

FIRST REGULAR SESSION

SENATE BILL NO. 144

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUSSELL

Pre-filed December 1, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

L0249.021

AN ACT

To repeal section 302.060, RSMo Supp. 1998, relating to motor vehicles, and to enact in lieu thereof three new sections relating to the same subject, with penalty provisions.

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

Section A. Section 302.060, RSMo Supp. 1998, is repealed and three new sections enacted in lieu thereof, to be known as sections 302.060, 1 and 2, to read as follows:

302.060. The director shall not issue any license and shall immediately deny any driving privilege:

(1) To any person who is under the age of eighteen years, if such person operates a motor vehicle in the transportation of persons or property as classified in section 302.015;

(2) To any person who is under the age of sixteen years, **or to any person who is under eighteen years of age who fails to meet the qualifications of section 1 of this act**, except as hereinafter provided;

(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;

(4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

(5) To any person who has previously been adjudged to be incapacitated and who at the time of application has not been restored to partial capacity;

(6) To any person who, when required by this law to take an examination, has failed to pass such examination;

(7) To any person who has an unsatisfied judgment against such person, as defined in chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such person, as defined in section 303.120, RSMo, has been established;

(8) To any person whose application shows that the person has been convicted within one year prior to such application of violating the laws of this state relating to failure to stop after an accident and to disclose the person's identity or driving a motor vehicle without the owner's consent;

(9) To any person who has been convicted more than twice of violating state law, or a county or municipal ordinance where the judge in such cases was an attorney and the defendant was represented by or waived the right to an attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten years from the date of conviction of the last offense of violating such law or ordinance relating to driving while intoxicated, a person who was so convicted may petition the circuit court of the county in which such last conviction was rendered and the court shall review the person's habits and conduct since such conviction. If the court finds that the petitioner has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a threat to the public safety of this state, the court may order the director to issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision through court action more than one time;

(10) To any person who has been convicted twice within a five-year period of violating state law, or a county or municipal ordinance where the judge in such cases was an attorney and the defendant was represented by or waived the right to an attorney in writing, of driving while intoxicated, or who has been convicted of the crime of involuntary manslaughter while operating a motor vehicle in an intoxicated condition. The director shall not issue a license to such person for five years from the date such person was convicted for involuntary manslaughter while operating a motor vehicle in an intoxicated condition or for driving while intoxicated for the second time. Any person who has been denied a license for two convictions of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless the two convictions occurred within a five-year period, in which case, no license shall be issued to the person for five years from the date of the second conviction;

(11) To any person who is otherwise disqualified pursuant to the provisions of sections 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo.

Section 1. 1. In addition to the requirements of section 302.171, RSMo, the director shall require any applicant for an operator's license or a temporary permit issued pursuant to section 302.130, RSMo, who is less than eighteen years of age to present a diploma or other certificate of graduation issued to such person from a public secondary high school of this state or any other state, or documentation that the applicant is:

(1) Currently enrolled in and regularly attending a public secondary high school

in this or any other state and shall have earned a minimum of 2.25 units of credit the preceding semester of attendance or be enrolled in a full course at such person's level in a special education program for the handicapped approved by the department of elementary and secondary education which, though ungraded, enrolls pupils of equivalent age, and shall have made standard progress for such person's level the preceding semester; or

(2) Enrolled in a private school or a home school program; or

(3) Enrolled and making satisfactory progress in a state-approved course leading to a general educational development certificate or has obtained such certificate.

2. The superintendent of schools, or in the case of nonpublic schools, the chief administrative official, or in the case of a home school, the parent, shall provide documentation of enrollment status on a form provided by the department of revenue to any student sixteen years of age or older upon request for presentation to the department of revenue on application for or reinstatement of an operator's license or temporary permit. Such documentation of enrollment status shall include, but not be limited to, the following information: the student's name, date of birth, address, the date of the documentation, and signature of the superintendent, the chief administrative official, or the parent, which verifies that the student is enrolled in one of the programs listed in subsection 1 of this section. Whenever a student sixteen years of age or older withdraws from school, except as provided in subsection 4 of this section, the superintendent, or in the case of nonpublic schools, the chief administrative official, shall notify the department of revenue of such withdrawal. If a child sixteen years of age or older withdraws from a home school program, the parent shall notify the department of revenue of such withdrawal. Within five days of the receipt of such notice, the department of revenue shall send notice to the licensee that the license shall be suspended on the thirtieth day after notice was mailed to the licensee by the department, unless documentation of compliance with the provisions of this section is received by the department within such thirty-day period. The department may charge a reinstatement fee in accordance with section 302.304, RSMo.

3. For the purposes of this section, the term "withdrawal" means ten or more consecutive or fifteen total days of unexcused absences in a single semester or means missing, without excuse, five or more consecutive sessions in a course leading to a general educational development certificate. The determination of unexcused absences shall be made by the superintendent or chief administrative official of the school or the parent in the case of a home school.

4. Whenever the withdrawal from school or failure to enroll in a course leading to a general educational development certificate is for the purpose of transferring to another school or program, as confirmed in writing by the student's parent or guardian

within five days of such transfer, no such notice shall be sent to the department of revenue to suspend the student's operator's license.

5. Any person who knowingly submits false information to the department pursuant to the provisions of this section is guilty of a class C misdemeanor.

Section 2. 1. Any person who has received notification by the department of revenue that such person's operator's license is to be suspended pursuant to the provisions of section 1 of this act or any person whose operator's license has been suspended pursuant to section 1 of this act may apply, with the assistance of such person's parents and guardians and without engaging the services of an attorney, for special driving privileges with the associate circuit court on a form provided by the associate circuit court. The parents of such person may attend the hearing to assist such person in substantiating the hardship or disability claim. The scope of the hearing is limited to the issues of whether the notice given to the director of revenue was in error, whether the suspension or denial of driving privileges will result in substantial hardship to the person or whether the person lacks the ability to qualify for a high school diploma. The burden of proof is on the parents, guardians and the child to substantiate the hardship or disability claim.

2. If the court finds that a person less than eighteen years of age is required to operate a motor vehicle because of personal or family hardship involving a business, occupation, employment, or medical care or if the person lacks the ability to qualify for a high school diploma, then the court shall grant such special driving privileges as the circumstances of the individual case justify, and excuse that person from the educational requirements of section 1 of this act. While so operating a motor vehicle within any restrictions or limitations imposed by the court, the driver shall not be guilty of operating a motor vehicle without a valid driver's license.

3. The exemption granting the special driving privilege shall indicate the termination date of the order, which shall be not later than the driver's eighteenth birthday. A copy of the exemption shall be sent by the court to the director of the department of revenue, and a copy shall be given to the driver. The driver shall carry a copy of the exemption whenever he or she operates a motor vehicle.

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