection Act, 18 U.S.C. Sections 2721 to 2725, et seq.;**

20           **(5) "Commercial driver's instruction permit", a permit issued pursuant to**  
21 **section 302.720;**

22           **[(4)] (6) "Commercial driver's license", a license issued by this state to**  
23 **an individual which authorizes the individual to operate a commercial motor**  
24 **vehicle;**

25           **[(5)] (7) "Commercial driver's license downgrade", occurs when:**

26           **(a) A driver changes the self-certification to interstate, but**  
27 **operates exclusively in transportation or operation excepted from 49**  
28 **CFR Part 391, as provided in 49 CFR Part 390.3(f), 391.2, 391.68, or**  
29 **398.3;**

30           **(b) A driver changes the self-certification to intrastate only, if**  
31 **the driver qualifies under the state's physical qualification**  
32 **requirements for intrastate only;**

33           **(c) A driver changes the self-certification to intrastate, but**  
34 **operating exclusively in transportation or operations excepted from all**  
35 **or part of the state driver qualification requirements; or**

36           **(d) The state removes the commercial driver's license privilege**  
37 **from the driver's license;**

38           **(8) "Commercial driver's license information system", the information**  
39 **system established pursuant to the Commercial Motor Vehicle Safety Act of 1986**  
40 **(Title XII of Pub. Law 99-570) to serve as a clearinghouse for locating information**  
41 **related to the licensing and identification of commercial motor vehicle drivers;**

42           **[(6)] (9) "Commercial motor vehicle", a motor vehicle designed or used to**  
43 **transport passengers or property:**

44           **(a) If the vehicle has a gross combination weight rating of twenty-six**  
45 **thousand one or more pounds inclusive of a towed unit which has a gross vehicle**  
46 **weight rating of ten thousand one pounds or more;**

47           **(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand**  
48 **one or more pounds or such lesser rating as determined by federal regulation;**

49           **(c) If the vehicle is designed to transport sixteen or more passengers,**  
50 **including the driver; or**

51 (d) If the vehicle is transporting hazardous materials and is required to  
52 be placarded under the Hazardous Materials Transportation Act (46 U.S.C. 1801,  
53 et seq.);

54 [(7)] (10) "Controlled substance", any substance so classified under  
55 Section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), and includes  
56 all substances listed in schedules I through V of 21 CFR part 1308, as they may  
57 be revised from time to time;

58 [(8)] (11) "Conviction", an unvacated adjudication of guilt, including  
59 pleas of guilt and nolo contendere, or a determination that a person has violated  
60 or failed to comply with the law in a court of original jurisdiction or an authorized  
61 administrative proceeding, an unvacated forfeiture of bail or collateral deposited  
62 to secure the person's appearance in court, the payment of a fine or court cost, or  
63 violation of a condition of release without bail, regardless of whether the penalty  
64 is rebated, suspended or prorated, including an offense for failure to appear or  
65 pay;

66 [(9)] (12) "Director", the director of revenue or his authorized  
67 representative;

68 [(10)] (13) "Disqualification", any of the following three actions:

69 (a) The suspension, revocation, or cancellation of a commercial driver's  
70 license;

71 (b) Any withdrawal of a person's privileges to drive a commercial motor  
72 vehicle by a state, **Canada, or Mexico** as the result of a violation of federal,  
73 state, county, municipal, or local law relating to motor vehicle traffic control or  
74 violations committed through the operation of motor vehicles, other than parking,  
75 vehicle weight, or vehicle defect violations;

76 (c) A determination by the Federal Motor Carrier Safety Administration  
77 that a person is not qualified to operate a commercial motor vehicle under 49  
78 CFR Part 383.52 or Part 391;

79 [(11)] (14) "Drive", to drive, operate or be in physical control of a  
80 commercial motor vehicle;

81 [(12)] (15) "Driver", any person who drives, operates, or is in physical  
82 control of a motor vehicle, or who is required to hold a commercial driver's  
83 license;

