

FIRST REGULAR SESSION

# SENATE BILL NO. 267

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KENNEY.

Read 1st time January 13, 1999, and 1,000 copies ordered printed.

S0482.011

TERRY L. SPIELER, Secretary.

## AN ACT

To repeal section 302.080, RSMo 1994, and sections 302.060 and 302.130, RSMo Supp. 1998, relating to drivers' licenses, and to enact in lieu thereof six new sections relating to the same subject.

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

Section A. Section 302.080, RSMo 1994, and sections 302.060 and 302.130, RSMo Supp. 1998, are repealed and six new sections enacted in lieu thereof, to be known as sections 302.060, 302.080, 302.130, 302.143, 302.145 and 302.147, to read as follows: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~~ **seventeen** years, 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(3) To any person whose license has been suspended, during such suspension, or to any person whose license has been revoked, until the expiration of one year after such license was revoked;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;

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

(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.

302.080. The following persons are exempt from license hereunder:

(1) Any person while operating any farm tractor or implement of husbandry temporarily operated or moved on a highway;

(2) A nonresident who is at least [sixteen] **seventeen** years of age and who has in his

immediate possession a valid license issued to him in his home state or country;

(3) A nonresident who is at least eighteen years of age and who has in his immediate possession a valid license issued to him in his home state or country which allows such person to operate a motor vehicle in the transportation of persons or property as classified in section 302.015;

(4) Convicted offenders of the department of corrections who have not been convicted of a motor vehicle felony as follows--driving while intoxicated, failing to stop after an accident and disclosing his or her identity, or driving a motor vehicle without the owner's consent--may operate state-owned trucks for the benefit of the correctional facilities, provided that such offender shall be accompanied by a correctional officer or other staff person in such truck.

302.130. 1. [Any person at least fifteen and one-half years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit entitling the applicant, while having such permit in the applicant's immediate possession, to drive a motor vehicle of the appropriate class upon the highways for a period of six months, but any such person, except when operating a motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor vehicle being operated who is actually occupying a seat beside the driver for the purpose of giving instruction in driving the motor vehicle, and in the case of any driver under sixteen years of age, the licensed operator occupying the seat beside the driver shall be a grandparent, parent or guardian who has a valid driver's license.] **Any person at least fifteen and one-half years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary instruction permit to operate a motor vehicle if the person has satisfied all of the following conditions:**

(1) **Passed the vision and written examination referred to in section 302.173;**  
(2) **Received written approval of a parent or legal guardian; and**  
(3) **Paid a fee for an instruction permit of one dollar as provided for in section 302.140.**

**2. A person issued an instruction permit may operate a motor vehicle of the appropriate class, while having such permit in his or her immediate possession, only when accompanied by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver twenty-one years of age or older. The supervising driver shall sit in the front seat of the motor vehicle when accompanying the permit holder.**

**3. Every holder of an instruction permit shall maintain a conviction free driving record. In the event that a holder of an instruction permit drives a motor vehicle in**

**violation of state law, the director shall suspend the instruction permit for a period enumerated in subsection 3 of section 302.304.**

**4. The holder of a instruction permit shall not place a motor vehicle in motion until every occupant of the motor vehicle has a seat belt properly fastened about his or her body.**

[2.] **5.** In the event the parent, grandparent or guardian of the person under [sixteen] **seventeen** years of age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian from being a qualified licensed operator pursuant to this section, said parent, grandparent or guardian may designate a maximum of two individuals authorized to accompany the applicant for the purpose of giving instruction in driving the motor vehicle. An authorized designee must be a licensed operator for the type of motor vehicle being operated and have attained twenty-one years of age. At least one of the designees must occupy the seat beside the applicant while giving instruction in driving the motor vehicle. The name of the authorized designees must be provided to the department of revenue by the parent, grandparent or guardian at the time of application for the temporary instruction permit. The name of each authorized designee shall be printed on the temporary instruction permit, however, the director may delay the time at which permits are printed bearing such names until the inventories of blank permits and related forms existing on August 28, 1998, are exhausted.

[3.] **6.** The director, upon proper application on a form prescribed by the director, in his or her discretion, may issue a restricted instruction permit effective for a school year or more restricted period to an applicant who is enrolled in a high school driver training program taught by a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education even though the applicant has not reached the age of [sixteen] **seventeen** years but has passed the age of fifteen years. Such instruction permit shall entitle the applicant, when the applicant has such permit in his or her immediate possession, to operate a motor vehicle on the highways, but only when a driver training instructor holding a valid driver education endorsement on a teaching certificate issued by the state department of elementary and secondary education is occupying a seat beside the driver.

