

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
**SENATE BILLS NOS. 872,
754 & 669**

93RD GENERAL ASSEMBLY

Reported from the Committee on Transportation, February 16, 2006, with recommendation that the Senate Committee Substitute do pass.

3937S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 304.022, 304.351, and 304.580, RSMo, and to enact in lieu thereof five new sections relating to the safe operation of motor vehicles to ensure the safety of highway workers, emergency workers, and other motorists, with penalty provisions and an effective date for a certain section.

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

Section A. Sections 304.022, 304.351, and 304.580, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 304.022,
3 304.351, 304.580, 304.582, and 304.585, to read as follows:

304.022. 1. Upon the immediate approach of an emergency vehicle giving
2 audible signal by siren or while having at least one lighted lamp exhibiting red
3 light visible under normal atmospheric conditions from a distance of five hundred
4 feet to the front of such vehicle or a flashing blue light authorized by section
5 307.175, RSMo, the driver of every other vehicle shall yield the right-of-way and
6 shall immediately drive to a position parallel to, and as far as possible to the
7 right of, the traveled portion of the highway and thereupon stop and remain in
8 such position until such emergency vehicle has passed, except when otherwise
9 directed by a police or traffic officer.

10 2. Upon approaching a stationary emergency vehicle displaying lighted
11 red or red and blue lights, the driver of every motor vehicle shall:

12 (1) Proceed with caution and yield the right-of-way, if possible with due
13 regard to safety and traffic conditions, by making a lane change into a lane not
14 adjacent to that of the stationary vehicle, if on a roadway having at least four

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

15 lanes with not less than two lanes proceeding in the same direction as the
16 approaching vehicle; or

17 (2) Proceed with due caution and reduce the speed of the vehicle,
18 maintaining a safe speed for road conditions, if changing lanes would be unsafe
19 or impossible.

20 3. The motorman of every streetcar shall immediately stop such car clear
21 of any intersection and keep it in such position until the emergency vehicle has
22 passed, except as otherwise directed by a police or traffic officer.

23 4. An "emergency vehicle" is a vehicle of any of the following types:

24 (1) A vehicle operated by the state highway patrol, the state water patrol,
25 the Missouri capitol police, or a state park ranger, those vehicles operated by
26 enforcement personnel of the state highways and transportation commission,
27 police or fire department, sheriff, constable or deputy sheriff, federal law
28 enforcement officer authorized to carry firearms and to make arrests for
29 violations of the laws of the United States, traffic officer or coroner or by a
30 privately owned emergency vehicle company;

31 (2) A vehicle operated as an ambulance or operated commercially for the
32 purpose of transporting emergency medical supplies or organs;

33 (3) Any vehicle qualifying as an emergency vehicle pursuant to section
34 307.175, RSMo;

35 (4) Any wrecker, or tow truck or a vehicle owned and operated by a public
36 utility or public service corporation while performing emergency service;

37 (5) Any vehicle transporting equipment designed to extricate human
38 beings from the wreckage of a motor vehicle;

39 (6) Any vehicle designated to perform emergency functions for a civil
40 defense or emergency management agency established pursuant to the provisions
41 of chapter 44, RSMo;

42 (7) Any vehicle operated by an authorized employee of the department of
43 corrections who, as part of the employee's official duties, is responding to a riot,
44 disturbance, hostage incident, escape or other critical situation where there is the
45 threat of serious physical injury or death, responding to mutual aid call from
46 another criminal justice agency, or in accompanying an ambulance which is
47 transporting an offender to a medical facility;

48 (8) Any vehicle designated to perform hazardous substance emergency
49 functions established pursuant to the provisions of sections 260.500 to 260.550,
50 RSMo.

51 5. (1) The driver of any vehicle referred to in subsection 4 of this section
52 shall not sound the siren thereon or have the front red lights or blue lights on
53 except when such vehicle is responding to an emergency call or when in pursuit
54 of an actual or suspected law violator, or when responding to, but not upon
55 returning from, a fire.

56 (2) The driver of an emergency vehicle may:

57 (a) Park or stand irrespective of the provisions of sections 304.014 to
58 304.026;

59 (b) Proceed past a red or stop signal or stop sign, but only after slowing
60 down as may be necessary for safe operation;

61 (c) Exceed the prima facie speed limit so long as the driver does not
62 endanger life or property;

63 (d) Disregard regulations governing direction of movement or turning in
64 specified directions.

