

FIRST REGULAR SESSION

SENATE BILL NO. 216

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CROWELL.

Pre-filed January 2, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

0873S.01I

AN ACT

To repeal sections 302.302, 302.309, 302.505, 302.525, 302.541, 302.545, 488.5334, 568.050, 577.020, 577.021, 577.023, 577.029, 577.037, 577.039, 577.041, and 577.049, RSMo, and to enact in lieu thereof seventeen new sections relating to driving with any controlled substance in the body, with penalty provisions.

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

Section A. Sections 302.302, 302.309, 302.505, 302.525, 302.541, 302.545, 488.5334, 568.050, 577.020, 577.021, 577.023, 577.029, 577.037, 577.039, 577.041, and 577.049, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 302.302, 302.309, 302.505, 302.525, 302.541, 302.545, 488.5334, 568.050, 577.020, 577.021, 577.022, 577.023, 577.029, 577.037, 577.039, 577.041, and 577.049, to read as follows:

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

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

(2) Speeding

In violation of a state law. 3 points

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

- 14 In violation of a county or municipal
15 ordinance. 2 points
- 16 (3) Leaving the scene of an accident in
17 violation of section 577.060, RSMo. 12 points
- 18 In violation of any county or municipal
19 ordinance. 6 points
- 20 (4) Careless and imprudent
21 driving in violation of subsection 4 of
22 section 304.016, RSMo. 4 points
- 23 In violation of a county or municipal
24 ordinance. 2 points
- 25 (5) Operating without a valid license in
26 violation of subdivision (1) or (2) of
27 subsection 1 of section 302.020:
- 28 (a) For the first conviction. 2 points
- 29 (b) For the second conviction. 4 points
- 30 (c) For the third conviction. 6 points
- 31 (6) Operating with a suspended or
32 revoked license prior to restoration of
33 operating privileges. 12 points
- 34 (7) Obtaining a license by
35 misrepresentation. 12 points
- 36 (8) For the first conviction of driving
37 while in an intoxicated condition or under
38 the influence of controlled substances
39 or drugs. 8 points
- 40 (9) For the second or subsequent
41 conviction of any of the following offenses
42 however combined: driving while in an
43 intoxicated condition, driving under the
44 influence of controlled substances or drugs,
45 [or] driving with a blood alcohol content of
46 eight-hundredths of one percent or more
47 by weight, **or driving with any controlled**
48 **substance in the body**. 12 points
- 49 (10) For the first conviction for driving

50 with blood alcohol content eight-hundredths
51 of one percent or more by weight **or driving**
52 **with any controlled substance in the body**
53 In violation of state law..... 8 points
54 In violation of a county or municipal ordinance
55 or federal law or regulation..... 8 points
56 (11) Any felony involving the use of a
57 motor vehicle. 12 points
58 (12) Knowingly permitting unlicensed
59 operator to operate a motor vehicle..... 4 points
60 (13) For a conviction for failure to
61 maintain financial responsibility pursuant
62 to county or municipal ordinance or
63 pursuant to section 303.025, RSMo. 4 points
64 (14) Endangerment of a highway worker
65 in violation of section 304.585, RSMo. 4 points
66 (15) Aggravated endangerment of a highway
67 worker in violation of section 304.585, RSMo. 12 points
68 2. The director shall, as provided in subdivision (5) of subsection 1 of this
69 section, assess an operator points for a conviction pursuant to subdivision (1) or
70 (2) of subsection 1 of section 302.020, when the director issues such operator a
71 license or permit pursuant to the provisions of sections 302.010 to 302.340.
72 3. An additional two points shall be assessed when personal injury or
73 property damage results from any violation listed in subdivisions (1) to (13) of
74 subsection 1 of this section and if found to be warranted and certified by the
75 reporting court.
76 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of
77 subsection 1 of this section constitutes both a violation of a state law and a
78 violation of a county or municipal ordinance, points may be assessed for either
79 violation but not for both. Notwithstanding that an offense arising out of the
80 same occurrence could be construed to be a violation of subdivisions (8), (9) and
81 (10) of subsection 1 of this section, no person shall be tried or convicted for more
82 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this
83 section for offenses arising out of the same occurrence.
84 5. The director of revenue shall put into effect a system for staying the
85 assessment of points against an operator. The system shall provide that the

