

FIRST REGULAR SESSION

SENATE BILL NO. 254

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BERNSKOETTER.

Read 1st time January 15, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1340S.011

AN ACT

To repeal sections 304.585 and 304.894, RSMo, and to enact in lieu thereof two new sections relating to accidents occurring in work or emergency zones, with penalty provisions.

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

Section A. Sections 304.585 and 304.894, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 304.585 and 304.894, to read as follows:

304.585. 1. A person shall be deemed to commit the offense of "endangerment of a highway worker" upon conviction for any of the following when the offense occurs within a construction zone or work zone, as defined in section 304.580:

- (1) Exceeding the posted speed limit by fifteen miles per hour or more;
- (2) Passing in violation of subsection 4 of section 304.582;
- (3) Failure to stop for a work zone flagman or failure to obey traffic control devices erected in the construction zone or work zone for purposes of controlling the flow of motor vehicles through the zone;
- (4) Driving through or around a work zone by any lane not clearly designated to motorists for the flow of traffic through or around the work zone;
- (5) Physically assaulting, or attempting to assault, or threatening to assault a highway worker in a construction zone or work zone, with a motor vehicle or other instrument;
- (6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect workers and motorists in the work zone for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of

19 another person; or

20 (7) Committing any of the following offenses for which points may be
21 assessed under section 302.302:

22 (a) Leaving the scene of an accident in violation of section 577.060;

23 (b) Careless and imprudent driving in violation of subsection 4 of section
24 304.016;

25 (c) Operating without a valid license in violation of subdivision (1) or (2)
26 of subsection 1 of section 302.020;

27 (d) Operating with a suspended or revoked license;

28 (e) Driving while in an intoxicated condition or under the influence of
29 controlled substances or drugs or driving with an excessive blood alcohol content;

30 (f) Any felony involving the use of a motor vehicle.

31 2. Upon conviction or a plea of guilty for committing the offense of
32 endangerment of a highway worker under subsection 1 of this section if no injury
33 or death to a highway worker resulted from the offense, in addition to any other
34 penalty authorized by law, the person shall be subject to a fine of not more than
35 one thousand dollars and shall have four points assessed to his or her driver's
36 license under section 302.302.

37 3. A person shall be deemed to commit the offense of "aggravated
38 endangerment of a highway worker" upon conviction or a plea of guilty for any
39 offense under subsection 1 of this section when such offense occurs in a
40 construction zone or work zone as defined in section 304.580 and results in the
41 injury or death of a highway worker. Upon conviction or a plea of guilty for
42 committing the offense of aggravated endangerment of a highway worker, in
43 addition to any other penalty authorized by law, the person shall be subject to a
44 fine of not more than five thousand dollars if the offense resulted in injury to a
45 highway worker and ten thousand dollars if the offense resulted in death to a
46 highway worker. In addition, such person shall have twelve points assessed to
47 their driver's license under section 302.302 and shall be subject to the provisions
48 of section 302.304 regarding the revocation of the person's license and driving
49 privileges.

50 4. Except for the offense established under subdivision (6) of subsection
51 1 of this section, no person shall be deemed to commit the offense of
52 endangerment of a highway worker except when the act or omission constituting
53 the offense occurred when one or more highway workers were in the construction
54 zone or work zone.

55 5. No person shall be cited or convicted for endangerment of a highway
56 worker or aggravated endangerment of a highway worker, for any act or omission
57 otherwise constituting an offense under subsection 1 of this section, if such act
58 or omission resulted in whole or in part from mechanical failure of the person's
59 vehicle or from the negligence of another person or a highway worker.