84 (16) "Driver applicant", an individual who applies to obtain,  
85 transfer, upgrade, or renew a commercial driver's license in this state;

86 [(13)] (17) "Driving under the influence of alcohol", the commission of

87 any one or more of the following acts:

88 (a) Driving a commercial motor vehicle with the alcohol concentration of  
89 four one-hundredths of a percent or more as prescribed by the secretary or such  
90 other alcohol concentration as may be later determined by the secretary by  
91 regulation;

92 (b) Driving a commercial or noncommercial motor vehicle while  
93 intoxicated in violation of any federal or state law, or in violation of a county or  
94 municipal ordinance;

95 (c) Driving a commercial or noncommercial motor vehicle with excessive  
96 blood alcohol content in violation of any federal or state law, or in violation of a  
97 county or municipal ordinance;

98 (d) Refusing to submit to a chemical test in violation of section 577.041,  
99 section 302.750, any federal or state law, or a county or municipal ordinance; or

100 (e) Having any state, county or municipal alcohol-related enforcement  
101 contact, as defined in subsection 3 of section 302.525; provided that any  
102 suspension or revocation pursuant to section 302.505, committed in a  
103 noncommercial motor vehicle by an individual twenty-one years of age or older  
104 shall have been committed by the person with an alcohol concentration of at least  
105 eight-hundredths of one percent or more, or in the case of an individual who is  
106 less than twenty-one years of age, shall have been committed by the person with  
107 an alcohol concentration of at least two-hundredths of one percent or more, and  
108 if committed in a commercial motor vehicle, a concentration of four-hundredths  
109 of one percent or more;

110 ~~[(14)]~~ **(18)** "Driving under the influence of a controlled substance", the  
111 commission of any one or more of the following acts in a commercial or  
112 noncommercial motor vehicle:

113 (a) Driving a commercial or noncommercial motor vehicle while under the  
114 influence of any substance so classified under Section 102(6) of the Controlled  
115 Substances Act (21 U.S.C. 802(6)), including any substance listed in schedules I  
116 through V of 21 CFR Part 1308, as they may be revised from time to time;

117 (b) Driving a commercial or noncommercial motor vehicle while in a  
118 drugged condition in violation of any federal or state law or in violation of a  
119 county or municipal ordinance; or

120 (c) Refusing to submit to a chemical test in violation of section 577.041,  
121 section 302.750, any federal or state law, or a county or municipal ordinance;

122 ~~[(15)]~~ **(19)** "Employer", any person, including the United States, a state,

123 or a political subdivision of a state, who owns or leases a commercial motor  
124 vehicle or assigns a driver to operate such a vehicle;

125 **(20) "Endorsement", an authorization on an individual's**  
126 **commercial driver's license permitting the individual to operate certain**  
127 **types of commercial motor vehicles;**

128 [(16)] **(21) "Farm vehicle",** a commercial motor vehicle controlled and  
129 operated by a farmer used exclusively for the transportation of agricultural  
130 products, farm machinery, farm supplies, or a combination of these, within one  
131 hundred fifty miles of the farm, other than one which requires placarding for  
132 hazardous materials as defined in this section, or used in the operation of a  
133 common or contract motor carrier, except that a farm vehicle shall not be a  
134 commercial motor vehicle when the total combined gross weight rating does not  
135 exceed twenty-six thousand one pounds when transporting fertilizers as defined  
136 in subdivision (21) of this subsection;

137 [(17)] **(22) "Fatality",** the death of a person as a result of a motor vehicle  
138 accident;

139 [(18)] **(23) "Felony",** any offense under state or federal law that is  
140 punishable by death or imprisonment for a term exceeding one year;

141 **(24) "Foreign", outside the United States and the District of**  
142 **Columbia;**

143 [(19)] **(25) "Gross combination weight rating" or "GCWR",** the value  
144 specified by the manufacturer as the loaded weight of a combination (articulated)  
145 vehicle.