86 satisfactory completion of a driver-improvement program or, in the case of
87 violations committed while operating a motorcycle, a motorcycle-rider training
88 course approved by the state highways and transportation commission, by an
89 operator, when so ordered and verified by any court having jurisdiction over any
90 law of this state or county or municipal ordinance, regulating motor vehicles,
91 other than a violation committed in a commercial motor vehicle as defined in
92 section 302.700 or a violation committed by an individual who has been issued a
93 commercial driver's license or is required to obtain a commercial driver's license
94 in this state or any other state, shall be accepted by the director in lieu of the
95 assessment of points for a violation pursuant to subdivision (1), (2) or (4) of
96 subsection 1 of this section or pursuant to subsection 3 of this section. For the
97 purposes of this subsection, the driver-improvement program shall meet or exceed
98 the standards of the National Safety Council's eight-hour "Defensive Driving
99 Course" or, in the case of a violation which occurred during the operation of a
100 motorcycle, the program shall meet the standards established by the state
101 highways and transportation commission pursuant to sections 302.133 to
102 302.137. The completion of a driver-improvement program or a motorcycle-rider
103 training course shall not be accepted in lieu of points more than one time in any
104 thirty-six-month period and shall be completed within sixty days of the date of
105 conviction in order to be accepted in lieu of the assessment of points. Every court
106 having jurisdiction pursuant to the provisions of this subsection shall, within
107 fifteen days after completion of the driver-improvement program or
108 motorcycle-rider training course by an operator, forward a record of the
109 completion to the director, all other provisions of the law to the contrary
110 notwithstanding. The director shall establish procedures for record keeping and
111 the administration of this subsection.

302.309. 1. Whenever any license is suspended pursuant to sections
2 302.302 to 302.309, the director of revenue shall return the license to the operator
3 immediately upon the termination of the period of suspension and upon
4 compliance with the requirements of chapter 303, RSMo.

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

8 3. (1) All circuit courts or the director of revenue shall have jurisdiction
9 to hear applications and make eligibility determinations granting limited driving
10 privileges. Any application may be made in writing to the director of revenue and

11 the person's reasons for requesting the limited driving privilege shall be made
12 therein.

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

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

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

27 (3) An operator may make application to the proper court in the county
28 in which such operator resides or in the county in which is located the operator's
29 principal place of business or employment. Any application for a limited driving
30 privilege made to a circuit court shall name the director as a party defendant and
31 shall be served upon the director prior to the grant of any limited privilege, and
32 shall be accompanied by a copy of the applicant's driving record as certified by
33 the director. Any applicant for a limited driving privilege shall have on file with
34 the department of revenue proof of financial responsibility as required by chapter
35 303, RSMo. Any application by a person who transports persons or property as
36 classified in section 302.015 may be accompanied by proof of financial
37 responsibility as required by chapter 303, RSMo, but if proof of financial
38 responsibility does not accompany the application, or if the applicant does not
39 have on file with the department of revenue proof of financial responsibility, the
40 court or the director has discretion to grant the limited driving privilege to the
41 person solely for the purpose of operating a vehicle whose owner has complied
42 with chapter 303, RSMo, for that vehicle, and the limited driving privilege must
43 state such restriction. When operating such vehicle under such restriction the
44 person shall carry proof that the owner has complied with chapter 303, RSMo, for
45 that vehicle.

46 (4) The court order or the director's grant of the limited driving privilege

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

61 (5) Except as provided in subdivision (7) of this subsection, no person is
62 eligible to receive a limited driving privilege who at the time of application for a
63 limited driving privilege has previously been granted such a privilege within the
64 immediately preceding five years, or whose license has been suspended or revoked
65 for the following reasons:

66 (a) A conviction of violating the provisions of section 577.010 [or], 577.012,
67 **or 577.022**, RSMo, or any similar provision of any federal or state law, or a
68 municipal or county law where the judge in such case was an attorney and the
69 defendant was represented by or waived the right to an attorney in writing, until
70 the person has completed the first thirty days of a suspension or revocation
71 imposed pursuant to this chapter;

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

74 (c) Ineligibility for a license because of the provisions of subdivision (1),
75 (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

76 (d) Because of operating a motor vehicle under the influence of narcotic
77 drugs, a controlled substance as defined in chapter 195, RSMo, or having left the
78 scene of an accident as provided in section 577.060, RSMo;

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

83 (f) Violation more than once of the provisions of section 577.041, RSMo,
84 or a similar implied consent law of any other state; or

85 (g) Due to a suspension pursuant to subsection 2 of section 302.525 and
86 who has not completed the first thirty days of such suspension, provided the
87 person is not otherwise ineligible for a limited driving privilege; or due to a
88 revocation pursuant to subsection 2 of section 302.525 if such person has not
89 completed such revocation.