60 **6. (1) Notwithstanding any provision of law to the contrary, the**
61 **director of the department of revenue or his or her agent shall have**
62 **power to order the revocation of a driver's license upon notification by**
63 **any law enforcement agency that an individual holding such license**
64 **was involved in a physical accident where his or her vehicle struck a**
65 **highway worker within a designated construction zone or work zone**
66 **where department of transportation guidelines involving notice and**
67 **signage were properly implemented.**

68 **(2) An individual whose driver's license is revoked by the**
69 **department of revenue under this subsection may seek reinstatement**
70 **by either:**

71 **(a) Taking and passing the written and driving portions of the**
72 **driver's license examination, in which case the individual's driver's**
73 **license shall be immediately reinstated; or**

74 **(b) Petitioning for a hearing before the circuit court or associate**
75 **circuit court of the county in which the work zone accident**
76 **occurred. The individual may request such court to issue an order**
77 **staying the revocation until such time as the petition for review can be**
78 **heard. If the court, in its discretion, grants such stay, it shall enter the**
79 **order upon a form prescribed by the director of revenue and shall send**
80 **a copy of such order to the director. Such order shall serve as proof of**
81 **the privilege to operate a motor vehicle in this state, and the director**
82 **shall maintain possession of the person's license to operate a motor**
83 **vehicle until the termination of any suspension under this**
84 **subsection. The clerk of the court shall notify the prosecuting attorney**
85 **of the county, and the prosecutor shall appear at the hearing on behalf**
86 **of the director of revenue. At the hearing the court shall determine**
87 **only:**

88 **a. Whether the person was involved in a physical accident where**
89 **his or her vehicle struck a highway worker within a designated**
90 **construction or work zone;**

91 **b. Whether the department of transportation guidelines**

92 involving notice and signage were properly implemented in such work
93 zone; and

94 c. If the court determines either issue not to be in the
95 affirmative, the court shall order the director to reinstate the license
96 or permit to drive.

97 (3) The department of revenue administrative adjudication to
98 reinstate a driver's license that was revoked under this subsection, and
99 any evidence provided to the department related to such adjudication,
100 shall not be produced by subpoena or any other means and made
101 available as evidence in any other administrative action, civil case, or
102 criminal prosecution. The court's determinations issued under this
103 section, and the evidence provided to the court relating to such
104 determinations, shall not be produced by subpoena or any other means
105 and made available in any other administrative action, civil case, or
106 criminal prosecution. Nothing in this subdivision shall be construed to
107 prevent the department from providing information to the system
108 authorized under 49 U.S.C. Section 31309, or any successor federal law,
109 pertaining to the licensing, identification, and disqualification of
110 operators of commercial motor vehicles.

304.894. 1. A person commits the offense of endangerment of an
2 emergency responder for any of the following offenses when the offense occurs
3 within an active emergency zone:

4 (1) Exceeding the posted speed limit by fifteen miles per hour or more;

5 (2) Passing in violation of subsection 3 of section 304.892;

6 (3) Failure to stop for an active emergency zone flagman or emergency
7 responder, or failure to obey traffic control devices erected, or personnel posted,
8 in the active emergency zone for purposes of controlling the flow of motor vehicles
9 through the zone;

10 (4) Driving through or around an active emergency zone via any lane not
11 clearly designated for motorists to control the flow of traffic through or around
12 the active emergency zone;

13 (5) Physically assaulting, attempting to assault, or threatening to assault
14 an emergency responder with a motor vehicle or other instrument; or

15 (6) Intentionally striking, moving, or altering barrels, barriers, signs, or
16 other devices erected to control the flow of traffic to protect emergency responders
17 and motorists unless the action was necessary to avoid an obstacle, an emergency,

18 or to protect the health and safety of an occupant of the motor vehicle or of
19 another person.

20 2. Upon a finding of guilt or a plea of guilty for committing the offense of
21 endangerment of an emergency responder under subsection 1 of this section, if no
22 injury or death to an emergency responder resulted from the offense, the court
23 shall assess a fine of not more than one thousand dollars, and four points shall
24 be assessed to the operator's license pursuant to section 302.302 upon conviction.