65 (3) The exemptions granted to an emergency vehicle pursuant to
66 subdivision (2) of this subsection shall apply only when the driver of any such
67 vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle
68 as may be reasonably necessary, and when the vehicle is equipped with at least
69 one lighted lamp displaying a red light or blue light visible under normal
70 atmospheric conditions from a distance of five hundred feet to the front of such
71 vehicle.

72 6. No person shall purchase an emergency light as described in this
73 section without furnishing the seller of such light an affidavit stating that the
74 light will be used exclusively for emergency vehicle purposes.

75 7. Violation of this section shall be deemed a class **[B] A** misdemeanor.

 304.351. 1. The driver of a vehicle approaching an intersection shall yield
2 the right-of-way to a vehicle which has entered the intersection from a different
3 highway, provided, however, there is no form of traffic control at such
4 intersection.

5 2. When two vehicles enter an intersection from different highways at
6 approximately the same time, the driver of the vehicle on the left shall yield the
7 right-of-way to the driver of the vehicle on the right. This subsection shall not
8 apply to vehicles approaching each other from opposite directions when the driver
9 of one of such vehicles is attempting to or is making a left turn.

10 3. The driver of a vehicle within an intersection intending to turn to the
11 left shall yield the right-of-way to any vehicle approaching from the opposite

12 direction which is within the intersection or so close thereto as to constitute an
13 immediate hazard.

14 4. **(1)** The state highways and transportation commission with reference
15 to state highways and local authorities with reference to other highways under
16 their jurisdiction may designate through highways and erect stop signs or yield
17 signs at specified entrances thereto, or may designate any intersection as a stop
18 intersection or as a yield intersection and erect stop signs or yield signs at one
19 or more entrances to such intersection.

20 **[(1)] (2)** Preferential right-of-way at an intersection may be indicated by
21 stop signs or yield signs as authorized in this section:

22 (a) Except when directed to proceed by a police officer or traffic-control
23 signal, every driver of a vehicle approaching a stop intersection, indicated by a
24 stop sign, shall stop at a clearly marked stop line, but if none, before entering the
25 crosswalk on the near side of the intersection, or if none, then at the point
26 nearest the intersecting roadway where the driver has a view of approaching
27 traffic in the intersecting roadway before entering the intersection. After having
28 stopped, the driver shall yield the right-of-way to any vehicle which has entered
29 the intersection from another highway or which is approaching so closely on the
30 highway as to constitute an immediate hazard during the time when such driver
31 is moving across or within the intersection.

32 (b) The driver of a vehicle approaching a yield sign shall in obedience to
33 the sign slow down to a speed reasonable to the existing conditions and, if
34 required for safety to stop, shall stop at a clearly marked stop line, but if none,
35 then at the point nearest the intersecting roadway where the driver has a view
36 of approaching traffic on the intersecting roadway. After slowing or stopping the
37 driver shall yield the right-of-way to any vehicle in the intersection or
38 approaching on another highway so closely as to constitute an immediate hazard
39 during the time such traffic is moving across or within the intersection.

40 5. The driver of a vehicle about to enter or cross a highway from an alley,
41 building or any private road or driveway shall yield the right-of-way to all
42 vehicles approaching on the highway to be entered.

43 6. The driver of a vehicle intending to make a left turn into an alley,
44 private road or driveway shall yield the right-of-way to any vehicle approaching
45 from the opposite direction when the making of such left turn would create a
46 traffic hazard.

47 7. The state highways and transportation commission or local authorities

48 with respect to roads under their respective jurisdictions, on any section where
49 construction or major maintenance operations are being effected, may fix a speed
50 limit in such areas by posting of appropriate signs, and the operation of a motor
51 vehicle in excess of such speed limit in the area so posted shall be deemed prima
52 facie evidence of careless and imprudent driving and a violation of section
53 304.010.

54 8. Notwithstanding the provisions of section 304.361, violation of this
55 section shall be deemed a class C misdemeanor.

56 9. In addition to the penalty specified in subsection 8 of this
57 section, any person who pleads guilty to or is found guilty of a violation
58 of this section in which the offender is found to have caused physical
59 injury, there shall be assessed a surcharge of up to two hundred
60 dollars. The court may issue an order of suspension of such person's
61 driving privilege for a period of thirty days.