146 In the absence of a value specified by the manufacturer, GCWR will be  
147 determined by adding the GVWR of the power unit and the total weight of the  
148 towed unit and any load thereon;

149 [(20)] **(26) "Gross vehicle weight rating" or "GVWR",** the value specified  
150 by the manufacturer as the loaded weight of a single vehicle;

151 [(21)] **(27) "Hazardous materials",** any material that has been designated  
152 as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart  
153 F of CFR Part 172 or any quantity of a material listed as a select agent or toxin  
154 in 42 CFR Part 73. Fertilizers, including but not limited to ammonium nitrate,  
155 phosphate, nitrogen, anhydrous ammonia, lime, potash, motor fuel or special fuel,  
156 shall not be considered hazardous materials when transported by a farm vehicle  
157 provided all other provisions of this definition are followed;

158 [(22)] **(28) "Imminent hazard",** the existence of a condition that presents

159 a substantial likelihood that death, serious illness, severe personal injury, or a  
160 substantial endangerment to health, property, or the environment may occur  
161 before the reasonably foreseeable completion date of a formal proceeding begins  
162 to lessen the risk of that death, illness, injury, or endangerment;

163 [(23)] **(29)** "Issuance", the initial licensure, license transfers, license  
164 renewals, and license upgrades;

165 **(30)** "Medical examiner", a person who is licensed, certified, or  
166 registered, in accordance with applicable state laws and regulations,  
167 to perform physical examinations. The term includes, but is not limited  
168 to, doctors of medicine, doctors of osteopathy, physician assistants,  
169 advanced practice nurses, and doctors of chiropractic;

170 **(31)** "Medical variance", when a driver has received one of the  
171 following that allows the driver to be issued a medical certificate:

172 **(a)** An exemption letter permitting operation of a commercial  
173 motor vehicle under 49 CFR Part 381, Subpart C or 49 CFR Part 391.64;

174 **(b)** A skill performance evaluation certificate permitting  
175 operation of a commercial motor vehicle under 49 CFR Part 391.49;

176 [(24)] **(32)** "Motor vehicle", any self-propelled vehicle not operated  
177 exclusively upon tracks;

178 [(25)] **(33)** "Noncommercial motor vehicle", a motor vehicle or  
179 combination of motor vehicles not defined by the term "commercial motor vehicle"  
180 in this section;

181 [(26)] **(34)** "Out of service", a temporary prohibition against the operation  
182 of a commercial motor vehicle by a particular driver, or the operation of a  
183 particular commercial motor vehicle, or the operation of a particular motor  
184 carrier;

185 [(27)] **(35)** "Out-of-service order", a declaration by [the Federal Highway  
186 Administration, or any] **an** authorized enforcement officer of a federal, state,  
187 [Commonwealth of Puerto Rico,] Canadian, Mexican or any local jurisdiction, that  
188 a driver, or a commercial motor vehicle, or a motor carrier operation, is out of  
189 service **under 49 CFR Part 386.72, 392.5, 392.9a, 395.13, or 396.9, or**  
190 **comparable laws, or the North American Standard Out-of-Service**  
191 **Criteria;**

192 [(28)] **(36)** "School bus", a commercial motor vehicle used to transport  
193 preprimary, primary, or secondary school students from home to school, from  
194 school to home, or to and from school-sponsored events. School bus does not