[4.] **7.** The director, in his or her discretion, may issue a temporary driver's permit to an applicant who is otherwise qualified for a license permitting the applicant to operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

[5.] **8.** The director may adopt rules and regulations necessary to carry out the provisions of this section. **Any rule or portion of a rule, as that term is defined in section 536.010,**

**RSMo, that is promulgated under the authority delegated in this section shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to the effective date of this section is of no force and effect; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to the effective date of this section if it fully complied with the provisions of chapter 536, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after the effective date of this section shall be invalid and void.**

**302.143. 1. Any person who is at least sixteen years of age who, except for age or lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a license pursuant to sections 302.010 to 302.340, may apply for and the director may issue a provisional permit to operate a motor vehicle if the person has satisfied all of the following conditions:**

**(1) Has had an instruction permit, provided for in section 302.130, for not less than six months;**

**(2) Has not incurred a moving violation resulting in a conviction or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the ninety day period immediately preceding application;**

**(3) Presented a certification by the parent or legal guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with the permission of the parent or legal guardian, any licensed driver twenty-one years of age or older, has accumulated a total of not less than fifty hours of behind-the-wheel experience of which not less than ten hours shall be at night;**

**(4) Passed the driving portion of the examination provided for in section 302.173, demonstrating the person's ability to exercise due care in the operation of a motor vehicle; and**

**(5) Paid a fee for a provisional permit of one dollar as provided for in section 302.147.**

**2. A person issued a provisional permit pursuant to this section shall maintain a provisional permit for not less than twelve months and such permit shall entitle the person, while having such permit in his or her immediate possession, to drive a motor vehicle upon the highways of this state under the following conditions:**

**(1) The provisional permit holder shall wear a seat belt at all times when operating a motor vehicle;**

**(2) The provisional permit holder shall not drive a motor vehicle on the highways of this state between the hours of 11:55 p.m. and 5 a.m., unless:**

**(a) Accompanied by a parent, legal guardian, or licensed driver twenty-one years of age or older;**

**(b) The driver is going to or from a place of business where he or she is actually employed on a regularly scheduled basis. The provisional permit holder shall keep in his or her possession a signed statement from the employer; or**

**(c) The provisional holder is going to or from an event or activity sponsored by a secondary or postsecondary school in which he or she is enrolled as a student. The provisional permit holder shall keep in his or her possession a signed statement from the school principal, dean or school staff member designated by the principal or dean, containing a probable date that the school-authorized activity will be completed;**

**(3) The provisional permit holder may not operate a motor vehicle with a blood alcohol content above zero percent, as determined by blood or breath analysis;**

**(4) During the first six months after the issuance of a provisional permit, the provisional permit holder shall not drive with passengers who are not members of the permit holder's immediate family and are twenty years of age or younger, unless the permit holder is accompanied by a licensed parent, legal guardian, or a licensed driver twenty-one years of age or older. A provisional permit holder may transport passengers who are twenty years of age or younger without being accompanied by a licensed parent, legal guardian, or licensed driver twenty-one years of age or older if the passengers are members of the permit holder's immediate family and the permit holder is accompanied by a letter of authorization from the permit holder's parent or legal guardian. A provisional permit holder who violates the passenger restriction herein shall have such provisional permit suspended for a period of thirty days for the first violation, for a period of sixty days for the second violation and for a period of ninety days for a third or subsequent violation; and**

**(5) During the second six months after issuance of a provisional permit, the provisional permit holder may transport passengers who are twenty years of age or younger between the hours of 5:00 a.m. and 11:55 p.m. without the supervision of a parent or legal guardian.**

**302.145. 1. A person who is at least seventeen years of age may be issued a driver's license if:**

**(1) He or she has been the holder of a provisional permit, referred to in section 302.143, for at least twelve months;**

**(2) He or she has operated a motor vehicle without traffic violations, zero tolerance alcohol violations or seat belt violations for the six month period immediately preceding his or her application for the driver's license;**

**(3) He or she pays the fee established under section 302.177; and**

**(4) He or she has met all other requirements set forth in sections 302.171 to 302.177.**

**2. During the first twelve months following the issuance of a driver's license, the driver's license and driving privileges shall be suspended for six months whenever the licensee's record shows three or more points, as determined in accordance with section 302.302.**

**3. The instruction permit and the provisional permit shall be distinguishable from a driver's license. The learner's permit shall be identified as an "instruction permit" and issued in a distinctive form as determined by the department of revenue. The provisional permit shall be identified as a "provisional permit" and issued in a distinctive form as determined by the department of revenue.**

**4. Notwithstanding any provision of law to the contrary, the department of revenue may issue a license without issuing an instruction permit and a provisional permit if the individual has achieved the age of seventeen years before the effective date of this section, or is seventeen years of age or older and has been licensed to drive in another state or country.**

**302.147. Every application for a provisional permit shall be made upon a form furnished by the director, which application shall be certified by the applicant to be true and correct, and every such application shall be accompanied by a fee of one dollar.**

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