25 3. A person commits the offense of aggravated endangerment of an
26 emergency responder upon a finding of guilt or a plea of guilty for any offense
27 under subsection 1 of this section when such offense results in the injury or death
28 of an emergency responder. Upon a finding of guilt or a plea of guilty for
29 committing the offense of aggravated endangerment of an emergency responder,
30 in addition to any other penalty authorized by law, the court shall assess a fine
31 of not more than five thousand dollars if the offense resulted in injury to an
32 emergency responder, and ten thousand dollars if the offense resulted in the
33 death of an emergency responder. In addition, twelve points shall be assessed to
34 the operator's license pursuant to section 302.302 upon conviction.

35 4. Except for the offense established under subdivision (6) of subsection
36 1 of this section, no person shall be deemed to have committed the offense of
37 endangerment of an emergency responder except when the act or omission
38 constituting the offense occurred when one or more emergency responders were
39 responding to an active emergency.

40 5. No person shall be cited for, or found guilty of, endangerment of an
41 emergency responder or aggravated endangerment of an emergency responder, for
42 any act or omission otherwise constituting an offense under subsection 1 of this
43 section, if such act or omission resulted in whole or in part from mechanical
44 failure of the person's vehicle, or from the negligence of another person or
45 emergency responder.

46 **6. (1) Notwithstanding any provision of law to the contrary, the**
47 **director of the department of revenue or his or her agent shall have**
48 **power to order the revocation of a driver's license upon notification by**
49 **any law enforcement agency that an individual holding such license**
50 **was involved in a physical accident where his or her vehicle struck an**
51 **emergency responder within an active emergency zone where the**
52 **appropriate visual markings for active emergency zones were properly**
53 **implemented.**

54 **(2) An individual whose driver's license is revoked by the**
55 **department of revenue under this subsection may seek reinstatement**
56 **by either:**

57 **(a) Taking and passing the written and driving portions of the**
58 **driver's license examination, in which case the individual's driver's**
59 **license shall be immediately reinstated; or**

60 **(b) Petitioning for a hearing before the circuit court or associate**
61 **circuit court of the county in which the emergency zone accident**
62 **occurred. The individual may request such court to issue an order**
63 **staying the revocation until such time as the petition for review can be**
64 **heard. If the court, in its discretion, grants such stay, it shall enter the**
65 **order upon a form prescribed by the director of revenue and shall send**
66 **a copy of such order to the director. Such order shall serve as proof of**
67 **the privilege to operate a motor vehicle in this state and the director**
68 **shall maintain possession of the person's license to operate a motor**
69 **vehicle until the termination of any suspension under this**
70 **subsection. The clerk of the court shall notify the prosecuting attorney**
71 **of the county, and the prosecutor shall appear at the hearing on behalf**
72 **of the director of revenue. At the hearing the court shall determine**
73 **only:**

74 **a. Whether the person was involved in a physical accident where**
75 **his or her vehicle struck an emergency responder within an active**
76 **emergency zone;**

77 **b. Whether the guidelines involving notice and signage were**
78 **properly implemented in such emergency zone; and**

79 **c. If the court determines either issue not to be in the**
80 **affirmative, the court shall order the director to reinstate the license**
81 **or permit to drive.**

82 **(3) The department of revenue administrative adjudication to**
83 **reinstate a driver's license that was revoked under this subsection, and**
84 **any evidence provided to the department related to such adjudication,**
85 **shall not be produced by subpoena or any other means and made**
86 **available as evidence in any other administrative action, civil case, or**
87 **criminal prosecution. The court's determinations issued under this**
88 **section, and the evidence provided to the court relating to such**
89 **determinations, shall not be produced by subpoena or any other means**
90 **and made available in any other administrative action, civil case, or**

91 **criminal prosecution. Nothing in this subdivision shall be construed to**
92 **prevent the department from providing information to the system**
93 **authorized under 49 U.S.C. Section 31309, or any successor federal law,**
94 **pertaining to the licensing, identification, and disqualification of**
95 **operators of commercial motor vehicles.**

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