62 10. In addition to the penalty specified in subsection 8 of this
63 section, any person who pleads guilty to or is found guilty of a violation
64 of this section in which the offender is found to have caused serious
65 physical injury, there shall be assessed a surcharge of up to five
66 hundred dollars. The court may issue an order of suspension of such
67 person's driving privilege for a period of ninety days.

68 11. In addition to the penalty specified in subsection 8 of this
69 section, any person who pleads guilty to or is found guilty of a violation
70 of this section in which the offender is found to have caused a fatality,
71 there shall be assessed a surcharge of up to one thousand dollars. The
72 court may issue an order of suspension of such person's driving
73 privilege for a period of six months.

74 12. As used in subsections 9 and 10 of this section, the terms
75 "physical injury" and "serious physical injury" shall have the meanings
76 ascribed to them in section 556.061, RSMo.

77 13. The surcharges imposed pursuant to subsections 9, 10, and 11
78 of this subsection shall be collected and distributed by the clerk of the
79 court as provided in sections 488.010 to 488.020, RSMo. The surcharges
80 collected pursuant to subsections 9, 10, and 11 of this section shall be
81 credited to the head injury fund established under section 304.028.

82 14. For any court-ordered suspension under subsections 9, 10, or
83 11 of this section, the director of the department shall impose such
84 suspension as set forth in the court order. The order of suspension

85 shall include the name of the offender, the offender's driver's license
86 number, social security number, and the effective date of the
87 suspension. Any appeal of a suspension imposed under subsections 9,
88 10, or 11 of this section shall be a direct appeal of the court order and
89 subject to review by the presiding judge of the circuit court or another
90 judge within the circuit other than the judge who issued the original
91 order to suspend the driver's license. The director of revenue's entry
92 of the court-ordered suspension on the driving record is not a decision
93 subject to review pursuant to section 302.311, RSMo. Any suspension
94 of the driver's license ordered by the court under this section shall be
95 in addition to any other suspension that may occur as a result of the
96 conviction pursuant to other provisions of law.

304.580. [1.] As used in [this section] sections 304.582 and 304.585,
2 the term "construction zone" or "work zone" means any area upon or around any
3 highway as defined in section 302.010, RSMo, which is visibly marked by the
4 department of transportation or a contractor **or subcontractor** performing work
5 for the department of transportation as an area where construction, maintenance,
6 **incident removal**, or other work is temporarily occurring. The term "work
7 zone" or "construction zone" also includes the lanes of highway leading up to the
8 area upon which an activity described in this subsection is being performed,
9 beginning at the point where appropriate signs [directing motor vehicles to merge
10 from one lane into another lane] **or traffic control devices** are posted **or**
11 **placed. The terms "worker" or "highway worker" as used in sections**
12 **304.582 and 304.585 shall mean any person that is working in a**
13 **"construction zone" or "work zone", or any employee of the department**
14 **of transportation that is performing duties pursuant to the**
15 **department's motorist assist program on a state highway or the right-**
16 **of-way of a state highway.**

17 [2. Upon a conviction or a plea of guilty by any person for a moving
18 violation as defined in section 302.010, RSMo, or any offense listed in section
19 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to
20 any other fine authorized to be imposed by law, if the offense occurred within a
21 construction zone or a work zone.

22 3. Upon a conviction or plea of guilty by any person for a speeding
23 violation pursuant to either section 304.009 or 304.010, or a passing violation
24 pursuant to subsection 6 of this section, the court shall assess a fine of two

25 hundred fifty dollars in addition to any other fine authorized by law, if the offense
26 occurred within a construction zone or a work zone and at the time the speeding
27 or passing violation occurred there was any person in such zone who was there
28 to perform duties related to the reason for which the area was designated a
29 construction zone or work zone. However, no person assessed an additional fine
30 pursuant to this subsection shall also be assessed an additional fine pursuant to
31 subsection 2 of this section, and no person shall be assessed an additional fine
32 pursuant to this subsection if no signs have been posted pursuant to subsection
33 4 of this section.