195 include a bus used as a common carrier as defined by the Secretary;  
196           [(29)] **(37)** "Secretary", the Secretary of Transportation of the United  
197 States;  
198           [(30)] **(38)** "Serious traffic violation", driving a commercial motor vehicle  
199 in such a manner that the driver receives a conviction for the following offenses  
200 or driving a noncommercial motor vehicle when the driver receives a conviction  
201 for the following offenses and the conviction results in the suspension or  
202 revocation of the driver's license or noncommercial motor vehicle driving  
203 privilege:  
204           (a) Excessive speeding, as defined by the Secretary by regulation;  
205           (b) Careless, reckless or imprudent driving which includes, but shall not  
206 be limited to, any violation of section 304.016, any violation of section 304.010,  
207 or any other violation of federal or state law, or any county or municipal  
208 ordinance while driving a commercial motor vehicle in a willful or wanton  
209 disregard for the safety of persons or property, or improper or erratic traffic lane  
210 changes, or following the vehicle ahead too closely, but shall not include careless  
211 and imprudent driving by excessive speed;  
212           (c) A violation of any federal or state law or county or municipal ordinance  
213 regulating the operation of motor vehicles arising out of an accident or collision  
214 which resulted in death to any person, other than a parking violation;  
215           (d) Driving a commercial motor vehicle without obtaining a commercial  
216 driver's license in violation of any federal or state or county or municipal  
217 ordinance;  
218           (e) Driving a commercial motor vehicle without a commercial driver's  
219 license in the driver's possession in violation of any federal or state or county or  
220 municipal ordinance. Any individual who provides proof to the court which has  
221 jurisdiction over the issued citation that the individual held a valid commercial  
222 driver's license on the date that the citation was issued shall not be guilty of this  
223 offense;  
224           (f) Driving a commercial motor vehicle without the proper commercial  
225 driver's license class or endorsement for the specific vehicle group being operated  
226 or for the passengers or type of cargo being transported in violation of any federal  
227 or state law or county or municipal ordinance; or  
228           (g) Any other violation of a federal or state law or county or municipal  
229 ordinance regulating the operation of motor vehicles, other than a parking  
230 violation, as prescribed by the secretary by regulation;

231            [(31)] (39) "State", a state[, territory or possession] of the United States[,  
232 the District of Columbia, the Commonwealth of Puerto Rico, Mexico, and any  
233 province of Canada];

234            [(32)] (40) "United States", the fifty states and the District of Columbia.

**302.768. 1. Any applicant for a commercial driver's license or  
2 commercial driver's instruction permit shall comply with the Federal  
3 Motor Carrier Safety Administration application requirements of 49  
4 CFR Part 383.71 by certifying to one of the following applicable  
5 statements relating to federal and state driver qualification rules:**

6            (1) **Nonexcepted interstate: Certifies the applicant is a driver  
7 operating or expecting to operate in interstate or foreign commerce, or  
8 is otherwise subject to and meets requirements of 49 CFR Part 391 and  
9 is required to obtain a medical examiner's certificate as defined in 49  
10 CFR Part 391.45;**

11            (2) **Excepted interstate: Certifies the applicant is a driver  
12 operating or expecting to operate entirely in interstate commerce that  
13 is not subject to Part 391 and is subject to Missouri driver  
14 qualifications and not required to obtain a medical examiner's  
15 certificate;**

16            (3) **Nonexcepted intrastate: Certifies the applicant is a driver  
17 operating only in intrastate commerce and is subject to Missouri driver  
18 qualifications;**

19            (4) **Excepted intrastate: Certifies the applicant operates or  
20 expects to operate only in intrastate commerce, and engaging only in  
21 operations excepted from all parts of the Missouri driver qualification  
22 requirements.**

23            **2. Any applicant who cannot meet certification requirements  
24 under one of the categories defined in subsection 1 of this section shall  
25 be denied issuance of a commercial driver's license or commercial  
26 driver's instruction permit.**

27            **3. An applicant certifying to operation in nonexcepted interstate  
28 or nonexcepted intrastate commerce shall provide the state with an  
29 original or copy of a current medical examiners certificate or a medical  
30 examiners certificate accompanied by a medical variance or  
31 waiver. The state shall retain the original or copy of the  
32 documentation of physical qualification for a minimum of three years  
33 beyond the date the certificate was issued.**

34           4. Applicants certifying to operation in nonexcepted interstate  
35 commerce or nonexcepted intrastate commerce shall provide an  
36 updated medical certificate or variance documents to maintain a  
37 certified status during the term of the commercial driver's license or  
38 commercial driver's instruction permit in order to retain commercial  
39 privileges.

