

SECOND REGULAR SESSION

SENATE BILL NO. 754

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Pre-filed December 14, 2005, and ordered printed.

TERRY L. SPIELER, Secretary.

3132S.02I

AN ACT

To repeal sections 302.302 and 304.580, RSMo, and to enact in lieu thereof four new sections relating to highway work lane safety, with penalty provisions.

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

Section A. Sections 302.302 and 304.580, RSMo, are repealed and four
2 new sections enacted in lieu thereof, to be known as sections 302.302, 304.580,
3 304.582, and 304.585, to read as follows:

302.302. 1. The director of revenue shall put into effect a point system
2 for the suspension and revocation of licenses. Points shall be assessed only after
3 a conviction or forfeiture of collateral. The initial point value is as follows:

4 (1) Any moving violation of a state law
5 or county or municipal or federal traffic ordinance
6 or regulation not listed in this section, other than a
7 violation of vehicle equipment provisions or a
8 court-ordered supervision as provided in
9 section 302.303 2 points
10 (except any violation of municipal stop sign
11 ordinance where no accident is involved 1 point)

12 (2) Speeding
13 In violation of a state law 3 points
14 In violation of a county or municipal ordinance 2 points

15 (3) Leaving the scene of an accident in
16 violation of section 577.060, RSMo 12 points
17 In violation of any county or municipal
18 ordinance 6 points

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

19	(4) Careless and imprudent	
20	driving in violation of subsection 4	
21	of section 304.016, RSMo	4 points
22	In violation of a county or municipal	
23	ordinance	2 points
24	(5) Operating without a valid license in	
25	violation of subdivision (1) or (2) of	
26	subsection 1 of section 302.020:	
27	(a) For the first conviction	2 points
28	(b) For the second conviction	4 points
29	(c) For the third conviction	6 points
30	(6) Operating with a suspended or	
31	revoked license prior to restoration of	
32	operating privileges	12 points
33	(7) Obtaining a license by	
34	misrepresentation	12 points
35	(8) For the first conviction of driving	
36	while in an intoxicated condition or under	
37	the influence of controlled substances or	
38	drugs	8 points
39	(9) For the second or subsequent conviction	
40	of any of the following offenses however	
41	combined: driving while in an intoxicated	
42	condition, driving under the influence	
43	of controlled substances or drugs or	
44	driving with a blood alcohol content of	
45	eight-hundredths of one percent or more	
46	by weight	12 points
47	(10) For the first conviction for driving	
48	with blood alcohol content eight-hundredths	
49	of one percent or more by weight	
50	In violation of state law	8 points
51	In violation of a county or municipal ordinance	
52	or federal law or regulation	8 points
53	(11) Any felony involving the use of a	
54	motor vehicle	12 points

55 (12) Knowingly permitting unlicensed
56 operator to operate a motor vehicle 4 points

57 (13) For a conviction for failure to
58 maintain financial responsibility pursuant
59 to county or municipal ordinance or
60 pursuant to section 303.025, RSMo 4 points

61 **(14) Endangerment of a highway**
62 **worker in violation of section 304.585, RSMo 8 points**

63 **(15) Aggravated endangerment of a**
64 **highway worker in violation of section**
65 **304.585, RSMo 12 points**

66 2. The director shall, as provided in subdivision (5) of subsection 1 of this
67 section, assess an operator points for a conviction pursuant to subdivision (1) or
68 (2) of subsection 1 of section 302.020, when the director issues such operator a
69 license or permit pursuant to the provisions of sections 302.010 to 302.340.

70 3. An additional two points shall be assessed when personal injury or
71 property damage results from any violation listed in **subdivisions (1) to (13)**
72 **of** subsection 1 of this section and if found to be warranted and certified by the
73 reporting court.

74 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of
75 subsection 1 of this section constitutes both a violation of a state law and a
76 violation of a county or municipal ordinance, points may be assessed for either
77 violation but not for both. Notwithstanding that an offense arising out of the
78 same occurrence could be construed to be a violation of subdivisions (8), (9) and
79 (10) of subsection 1 of this section, no person shall be tried or convicted for more
80 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this
81 section for offenses arising out of the same occurrence.