90 (6) No person who possesses a commercial driver's license shall receive a
91 limited driving privilege issued for the purpose of operating a commercial motor
92 vehicle if such person's driving privilege is suspended, revoked, canceled, denied,
93 or disqualified. Nothing in this section shall prohibit the issuance of a limited
94 driving privilege for the purpose of operating a noncommercial motor vehicle
95 provided that pursuant to the provisions of this section, the applicant is not
96 otherwise ineligible for a limited driving privilege.

97 (7) (a) Provided that pursuant to the provisions of this section, the
98 applicant is not otherwise ineligible for a limited driving privilege, a circuit court
99 or the director may, in the manner prescribed in this subsection, allow a person
100 who has had such person's license to operate a motor vehicle revoked where that
101 person cannot obtain a new license for a period of ten years, as prescribed in
102 subdivision (9) of section 302.060, to apply for a limited driving privilege
103 pursuant to this subsection if such person has served at least three years of such
104 disqualification or revocation. Such person shall present evidence satisfactory to
105 the court or the director that such person has not been convicted of any offense
106 related to alcohol, controlled substances or drugs during the preceding three
107 years and that the person's habits and conduct show that the person no longer
108 poses a threat to the public safety of this state.

109 (b) Provided that pursuant to the provisions of this section, the applicant
110 is not otherwise ineligible for a limited driving privilege or convicted of
111 involuntary manslaughter while operating a motor vehicle in an intoxicated
112 condition, a circuit court or the director may, in the manner prescribed in this
113 subsection, allow a person who has had such person's license to operate a motor
114 vehicle revoked where that person cannot obtain a new license for a period of five
115 years because of two convictions of driving while intoxicated, as prescribed in
116 subdivision (10) of section 302.060, to apply for a limited driving privilege
117 pursuant to this subsection if such person has served at least two years of such
118 disqualification or revocation. Such person shall present evidence satisfactory to

119 the court or the director that such person has not been convicted of any offense
120 related to alcohol, controlled substances or drugs during the preceding two years
121 and that the person's habits and conduct show that the person no longer poses a
122 threat to the public safety of this state. Any person who is denied a license
123 permanently in this state because of an alcohol-related conviction subsequent to
124 a restoration of such person's driving privileges pursuant to subdivision (9) of
125 section 302.060 shall not be eligible for limited driving privilege pursuant to the
126 provisions of this subdivision.

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

135 5. The director of revenue shall promulgate rules and regulations
136 necessary to carry out the provisions of this section. Any rule or portion of a rule,
137 as that term is defined in section 536.010, RSMo, that is created under the
138 authority delegated in this section shall become effective only if it complies with
139 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
140 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
141 and if any of the powers vested with the general assembly pursuant to chapter
142 536, RSMo, to review, to delay the effective date or to disapprove and annul a
143 rule are subsequently held unconstitutional, then the grant of rulemaking
144 authority and any rule proposed or adopted after August 28, 2001, shall be
145 invalid and void.

302.505. 1. The department shall suspend or revoke the license of any
2 person upon its determination that the person was arrested upon probable cause
3 to believe such person was driving a motor vehicle while the alcohol concentration
4 in the person's blood, breath, or urine was eight-hundredths of one percent or
5 more by weight, based on the definition of alcohol concentration in section
6 302.500, or where such person was less than twenty-one years of age when
7 stopped and was stopped upon probable cause to believe such person was driving
8 while intoxicated in violation of section 577.010, RSMo, or driving with excessive
9 blood alcohol content in violation of section 577.012, RSMo, **or driving with any**

10 **controlled substance in the body in violation of section 577.022, RSMo,**
11 or upon probable cause to believe such person violated a state, county or
12 municipal traffic offense and such person was driving with a blood alcohol content
13 of two-hundredths of one percent or more by weight.

14 2. The department shall make a determination of these facts on the basis
15 of the report of a law enforcement officer required in section 302.510, and this
16 determination shall be final unless a hearing is requested and held. If a hearing
17 is held, the department shall review the matter and make a final determination
18 on the basis of evidence received at the hearing.

19 3. The determination of these facts by the department is independent of
20 the determination of the same or similar facts in the adjudication of any criminal
21 charges arising out of the same occurrence. The disposition of those criminal
22 charges shall not affect any suspension or revocation under this section.

