

SENATE BILL NO. 1579

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREGORY (15).

6665S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 577.010, RSMo, and to enact in lieu thereof one new section relating to driving while intoxicated, with 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Section A. Section 577.010, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 577.010,
3 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; **or**

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

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to [a law enforcement officer or emergency personnel] **another person; [or**

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

(5) A class C felony if:

(a) The defendant is a chronic offender; **or**

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to [a law enforcement officer or emergency personnel] **another person; [or**

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

(6) A class B felony if:

(a) The defendant is a habitual offender; **or**

(b) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of [a law enforcement officer or emergency personnel] **another person;**

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

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

(e) While driving while intoxicated, the defendant acts with criminal negligence to cause the death of any

49 person while he or she has a blood alcohol content of at
50 least eighteen-hundredths of one percent by weight of
51 alcohol in such person's blood;]

52 (7) A class A felony if:

53 (a) While driving while intoxicated, the defendant
54 acts with criminal negligence to cause the death of two or
55 more persons;

56 (b) While driving while intoxicated, the defendant
57 acts with criminal negligence to cause the death of any
58 person while the defendant has a blood alcohol content of at
59 least fifteen-hundredths of one percent by weight of
60 alcohol; or

61 (c) The defendant has previously been found guilty of
62 an offense under [paragraphs] paragraph (a) [to (e)] or (b)
63 of subdivision (6) of this subsection and is found guilty of
64 a subsequent violation of [such paragraphs] **this section.**

65 3. Notwithstanding the provisions of subsection 2 of
66 this section, a person found guilty of the offense of
67 driving while intoxicated as a first offense shall not be
68 granted a suspended imposition of sentence:

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

71 (2) In a circuit where a DWI court or docket created
72 under section 478.007 or other court-ordered treatment
73 program is available, and where the offense was committed
74 with fifteen-hundredths of one percent or more by weight of
75 alcohol in such person's blood, unless the individual
76 participates and successfully completes a program under such
77 DWI court or docket or other court-ordered treatment program.

78 4. If a person is found guilty of a second or
79 subsequent offense of driving while intoxicated, the court
80 may order the person to submit to a period of continuous

81 alcohol monitoring or verifiable breath alcohol testing
82 performed a minimum of four times per day as a condition of
83 probation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[(6)] 7. Any probation or parole granted under **[this]** subsection **6 of this section** may include a period of continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four times per day.

8. Notwithstanding any other provision of law to the contrary, an offender found guilty under paragraph (b) of subdivision (6) of subsection 2 of this section shall not be eligible for parole or probation until he or she has served a minimum of five years imprisonment.

145 9. Notwithstanding any other provision of law to the
146 contrary, an offender found guilty under subdivision (7) of
147 subsection 2 of this section shall not be eligible for
148 parole or probation until he or she has served a minimum of
149 ten years' imprisonment.

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