40           5. The director shall post the medical examiners certificate of  
41 information, medical variance if applicable, and certification status to  
42 the Missouri driver record within ten calendar days and such  
43 information will become part of the CDLIS driver record.

44           6. Applicants certifying to operation in nonexcepted interstate  
45 commerce or nonexcepted intrastate commerce who fail to provide or  
46 maintain a current medical examiners certificate, or if the state has  
47 received notice of a medical variance or waiver expiring or being  
48 rescinded, the state shall, within ten calendar days, update the driver's  
49 medical certification status to "not certified". The state shall notify the  
50 driver of the change in certification status and require the driver to  
51 annually comply with requirements for a commercial driver's license  
52 downgrade within sixty days of notice.

53           7. The department of revenue may, by rule, establish the cost and  
54 criteria for submission of updated medical certification status  
55 information as required under this section.

56           8. Any person who falsifies any information in an application for  
57 or update of medical certification status information for a commercial  
58 driver's license shall not be licensed to operate a commercial motor  
59 vehicle, or the person's commercial driver's license shall be canceled  
60 for a period of one year after the director discovers such falsification.

61           9. The director may promulgate rules and regulations necessary  
62 to administer and enforce this section. Any rule or portion of a rule,  
63 as that term is defined in section 536.010, that is created under the  
64 authority delegated in this section shall become effective only if it  
65 complies with and is subject to all of the provisions of chapter 536 and,  
66 if applicable, section 536.028. This section and chapter 536 are  
67 nonseverable and if any of the powers vested with the general assembly  
68 pursuant to chapter 536 to review, to delay the effective date, or to  
69 disapprove and annul a rule are subsequently held unconstitutional,  
70 then the grant of rulemaking authority and any rule proposed or

71 **adopted after August 28, 2011, shall be invalid and void.**

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; murder in the second degree under section 565.021, where the  
10 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; or assault  
12 of a law enforcement officer in the second degree under subdivision (4) of  
13 subsection 1 of section 565.082;

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 murder in the second degree under section 565.021, where the underlying felony  
21 is an intoxication-related traffic offense; assault in the second degree under  
22 subdivision (4) of subsection 1 of section 565.060; or assault of a law enforcement  
23 officer in the second degree under subdivision (4) of subsection 1 of section  
24 565.082; 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; murder in the second degree under section 565.021, where the  
29 underlying felony is an intoxication-related traffic offense; assault in the second  
30 degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law  
31 enforcement officer in the second degree under subdivision (4) of subsection 1 of  
32 section 565.082;

33 (3) "Continuous alcohol monitoring", automatically testing breath, blood,  
34 or transdermal alcohol concentration levels and tampering attempts at least once  
35 every hour, regardless of the location of the person who is being monitored, and

36 regularly transmitting the data. Continuous alcohol monitoring shall be  
37 considered an electronic monitoring service under subsection 3 of section 217.690;

38 (4) An "intoxication-related traffic offense" is driving while intoxicated,  
39 driving with excessive blood alcohol content, involuntary manslaughter pursuant  
40 to subdivision (2) or (3) of subsection 1 of section 565.024, murder in the second  
41 degree under section 565.021, where the underlying felony is an  
42 intoxication-related traffic offense, assault in the second degree pursuant to  
43 subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement  
44 officer in the second degree pursuant to subdivision (4) of subsection 1 of section  
45 565.082, or driving under the influence of alcohol or drugs in violation of state  
46 law or a county or municipal ordinance;

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

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

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

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

59 2. 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 prior offender shall  
61 be guilty of a class A misdemeanor.

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

65 4. 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 an aggravated  
67 offender shall be guilty of a class C felony.

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

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

72 sentence as to a prior offender, persistent offender, aggravated offender, or  
73 chronic offender under this section nor sentence such person to pay a fine in lieu  
74 of a term of imprisonment, section 557.011 to the contrary notwithstanding.

