

FIRST REGULAR SESSION

# SENATE BILL NO. 135

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODE.

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S0266.011

TERRY L. SPIELER, Secretary.

## AN ACT

To repeal section 302.309, RSMo Supp. 1998, relating to drivers' licenses, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 302.309, RSMo Supp. 1998, is repealed and one new section enacted in lieu thereof, to be known as section 302.309, to read as follows:

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

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

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privileges shall be made therein.

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

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; or
- (e) Any other circumstance the court or director finds would create an undue hardship on

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

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

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

(4) The court order or the director's grant of the limited driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points under the provisions of section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle under the authority of a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(5) [Except as provided in subdivision (6) of this subsection,] No person is eligible to receive [hardship] **a limited** driving privilege whose license has been suspended, [or] revoked **or denied, or who has been deemed ineligible for a driving privilege** for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any

similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension or revocation imposed pursuant to this chapter;

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

**(c) Has had their license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated as prescribed in subdivision (10) of section 302.060, until the person has served at least the first two years of the five year license denial period;**

**(d) Has had their license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, until the person has served at least the first three years of the ten year license denial period;**

**(e) Has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition;**

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

[(d)] **(g)** Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in [section 577.060, RSMo] **state law or a county or municipal law;**

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

[(f) Violation] **(i) Violating** more than once [of] the provisions of section 577.041, RSMo, or a similar implied consent law of any other state;

[(g)] **(j)** Disqualification of a commercial driver's license pursuant to sections 302.700 to 302.780, however, nothing in this subsection shall prevent a person holding a commercial driver's license who is suspended or revoked as a result of an action occurring while not driving a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an operator of a personal vehicle from applying for [hardship] **limited** driving privileges to operate a commercial vehicle, if otherwise eligible for such [hardship] **limited driving** privilege; or

[(h)] **(k)** Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for limited driving privileges; or due to a revocation under subsection 2 of section 302.525 if such person has not completed such revocation.

(6) (a) [Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege,] A circuit court or the director may, in the

manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for limited driving privileges pursuant to this subsection if such person has served at least three years of such disqualification, **denial** or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. **The issuance of a limited driving privilege under this subsection is prohibited if at the time of application the person is otherwise ineligible for such privilege for any reason set forth in subdivisions (a), (b), (e), (f), (g), (h), (i), (j) or (k) of subsection (5) of this section.**

(b) A circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years, as prescribed in subdivision (10) of section 302.060, to apply for limited driving privileges pursuant to this subsection if such person has served at least two years of such disqualification, **denial** or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. **The issuance of a limited driving privilege under this subsection is prohibited if at the time of application the person is otherwise ineligible for such privilege for any reason set forth in subdivisions (a), (b), (e), (f), (g), (h), (i), (j) or (k) of subsection (5) of this section.** Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privileges pursuant to the provisions of this subdivision.

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

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section.

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