302.525. 1. The license suspension or revocation shall become effective
2 fifteen days after the subject person has received the notice of suspension or
3 revocation as provided in section 302.520, or is deemed to have received the notice
4 of suspension or revocation by mail as provided in section 302.515. If a request
5 for a hearing is received by or postmarked to the department within that
6 fifteen-day period, the effective date of the suspension or revocation shall be
7 stayed until a final order is issued following the hearing; provided, that any delay
8 in the hearing which is caused or requested by the subject person or counsel
9 representing that person without good cause shown shall not result in a stay of
10 the suspension or revocation during the period of delay.

11 2. The period of license suspension or revocation under this section shall
12 be as follows:

13 (1) If the person's driving record shows no prior alcohol-related
14 enforcement contacts during the immediately preceding five years, the period of
15 suspension shall be thirty days after the effective date of suspension, followed by
16 a sixty-day period of restricted driving privilege as defined in section 302.010 and
17 issued by the director of revenue. The restricted driving privilege shall not be
18 issued until he or she has filed proof of financial responsibility with the
19 department of revenue, in accordance with chapter 303, RSMo, and is otherwise
20 eligible. In no case shall restricted driving privileges be issued pursuant to this
21 section or section 302.535 until the person has completed the first thirty days of
22 a suspension under this section;

23 (2) The period of revocation shall be one year if the person's driving record

24 shows one or more prior alcohol-related enforcement contacts during the
25 immediately preceding five years.

26 3. For purposes of this section, "alcohol-related enforcement contacts"
27 shall include any suspension or revocation under sections 302.500 to 302.540, any
28 suspension or revocation entered in this or any other state for a refusal to submit
29 to chemical testing under an implied consent law, and any conviction in this or
30 any other state for a violation which involves driving a vehicle while having an
31 unlawful alcohol concentration.

32 4. Where a license is suspended or revoked under this section and the
33 person is also convicted on charges arising out of the same occurrence for a
34 violation of section 577.010 [or], 577.012, **or 577.022**, RSMo, or for a violation of
35 any county or municipal ordinance prohibiting driving while intoxicated or
36 alcohol-related traffic offense, both the suspension or revocation under this
37 section and any other suspension or revocation arising from such convictions shall
38 be imposed, but the period of suspension or revocation under sections 302.500 to
39 302.540 shall be credited against any other suspension or revocation arising from
40 such convictions, and the total period of suspension or revocation shall not exceed
41 the longer of the two suspension or revocation periods.

302.541. 1. In addition to other fees required by law, any person who has
2 had a license to operate a motor vehicle suspended or revoked following a
3 determination, pursuant to section 302.505, or section 577.010, 577.012, **577.022**,
4 577.041 or 577.510, RSMo, or any county or municipal ordinance, where the
5 defendant was represented by or waived the right to an attorney, that such
6 person was driving while intoxicated or with a blood alcohol content of
7 eight-hundredths of one percent or more by weight or, where such person was at
8 the time of the arrest less than twenty-one years of age and was driving with a
9 blood alcohol content of two-hundredths of one percent or more by weight, shall
10 pay an additional fee of twenty-five dollars prior to the reinstatement or
11 reissuance of the license.

12 2. Any person less than twenty-one years of age whose driving privilege
13 has been suspended or revoked solely for a first determination pursuant to
14 sections 302.500 to 302.540 that such person was driving a motor vehicle with
15 two-hundredths of one percent or more blood alcohol content is exempt from filing
16 proof of financial responsibility with the department of revenue in accordance
17 with chapter 303, RSMo, as a prerequisite for reinstatement of driving privileges
18 or obtaining a restricted driving privilege as provided by section 302.525.

302.545. 1. Any person who is less than twenty-one years of age and
2 whose driving privilege has been suspended or revoked, for a first determination
3 under sections 302.500 to 302.540, that such person was driving with
4 two-hundredths of one percent of blood alcohol content, shall have all official
5 records and all recordations maintained by the department of revenue of such
6 suspension or revocation expunged two years after the date of such suspension
7 or revocation, or when such person attains the age of twenty-one, whichever date
8 first occurs. Such expungement shall be performed by the department of revenue
9 without need of a court order. No records shall be expunged if the person was
10 found guilty or pled guilty to operating a commercial motor vehicle, as defined in
11 section 302.700, with a blood alcohol content of at least four-hundredths of one
12 percent.