34 4. The penalty authorized by subsection 3 of this section shall only be
35 assessed by the court if the department of transportation or contractor performing
36 work for the department of transportation has erected signs upon or around a
37 construction or work zone which are clearly visible from the highway and which
38 state substantially the following message: "Warning: \$250 fine for speeding or
39 passing in this work zone".

40 5. During any day in which no person is present in a construction zone or
41 work zone established pursuant to subsection 3 of this section to perform duties
42 related to the purpose of the zone, the sign warning of additional penalties shall
43 not be visible to motorists. During any period of two hours or more in which no
44 person is present in such zone on a day in which persons have been or will be
45 present to perform duties related to the reason for which the area was designated
46 as a construction zone or work zone, the sign warning of additional penalties
47 shall not be visible to motorists. The department of transportation or contractor
48 performing work for the department of transportation shall be responsible for
49 compliance with provisions of this subsection. Nothing in this subsection shall
50 prohibit warning or traffic control signs necessary for public safety in the
51 construction or work zone being visible to motorists at all times.

52 6. The driver of a motor vehicle may not overtake or pass another motor
53 vehicle within a work zone or construction zone. This subsection applies to a
54 construction zone or work zone located upon a highway divided into two or more
55 marked lanes for traffic moving in the same direction and for which motor
56 vehicles are instructed to merge from one lane into another lane by an
57 appropriate sign erected by the department of transportation or a contractor
58 performing work for the department of transportation. Violation of this
59 subsection is a class C misdemeanor.

60 7. This section shall not be construed to enhance the assessment of court

61 costs or the assessment of points pursuant to section 302.302, RSMo.]

62 **304.582. 1. Upon the first conviction or plea of guilty by any**
63 **person for a moving violation as defined in section 302.010, RSMo, or**
64 **any offense listed in section 302.302, RSMo, the court shall assess a fine**
65 **of thirty-five dollars in addition to any other fine authorized to be**
66 **imposed by law, if the offense occurred within a construction zone or**
67 **a work zone. A second or subsequent violation of this subsection shall**
68 **result in the court assessing a fine of seventy-five dollars in addition**
69 **to any other fine authorized to be imposed by law.**

70 **2. Upon the first conviction or plea of guilty by any person for**
71 **a speeding violation pursuant to either section 304.009 or 304.010, or a**
72 **passing violation pursuant to subsection 4 of this section, the court**
73 **shall assess a fine of two hundred fifty dollars in addition to any other**
74 **fine authorized by law if the offense occurred within a construction**
75 **zone or a work zone and at the time the speeding or passing violation**
76 **occurred there was any highway worker in such zone. A second or**
77 **subsequent violation of this subsection shall result in the court**
78 **assessing a fine of three hundred dollars in addition to any other fine**
79 **authorized by law. However, no person assessed an additional fine**
80 **pursuant to this subsection shall also be assessed an additional fine**
81 **pursuant to subsection 1 of this section, and no person shall be assessed**
82 **an additional fine pursuant to this subsection if no signs have been**
83 **posted pursuant to subsection 3 of this section.**

84 **3. The penalty authorized by subsection 2 of this section shall**
85 **only be assessed by the court if the department of transportation or a**
86 **contractor or subcontractor performing work for the department of**
87 **transportation has erected signs upon or around a construction zone**
88 **or work zone which are clearly visible from the highway and which**
89 **state substantially the following message: "Warning: Minimum \$250**
90 **fine for speeding or passing in this work zone when workers are**
91 **present".**

92 **4. The driver of a motor vehicle may not overtake or pass**
93 **another motor vehicle within a work zone or construction zone as**
94 **provided in this subsection. Violation of this subsection is a class C**
95 **misdemeanor.**

96 **(1) This subsection applies to a construction zone or work zone**
97 **located upon a highway divided into two or more marked lanes for**

37 traffic moving in the same direction and for which motor vehicles are
38 instructed to merge from one lane into another lane and not pass by
39 appropriate signs or traffic control devices erected by the department
40 of transportation or a contractor or subcontractor performing work for
41 the department of transportation.

42 (2) This subsection also prohibits the operator of a motor vehicle
43 from passing or attempting to pass another motor vehicle in a work
44 zone or construction zone located upon a two-lane highway when
45 highway workers or equipment are working and when appropriate
46 signs or traffic control devices have been erected by the department of
47 transportation or a contractor or subcontractor performing work for
48 the department of transportation.

