

# SENATE BILL NO. 564

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR REHDER.

2501S.03I

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal section 577.010, RSMo, and to enact in lieu thereof one new section relating to substance use disorder treatment programs, with existing penalty provisions.

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

Section A. Section 577.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.010, to read as follows:

577.010. 1. A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.

2. The offense of driving while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

(b) A person less than seventeen years of age is present in the vehicle;

(3) A class E felony if:

(a) The defendant is a persistent offender; or

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;

(4) A class D felony if:

(a) The defendant is an aggravated offender;

17           (b) While driving while intoxicated, the defendant  
18 acts with criminal negligence to cause physical injury to a  
19 law enforcement officer or emergency personnel; or

20           (c) While driving while intoxicated, the defendant  
21 acts with criminal negligence to cause serious physical  
22 injury to another person;

23           (5) A class C felony if:

24           (a) The defendant is a chronic offender;

25           (b) While driving while intoxicated, the defendant  
26 acts with criminal negligence to cause serious physical  
27 injury to a law enforcement officer or emergency personnel;  
28 or

29           (c) While driving while intoxicated, the defendant  
30 acts with criminal negligence to cause the death of another  
31 person;

32           (6) A class B felony if:

33           (a) The defendant is a habitual offender;

34           (b) While driving while intoxicated, the defendant  
35 acts with criminal negligence to cause the death of a law  
36 enforcement officer or emergency personnel;

37           (c) While driving while intoxicated, the defendant  
38 acts with criminal negligence to cause the death of any  
39 person not a passenger in the vehicle operated by the  
40 defendant, including the death of an individual that results  
41 from the defendant's vehicle leaving a highway, as defined  
42 in section 301.010, or the highway's right-of-way;

43           (d) While driving while intoxicated, the defendant  
44 acts with criminal negligence to cause the death of two or  
45 more persons; or

46           (e) While driving while intoxicated, the defendant  
47 acts with criminal negligence to cause the death of any  
48 person while he or she has a blood alcohol content of at

49 least eighteen-hundredths of one percent by weight of  
50 alcohol in such person's blood;

51 (7) A class A felony if the defendant has previously  
52 been found guilty of an offense under paragraphs (a) to (e)  
53 of subdivision (6) of this subsection and is found guilty of  
54 a subsequent violation of such paragraphs.

55 3. Notwithstanding the provisions of subsection 2 of  
56 this section, a person found guilty of the offense of  
57 driving while intoxicated as a first offense shall not be  
58 granted a suspended imposition of sentence:

59 (1) Unless such person shall be placed on probation  
60 for a minimum of two years; or

61 (2) In a circuit where a DWI court or docket created  
62 under section 478.007 or other court-ordered treatment  
63 program is available, and where the offense was committed  
64 with fifteen-hundredths of one percent or more by weight of  
65 alcohol in such person's blood, unless the individual  
66 participates and successfully completes a program under such  
67 DWI court or docket or other court-ordered treatment program.

68 4. If a person is found guilty of a second or  
69 subsequent offense of driving while intoxicated, the court  
70 may order the person to submit to a period of continuous  
71 alcohol monitoring or verifiable breath alcohol testing  
72 performed a minimum of four times per day as a condition of  
73 probation. **If a person is found guilty of a second or**  
74 **subsequent offense of driving while intoxicated within a two**  
75 **year time period, the court shall order such person to**  
76 **undergo a risk and needs assessment as defined in section**  
77 **478.001 to determine if the person will benefit from a**  
78 **community-based substance use disorder treatment program as**  
79 **defined in section 478.001. Upon considering the result of**  
80 **the risk and needs assessment, the court may refer the**

81 **person to a community-based substance use disorder program**  
82 **that offers one or more forms of medications that are**  
83 **approved for the treatment of alcohol or drug dependence by**  
84 **the United States Food and Drug Administration.**

85         5. If a person is not granted a suspended imposition  
86 of sentence for the reasons described in subsection 3 of  
87 this section:

88             (1) If the individual operated the vehicle with  
89 fifteen-hundredths to twenty-hundredths of one percent by  
90 weight of alcohol in such person's blood, the required term  
91 of imprisonment shall be not less than forty-eight hours;

92             (2) If the individual operated the vehicle with  
93 greater than twenty-hundredths of one percent by weight of  
94 alcohol in such person's blood, the required term of  
95 imprisonment shall be not less than five days.

96         6. A person found guilty of the offense of driving  
97 while intoxicated:

98             (1) As a prior offender, persistent offender,  
99 aggravated offender, chronic offender, or habitual offender  
100 shall not be granted a suspended imposition of sentence or  
101 be sentenced to pay a fine in lieu of a term of  
102 imprisonment, section 557.011 to the contrary  
103 notwithstanding;

104             (2) As a prior offender shall not be granted parole or  
105 probation until he or she has served a minimum of ten days  
106 imprisonment:

107             (a) Unless as a condition of such parole or probation  
108 such person performs at least thirty days of community  
109 service under the supervision of the court in those  
110 jurisdictions which have a recognized program for community  
111 service; or

112 (b) The offender participates in and successfully  
113 completes a program established under section 478.007 or  
114 other court-ordered treatment program, if available, and as  
115 part of either program, the offender performs at least  
116 thirty days of community service under the supervision of  
117 the court;

118 (3) As a persistent offender shall not be eligible for  
119 parole or probation until he or she has served a minimum of  
120 thirty days imprisonment:

121 (a) Unless as a condition of such parole or probation  
122 such person performs at least sixty days of community  
123 service under the supervision of the court in those  
124 jurisdictions which have a recognized program for community  
125 service; or

126 (b) The offender participates in and successfully  
127 completes a program established under section 478.007 or  
128 other court-ordered treatment program, if available, and as  
129 part of either program, the offender performs at least sixty  
130 days of community service under the supervision of the court;

131 (4) As an aggravated offender shall not be eligible  
132 for parole or probation until he or she has served a minimum  
133 of sixty days imprisonment;

134 (5) As a chronic or habitual offender shall not be  
135 eligible for parole or probation until he or she has served  
136 a minimum of two years imprisonment; and

137 (6) Any probation or parole granted under this  
138 subsection may include a period of continuous alcohol  
139 monitoring or verifiable breath alcohol testing performed a  
140 minimum of four times per day.

✓