13 2. The provisions of this section shall not apply to any person whose
14 license is suspended or revoked for a second or subsequent time pursuant to
15 subsection 1 of this section or who is convicted of any alcohol-related driving
16 offense before the age of twenty-one including, but not limited to:

17 (1) Driving while intoxicated pursuant to section 577.010, RSMo; [or]

18 (2) Driving with excessive blood alcohol content pursuant to section
19 577.012, RSMo; or

20 **(3) Driving with any controlled substance in the body under**
21 **section 577.022, RSMo.**

488.5334. Upon a plea of guilty or a finding of guilty for an offense of
2 violating the provisions of section 577.010 [or], 577.012, **or 577.022**, RSMo, or
3 violations of county or municipal ordinances involving alcohol or drug-related
4 traffic offenses, the court may, in addition to imposition of any penalties provided
5 by law, order the convicted person to reimburse the state or local law enforcement
6 agency which made the arrest for the costs associated with such arrest. Such
7 costs shall include the reasonable cost of making the arrest, including the cost of
8 any chemical test made under chapter 577, RSMo, to determine the alcohol or
9 drug content of the person's blood, and the costs of processing, charging, booking
10 and holding such person in custody. The state and each local law enforcement
11 agency may establish a schedule of such costs; however, the court may order the
12 costs reduced if it determines that the costs are excessive.

568.050. 1. A person commits the crime of endangering the welfare of a
2 child in the second degree if:

3 (1) He or she with criminal negligence acts in a manner that creates a

4 substantial risk to the life, body or health of a child less than seventeen years old;
5 or

6 (2) He or she knowingly encourages, aids or causes a child less than
7 seventeen years old to engage in any conduct which causes or tends to cause the
8 child to come within the provisions of paragraph (d) of subdivision (2) of
9 subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

10 (3) Being a parent, guardian or other person legally charged with the care
11 or custody of a child less than seventeen years old, he or she recklessly fails or
12 refuses to exercise reasonable diligence in the care or control of such child to
13 prevent him from coming within the provisions of paragraph (c) of subdivision (1)
14 of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision
15 (3) of subsection 1 of section 211.031, RSMo; or

16 (4) He or she knowingly encourages, aids or causes a child less than
17 seventeen years of age to enter into any room, building or other structure which
18 is a public nuisance as defined in section 195.130, RSMo; or

19 (5) He or she operates a vehicle in violation of subdivision (2) or (3) of
20 subsection 1 of section 565.024, RSMo, subdivision (4) of subsection 1 of section
21 565.060, RSMo, section 577.010, [RSMo, or] section 577.012, **or section 577.022,**
22 RSMo, while a child less than seventeen years old is present in the vehicle.

23 2. Nothing in this section shall be construed to mean the welfare of a
24 child is endangered for the sole reason that he or she is being provided
25 nonmedical remedial treatment recognized and permitted under the laws of this
26 state.

27 3. Endangering the welfare of a child in the second degree is a class A
28 misdemeanor unless the offense is committed as part of a ritual or ceremony, in
29 which case the crime is a class D felony.

577.020. 1. Any person who operates a motor vehicle upon the public
2 highways of this state shall be deemed to have given consent to, subject to the
3 provisions of sections 577.019 to 577.041, a chemical test or tests of the person's
4 breath, blood, saliva or urine for the purpose of determining the alcohol or drug
5 content of the person's blood pursuant to the following circumstances:

6 (1) If the person is arrested for any offense arising out of acts which the
7 arresting officer had reasonable grounds to believe were committed while the
8 person was driving a motor vehicle while in an intoxicated or drugged condition
9 **or with any controlled substance in his or her body;** or

10 (2) If the person is under the age of twenty-one, has been stopped by a law

11 enforcement officer, and the law enforcement officer has reasonable grounds to
12 believe that such person was driving a motor vehicle with a blood alcohol content
13 of two-hundredths of one percent or more by weight; or

14 (3) If the person is under the age of twenty-one, has been stopped by a law
15 enforcement officer, and the law enforcement officer has reasonable grounds to
16 believe that such person has committed a violation of the traffic laws of the state,
17 or any political subdivision of the state, and such officer has reasonable grounds
18 to believe, after making such stop, that such person has a blood alcohol content
19 of two-hundredths of one percent or greater;

20 (4) If the person is under the age of twenty-one, has been stopped at a
21 sobriety checkpoint or roadblock and the law enforcement officer has reasonable
22 grounds to believe that such person has a blood alcohol content of two-hundredths
23 of one percent or greater;

24 (5) If the person, while operating a motor vehicle, has been involved in a
25 motor vehicle collision which resulted in a fatality or a readily apparent serious
26 physical injury as defined in section 565.002, RSMo, or has been arrested as
27 evidenced by the issuance of a uniform traffic ticket for the violation of any state
28 law or county or municipal ordinance with the exception of equipment violations
29 contained in chapter 306, RSMo, or similar provisions contained in county or
30 municipal ordinances; or

31 (6) If the person, while operating a motor vehicle, has been involved in a
32 motor vehicle collision which resulted in a fatality or serious physical injury as
33 defined in section 565.002, RSMo.