82 5. The director of revenue shall put into effect a system for staying the
83 assessment of points against an operator. The system shall provide that the
84 satisfactory completion of a driver-improvement program or, in the case of
85 violations committed while operating a motorcycle, a motorcycle-rider training
86 course approved by the [director of the department of public safety] **state**
87 **highways and transportation commission**, by an operator, when so ordered
88 and verified by any court having jurisdiction over any law of this state or county
89 or municipal ordinance, regulating motor vehicles, other than a violation
90 committed in a commercial motor vehicle as defined in section 302.700 or a

91 violation committed by an individual who has been issued a commercial driver's
92 license or is required to obtain a commercial driver's license in this state or any
93 other state, shall be accepted by the director in lieu of the assessment of points
94 for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section
95 or pursuant to subsection 3 of this section. For the purposes of this subsection,
96 the driver-improvement program shall meet or exceed the standards of the
97 National Safety Council's eight-hour "Defensive Driving Course" or, in the case
98 of a violation which occurred during the operation of a motorcycle, the program
99 shall meet the standards established by the [director of the department of public
100 safety] **state highways and transportation commission** pursuant to sections
101 302.133 to 302.138. The completion of a driver-improvement program or a
102 motorcycle-rider training course shall not be accepted in lieu of points more than
103 one time in any thirty-six-month period and shall be completed within sixty days
104 of the date of conviction in order to be accepted in lieu of the assessment of
105 points. Every court having jurisdiction pursuant to the provisions of this
106 subsection shall, within fifteen days after completion of the driver-improvement
107 program or motorcycle-rider training course by an operator, forward a record of
108 the completion to the director, all other provisions of the law to the contrary
109 notwithstanding. The director shall establish procedures for record keeping and
110 the administration of this subsection.

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.]

**304.582. 1. Upon the first conviction or plea of guilty by any
2 person for a moving violation as defined in section 302.010, RSMo, or
3 any offense listed in section 302.302, RSMo, the court shall assess a fine
4 of thirty-five dollars in addition to any other fine authorized to be
5 imposed by law, if the offense occurred within a construction zone or
6 a work zone. A second or subsequent violation of this subsection shall
7 result in the court assessing a fine of seventy-five dollars in addition
8 to any other fine authorized to be imposed by law.**

**9 2. Upon the first conviction or plea of guilty by any person for
10 a speeding violation pursuant to either section 304.009 or 304.010, or a
11 passing violation pursuant to subsection 4 of this section, the court
12 shall assess a fine of two hundred fifty dollars in addition to any other
13 fine authorized by law if the offense occurred within a construction
14 zone or a work zone and at the time the speeding or passing violation
15 occurred there was any highway worker in such zone. A second or
16 subsequent violation of this subsection shall result in the court
17 assessing a fine of three hundred dollars in addition to any other fine
18 authorized by law. However, no person assessed an additional fine
19 pursuant to this subsection shall also be assessed an additional fine
20 pursuant to subsection 1 of this section, and no person shall be assessed
21 an additional fine pursuant to this subsection if no signs have been
22 posted pursuant to subsection 3 of this section.**

**23 3. The penalty authorized by subsection 2 of this section shall
24 only be assessed by the court if the department of transportation or a
25 contractor or subcontractor performing work for the department of
26 transportation has erected signs upon or around a construction or work
27 zone which are clearly visible from the highway and which state
28 substantially the following message: "Warning: Minimum \$250 fine for**

29 speeding or passing in this work zone when workers are present".

30 4. The driver of a motor vehicle may not overtake or pass
31 another motor vehicle within a work zone or construction zone as
32 provided in this subsection. Violation of this subsection is a class C
33 misdemeanor.

34 (1) This subsection applies to a construction zone or work zone
35 located upon a highway divided into two or more marked lanes for
36 traffic moving in the same direction and for which motor vehicles are
37 instructed to merge from one lane into another lane and not pass by
38 appropriate signs or traffic control devices erected by the department
39 of transportation or a contractor or subcontractor performing work for
40 the department of transportation.

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

48 5. The additional fines imposed by this section shall not be
49 construed to enhance the assessment of court costs or the assessment
50 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.

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