49 5. The additional fines imposed by this section shall not be
50 construed to enhance the assessment of court costs or the assessment
51 of points pursuant to section 302.302, RSMo.

304.585. 1. A person shall be deemed to commit the offense of
2 "endangerment of a highway worker" upon conviction for any of the
3 following when the offense occurs within a "construction zone" or "work
4 zone", as defined in section 304.580:

5 (1) Exceeding the posted speed limit by fifteen miles per hour or
6 more;

7 (2) Passing in violation of subsection 4 of section 304.582;

8 (3) Failure to stop for a work zone flagman or failure to obey
9 traffic control devices erected in the construction zone or work zone
10 for purposes of controlling the flow of motor vehicles through the zone;

11 (4) Driving through or around a work zone by any lane not
12 clearly designated to motorists for the flow of traffic through the work
13 zone;

14 (5) Physically assaulting, or attempting to assault, or threatening
15 to assault a highway worker in a construction zone or work zone, with
16 a motor vehicle or other instrument;

17 (6) Intentionally striking, moving, or altering barrels, barriers,
18 signs, or other devices erected to control the flow of traffic to protect
19 workers and motorists in the work zone for a reason other than
20 avoidance of an obstacle, an emergency, or to protect the health and
21 safety of an occupant of the motor vehicle or of another person; or

22 (7) Committing any of the following offenses for which points

23 may be assessed under section 302.302, RSMo:

24 (a) Leaving the scene of an accident in violation of section
25 577.060, RSMo;

26 (b) Careless and imprudent driving in violation of subsection 4
27 of section 304.016;

28 (c) Operating without a valid license in violation of subdivision
29 (1) or (2) of subsection 1 of section 302.020, RSMo;

30 (d) Operating with a suspended or revoked license;

31 (e) Obtaining a license by misrepresentation;

32 (f) Driving while in an intoxicated condition or under the
33 influence of controlled substances or drugs or driving with an excessive
34 blood alcohol content;

35 (g) Any felony involving the use of a motor vehicle; or

36 (h) Knowingly permitting an unlicensed operator to operate a
37 motor vehicle.

38 2. Upon conviction or a plea of guilty for committing the offense
39 of "endangerment of a highway worker" pursuant to subsection 1 of this
40 section if no injury or death to a highway worker resulted from the
41 offense, in addition to any other penalty authorized by law, the person
42 shall be subject to a fine of not more than one thousand dollars and
43 shall have eight points assessed to his or her driver's license under
44 section 302.302, RSMo, and shall be subject to the provisions of section
45 302.304, RSMo, regarding the suspension of the person's license and
46 driving privileges.

47 3. A person shall be deemed to commit the offense of "aggravated
48 endangerment of a highway worker" upon conviction or a plea of guilty
49 for any offense under subsection 1 of this section when such offense
50 occurs in a construction zone or work zone as defined in section 304.580
51 and results in the injury or death of a highway worker. Upon
52 conviction or a plea of guilty for committing the offense of aggravated
53 endangerment of a highway worker, in addition to any other penalty
54 authorized by law, the person shall be subject to a fine of not more than
55 five thousand dollars if the offense resulted in injury to a highway
56 worker and ten thousand dollars if the offense resulted in death to a
57 highway worker. In addition, such person shall have twelve points
58 assessed to their driver's license under section 302.302, RSMo, and shall
59 be subject to the provisions of section 302.304, RSMo, regarding the

60 **revocation of the person's license and driving privileges.**

61 **4. Except for the offense established under subdivision (6) of**
62 **subsection 1 of this section, no person shall be deemed to commit the**
63 **offense of endangerment of a highway worker except when the act or**
64 **omission constituting the offense occurred when one or more highway**
65 **workers were in the construction zone or work zone.**

66 **5. No person shall be cited or convicted for endangerment of a**
67 **highway worker or aggravated endangerment of a highway worker, for**
68 **any act or omission otherwise constituting an offense under subsection**
69 **1 of this section, if such act or omission resulted in whole or in part**
70 **from mechanical failure of the person's vehicle or from the negligence**
71 **of another person or a highway worker.**

Section B. The repeal and reenactment of section 304.351 shall become
2 effective January 1, 2007.

✓

Bill

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