

SENATE BILL NO. 1090

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

4409S.01H

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 577.010 and 577.012, RSMo, and to enact in lieu thereof two new sections relating to community service requirements for certain offenders, with penalty provisions.

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

Section A. Sections 577.010 and 577.012, RSMo, are
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 577.010 and 577.012, to read as follows:

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

4 2. The offense of driving while intoxicated is:

5 (1) A class B misdemeanor;

6 (2) A class A misdemeanor if:

7 (a) The defendant is a prior offender; or

8 (b) A person less than seventeen years of age is

9 present in the vehicle;

10 (3) A class E felony if:

11 (a) The defendant is a persistent offender; or

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

15 (4) A class D felony if:

16 (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.

74 5. If a person is not granted a suspended imposition
75 of sentence for the reasons described in subsection 3 of
76 this section:

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

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

85 6. A person found guilty of the offense of driving
86 while intoxicated:

87 (1) As a prior offender, persistent offender,
88 aggravated offender, chronic offender, or habitual offender
89 shall not be granted a suspended imposition of sentence or
90 be sentenced to pay a fine in lieu of a term of
91 imprisonment, section 557.011 to the contrary
92 notwithstanding;

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

96 (a) Unless as a condition of such parole or probation
97 such person performs at least thirty days **involving at least**
98 **two hundred forty hours** of community service under the
99 supervision of the court in those jurisdictions which have a
100 recognized program for community service; or

101 (b) The offender participates in and successfully
102 completes a program established under section 478.007 or
103 other court-ordered treatment program, if available, and as
104 part of either program, the offender performs at least
105 thirty days of community service under the supervision of
106 the court;

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

110 (a) Unless as a condition of such parole or probation
111 such person performs at least sixty days of community
112 service under the supervision of the court in those

113 jurisdictions which have a recognized program for community
114 service; or

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

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

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

126 (6) Any probation or parole granted under this
127 subsection may include a period of continuous alcohol
128 monitoring or verifiable breath alcohol testing performed a
129 minimum of four times per day.

577.012. 1. A person commits the offense of driving
2 with excessive blood alcohol content if such person operates:

3 (1) A vehicle while having eight-hundredths of one
4 percent or more by weight of alcohol in his or her blood; or

5 (2) A commercial motor vehicle while having four one-
6 hundredths of one percent or more by weight of alcohol in
7 his or her blood.

8 2. As used in this section, percent by weight of
9 alcohol in the blood shall be based upon grams of alcohol
10 per one hundred milliliters of blood or two hundred ten
11 liters of breath and may be shown by chemical analysis of
12 the person's blood, breath, saliva or urine. For the
13 purposes of determining the alcoholic content of a person's
14 blood under this section, the test shall be conducted in

15 accordance with the provisions of sections 577.020 to
16 577.041.

17 3. The offense of driving with excessive blood alcohol
18 content is:

19 (1) A class B misdemeanor;

20 (2) A class A misdemeanor if the defendant is alleged
21 and proved to be a prior offender;

22 (3) A class E felony if the defendant is alleged and
23 proved to be a persistent offender;

24 (4) A class D felony if the defendant is alleged and
25 proved to be an aggravated offender;

26 (5) A class C felony if the defendant is alleged and
27 proved to be a chronic offender;

28 (6) A class B felony if the defendant is alleged and
29 proved to be a habitual offender.

30 4. A person found guilty of the offense of driving
31 with an excessive blood alcohol content as a first offense
32 shall not be granted a suspended imposition of sentence:

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

35 (2) In a circuit where a DWI court or docket created
36 under section 478.007 or other court-ordered treatment
37 program is available, and where the offense was committed
38 with fifteen-hundredths of one percent or more by weight of
39 alcohol in such person's blood, unless the individual
40 participates in and successfully completes a program under
41 such DWI court or docket or other court-ordered treatment
42 program.

43 5. If a person is not granted a suspended imposition
44 of sentence for the reasons described in subsection 4 of
45 this section:

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

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

54 6. If a person is found guilty of a second or
55 subsequent offense of driving with an excessive blood
56 alcohol content, the court may order the person to submit to
57 a period of continuous alcohol monitoring or verifiable
58 breath alcohol testing performed a minimum of four times per
59 day as a condition of probation.

60 7. A person found guilty of driving with excessive
61 blood alcohol content:

62 (1) As a prior offender, persistent offender,
63 aggravated offender, chronic offender or habitual offender
64 shall not be granted a suspended imposition of sentence or
65 be sentenced to pay a fine in lieu of a term of
66 imprisonment, section 557.011 to the contrary
67 notwithstanding;

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

71 (a) Unless as a condition of such parole or probation
72 such person performs at least thirty days of community
73 service under the supervision of the court in those
74 jurisdictions which have a recognized program for community
75 service; or

76 (b) The offender participates in and successfully
77 completes a program established under section 478.007 or

78 other court-ordered treatment program, if available, and as
79 part of either program, the offender performs at least
80 thirty days of community service under the supervision of
81 the court;

82 (3) As a persistent offender shall not be granted
83 parole or probation until he or she has served a minimum of
84 thirty days imprisonment:

85 (a) Unless as a condition of such parole or probation
86 such person performs at least sixty days **involving at least**
87 **four hundred eighty hours** of community service under the
88 supervision of the court in those jurisdictions which have a
89 recognized program for community service; or

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

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

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

101 (6) Any probation or parole granted under this
102 subsection may include a period of continuous alcohol
103 monitoring or verifiable breath alcohol testing performed a
104 minimum of four times per day.

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