34 The test shall be administered at the direction of the law enforcement officer
35 whenever the person has been arrested or stopped for any reason.

36 2. The implied consent to submit to the chemical tests listed in subsection
37 1 of this section shall be limited to not more than two such tests arising from the
38 same arrest, incident or charge.

39 3. Chemical analysis of the person's breath, blood, saliva, or urine to be
40 considered valid pursuant to the provisions of sections 577.019 to 577.041 shall
41 be performed according to methods approved by the state department of health
42 and senior services by licensed medical personnel or by a person possessing a
43 valid permit issued by the state department of health and senior services for this
44 purpose.

45 4. The state department of health and senior services shall approve
46 satisfactory techniques, devices, equipment, or methods to be considered valid

47 pursuant to the provisions of sections 577.019 to 577.041 and shall establish
48 standards to ascertain the qualifications and competence of individuals to conduct
49 analyses and to issue permits which shall be subject to termination or revocation
50 by the state department of health and senior services.

51 5. The person tested may have a physician, or a qualified technician,
52 chemist, registered nurse, or other qualified person at the choosing and expense
53 of the person to be tested, administer a test in addition to any administered at
54 the direction of a law enforcement officer. The failure or inability to obtain an
55 additional test by a person shall not preclude the admission of evidence relating
56 to the test taken at the direction of a law enforcement officer.

57 6. Upon the request of the person who is tested, full information
58 concerning the test shall be made available to such person. Full information is
59 limited to the following:

- 60 (1) The type of test administered and the procedures followed;
61 (2) The time of the collection of the blood or breath sample or urine
62 analyzed;
63 (3) The numerical results of the test indicating the alcohol content of the
64 blood and breath and urine;
65 (4) The type and status of any permit which was held by the person who
66 performed the test;
67 (5) If the test was administered by means of a breath-testing instrument,
68 the date of performance of the most recent required maintenance of such
69 instrument.

70 Full information does not include manuals, schematics, or software of the
71 instrument used to test the person or any other material that is not in the actual
72 possession of the state. Additionally, full information does not include
73 information in the possession of the manufacturer of the test instrument.

74 7. Any person given a chemical test of the person's breath pursuant to
75 subsection 1 of this section or a field sobriety test may be videotaped during any
76 such test at the direction of the law enforcement officer. Any such video
77 recording made during the chemical test pursuant to this subsection or a field
78 sobriety test shall be admissible as evidence at either any trial of such person for
79 either a violation of any state law or county or municipal ordinance, or any
80 license revocation or suspension proceeding pursuant to the provisions of chapter
81 302, RSMo.

577.021. 1. Any state, county or municipal law enforcement officer who

2 has the power of arrest for violations of section 577.010 [or], 577.012, **or 577.022**
3 and who is certified pursuant to chapter 590, RSMo, may, prior to arrest,
4 administer a chemical test to any person suspected of operating a motor vehicle
5 in violation of section 577.010 [or], 577.012, **or 577.022.**

6 2. Any state, county, or municipal law enforcement officer who has the
7 power of arrest for violations of section 577.010 [or], 577.012, **or 577.022** and
8 who is certified under chapter 590, RSMo, shall make all reasonable efforts to
9 administer a chemical test to any person suspected of driving a motor vehicle
10 involved in a collision which resulted in a fatality or serious physical injury as
11 defined in section 565.002, RSMo.

12 3. A test administered pursuant to this section shall be admissible as
13 evidence of probable cause to arrest and as exculpatory evidence, but shall not be
14 admissible as evidence of blood alcohol content. The provisions of sections
15 577.019 and 577.020 shall not apply to a test administered prior to arrest
16 pursuant to this section.

17 The provisions changing chapter 577 are severable from this legislation. The
18 general assembly would have enacted the remainder of this legislation without
19 the changes made to chapter 577, and the remainder of the legislation is not
20 essentially and inseparably connected with or dependent upon the changes to
21 chapter 577.