75 (1) No prior offender shall be eligible for parole or probation until he or  
76 she has served a minimum of ten days imprisonment:

77 (a) Unless as a condition of such parole or probation such person performs  
78 at least thirty days involving at least two hundred forty hours of community  
79 service under the supervision of the court in those jurisdictions which have a  
80 recognized program for community service; or

81 (b) The offender participates in and successfully completes a program  
82 established pursuant to section 478.007 or other court-ordered treatment  
83 program, if available, **and as part of either program, the offender**  
84 **performs at least thirty days of community service under the**  
85 **supervision of the court.**

86 (2) No persistent offender shall be eligible for parole or probation until he  
87 or she has served a minimum of thirty days imprisonment:

88 (a) Unless as a condition of such parole or probation such person performs  
89 at least sixty days involving at least four hundred eighty hours of community  
90 service under the supervision of the court; or

91 (b) The offender participates in and successfully completes a program  
92 established pursuant to section 478.007 or other court-ordered treatment  
93 program, if available, **and as part of either program, the offender**  
94 **performs at least sixty days of community service under the**  
95 **supervision of the court.**

96 (3) No aggravated offender shall be eligible for parole or probation until  
97 he or she has served a minimum of sixty days imprisonment.

98 (4) No chronic offender shall be eligible for parole or probation until he  
99 or she has served a minimum of two years imprisonment. In addition to any  
100 other terms or conditions of probation, the court shall consider, as a condition of  
101 probation for any person who pleads guilty to or is found guilty of an  
102 intoxication-related traffic offense, requiring the offender to abstain from  
103 consuming or using alcohol or any products containing alcohol as demonstrated  
104 by continuous alcohol monitoring or by verifiable breath alcohol testing performed  
105 a minimum of four times per day as scheduled by the court for such duration as  
106 determined by the court, but not less than ninety days. The court may, in  
107 addition to imposing any other fine, costs, or assessments provided by law,

108 require the offender to bear any costs associated with continuous alcohol  
109 monitoring or verifiable breath alcohol testing.

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

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

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

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

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

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

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

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

128 12. Nothing in this section shall prevent the use of presentence  
129 investigations or commitments.

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

133 14. The pleas or findings of guilt shall be prior to the date of commission  
134 of the present offense.

135 15. The court shall not instruct the jury as to the range of punishment or  
136 allow the jury, upon a finding of guilt, to assess and declare the punishment as  
137 part of its verdict in cases of prior offenders, persistent offenders, aggravated  
138 offenders, or chronic offenders.

139 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an  
140 intoxication-related traffic offense shall be heard and determined by the trial  
141 court out of the hearing of the jury prior to the submission of the case to the jury,  
142 and shall include but not be limited to evidence received by a search of the  
143 records of the Missouri uniform law enforcement system, including criminal

144 history records from the central repository or records from the driving while  
145 intoxicated tracking system (DWITS) maintained by the Missouri state highway  
146 patrol, or the certified driving record maintained by the Missouri department of  
147 revenue. After hearing the evidence, the court shall enter its findings thereon.  
148 A plea of guilty or a finding of guilt followed by incarceration, a fine, a suspended  
149 imposition of sentence, suspended execution of sentence, probation or parole or  
150 any combination thereof in any intoxication-related traffic offense in a state,  
151 county or municipal court or any combination thereof, shall be treated as a prior  
152 plea of guilty or finding of guilt for purposes of this section.

Section B. The repeal and reenactment of section 302.700 and the  
2 enactment of section 302.768 of this act shall become effective on the date the  
3 director of the department of revenue begins accepting commercial driver license  
4 medical certifications under sections 302.700 and 302.768, or on May 1, 2013,  
5 whichever occurs first. If the director of revenue begins accepting commercial  
6 driver license medical certifications under sections 302.700 and 302.768 prior to  
7 May 1, 2013, the director of the department of revenue shall notify the revisor of  
8 statutes of such fact.

Section C. The repeal and reenactment of section 301.147 shall become  
2 effective July 1, 2013.

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