577.022. 1. A person commits the crime of driving with any
2 **controlled substance in the body if such person operates a motor**
3 **vehicle when there is any amount of a controlled substance or its**
4 **metabolite present in such person, as measured in the person's blood**
5 **or urine.**

6 2. "Controlled substance" means a drug, substance, or immediate
7 precursor in Schedules I through V listed in section 195.017, RSMo.

8 3. It is an affirmative defense to this crime that the accused
9 person consumed the controlled substance under a valid prescription
10 from a licensed physician, dentist, or other health care provider as that
11 term is defined in section 538.205, RSMo.

12 4. For the first offense, driving with controlled substance in the
13 body is a class B misdemeanor.

577.023. 1. For purposes of this section, unless the context clearly
2 indicates otherwise:

3 (1) An "aggravated offender" is a person who:

4 (a) Has pleaded guilty to or has been found guilty of three or more
5 intoxication-related traffic offenses; or

6 (b) Has pleaded guilty to or has been found guilty of one or more
7 intoxication-related traffic offense and, in addition, any of the following:
8 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section
9 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where
10 the underlying felony is an intoxication-related traffic offense; or assault in the
11 second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or
12 assault of a law enforcement officer in the second degree under subdivision (4) of
13 subsection 1 of section 565.082, RSMo;

14 (2) A "chronic offender" is:

15 (a) A person who has pleaded guilty to or has been found guilty of four or
16 more intoxication-related traffic offenses; or

17 (b) A person who has pleaded guilty to or has been found guilty of, on two
18 or more separate occasions, any combination of the following: involuntary
19 manslaughter under subdivision (2) or (3) of subsection 1 of section 565.024,
20 RSMo; murder in the second degree under section 565.021, RSMo, where the
21 underlying felony is an intoxication-related traffic offense; assault in the second
22 degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or assault
23 of a law enforcement officer in the second degree under subdivision (4) of
24 subsection 1 of section 565.082, RSMo; or

25 (c) A person who has pleaded guilty to or has been found guilty of two or
26 more intoxication-related traffic offenses and, in addition, any of the following:
27 involuntary manslaughter under subdivision (2) or (3) of subsection 1 of section
28 565.024, RSMo; murder in the second degree under section 565.021, RSMo, where
29 the underlying felony is an intoxication-related traffic offense; assault in the
30 second degree under subdivision (4) of subsection 1 of section 565.060, RSMo; or
31 assault of a law enforcement officer in the second degree under subdivision (4) of
32 subsection 1 of section 565.082, RSMo;

33 (3) An "intoxication-related traffic offense" is driving while intoxicated,
34 driving with excessive blood alcohol content, **driving with any controlled**
35 **substance in the body**, involuntary manslaughter pursuant to subdivision (2)
36 or (3) of subsection 1 of section 565.024, RSMo, murder in the second degree
37 under section 565.021, RSMo, where the underlying felony is an
38 intoxication-related traffic offense, assault in the second degree pursuant to
39 subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law

40 enforcement officer in the second degree pursuant to subdivision (4) of subsection
41 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in
42 violation of state law or a county or municipal ordinance, where the defendant
43 was represented by or waived the right to an attorney in writing;

44 (4) A "persistent offender" is one of the following:

45 (a) A person who has pleaded guilty to or has been found guilty of two or
46 more intoxication-related traffic offenses;

47 (b) A person who has pleaded guilty to or has been found guilty of
48 involuntary manslaughter pursuant to subdivision (2) or (3) of subsection 1 of
49 section 565.024, RSMo, assault in the second degree pursuant to subdivision (4)
50 of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in
51 the second degree pursuant to subdivision (4) of subsection 1 of section 565.082,
52 RSMo; and

53 (5) A "prior offender" is a person who has pleaded guilty to or has been
54 found guilty of one intoxication-related traffic offense, where such prior offense
55 occurred within five years of the occurrence of the intoxication-related traffic
56 offense for which the person is charged.

57 2. Any person who pleads guilty to or is found guilty of a violation of
58 section 577.010 or 577.012 who is alleged and proved to be a prior offender shall
59 be guilty of a class A misdemeanor.

60 3. Any person who pleads guilty to or is found guilty of a violation of
61 section 577.010 or 577.012 who is alleged and proved to be a persistent offender
62 shall be guilty of a class D felony.

63 4. Any person who pleads guilty to or is found guilty of a violation of
64 section 577.010 or section 577.012 who is alleged and proved to be an aggravated
65 offender shall be guilty of a class C felony.

66 5. Any person who pleads guilty to or is found guilty of a violation of
67 section 577.010 or section 577.012 who is alleged and proved to be a chronic
68 offender shall be guilty of a class B felony.

69 6. No state, county, or municipal court shall suspend the imposition of
70 sentence as to a prior offender, persistent offender, aggravated offender, or
71 chronic offender under this section nor sentence such person to pay a fine in lieu
72 of a term of imprisonment, section 557.011, RSMo, to the contrary
73 notwithstanding. No prior offender shall be eligible for parole or probation until
74 he or she has served a minimum of five days imprisonment, unless as a condition
75 of such parole or probation such person performs at least thirty days of

76 community service under the supervision of the court in those jurisdictions which
77 have a recognized program for community service. No persistent offender shall
78 be eligible for parole or probation until he or she has served a minimum of ten
79 days imprisonment, unless as a condition of such parole or probation such person
80 performs at least sixty days of community service under the supervision of the
81 court. No aggravated offender shall be eligible for parole or probation until he
82 or she has served a minimum of sixty days imprisonment. No chronic offender
83 shall be eligible for parole or probation until he or she has served a minimum of
84 two years imprisonment.

85 7. The state, county, or municipal court shall find the defendant to be a
86 prior offender, persistent offender, aggravated offender, or chronic offender if:

87 (1) The indictment or information, original or amended, or the information
88 in lieu of an indictment pleads all essential facts warranting a finding that the
89 defendant is a prior offender or persistent offender; and

90 (2) Evidence is introduced that establishes sufficient facts pleaded to
91 warrant a finding beyond a reasonable doubt the defendant is a prior offender,
92 persistent offender, aggravated offender, or chronic offender; and

93 (3) The court makes findings of fact that warrant a finding beyond a
94 reasonable doubt by the court that the defendant is a prior offender, persistent
95 offender, aggravated offender, or chronic offender.

96 8. In a jury trial, the facts shall be pleaded, established and found prior
97 to submission to the jury outside of its hearing.

98 9. In a trial without a jury or upon a plea of guilty, the court may defer
99 the proof in findings of such facts to a later time, but prior to sentencing.

100 10. The defendant shall be accorded full rights of confrontation and
101 cross-examination, with the opportunity to present evidence, at such hearings.

102 11. The defendant may waive proof of the facts alleged.

103 12. Nothing in this section shall prevent the use of presentence
104 investigations or commitments.

105 13. At the sentencing hearing both the state, county, or municipality and
106 the defendant shall be permitted to present additional information bearing on the
107 issue of sentence.

108 14. The pleas or findings of guilty shall be prior to the date of commission
109 of the present offense.

110 15. The court shall not instruct the jury as to the range of punishment or
111 allow the jury, upon a finding of guilty, to assess and declare the punishment as

112 part of its verdict in cases of prior offenders, persistent offenders, aggravated
113 offenders, or chronic offenders.

114 16. Evidence of prior convictions shall be heard and determined by the
115 trial court out of the hearing of the jury prior to the submission of the case to the
116 jury, and shall include but not be limited to evidence of convictions received by
117 a search of the records of the Missouri uniform law enforcement system
118 maintained by the Missouri state highway patrol. After hearing the evidence, the
119 court shall enter its findings thereon. A conviction of a violation of a municipal
120 or county ordinance in a county or municipal court for driving while intoxicated
121 or a conviction or a plea of guilty or a finding of guilty followed by a suspended
122 imposition of sentence, suspended execution of sentence, probation or parole or
123 any combination thereof in a state court shall be treated as a prior conviction.

577.029. A licensed physician, registered nurse, or trained medical
2 technician at the place of his employment, acting at the request and direction of
3 the law enforcement officer, shall withdraw blood for the purpose of determining
4 the alcohol content of the blood **or presence of any controlled substance in**
5 **the body**, unless such medical personnel, in his good faith medical judgment,
6 believes such procedure would endanger the life or health of the person in
7 custody. Blood may be withdrawn only by such medical personnel, but such
8 restriction shall not apply to the taking of a breath test, a saliva specimen, or a
9 urine specimen. In withdrawing blood for the purpose of determining the alcohol
10 content thereof, only a previously unused and sterile needle and sterile vessel
11 shall be utilized and the withdrawal shall otherwise be in strict accord with
12 accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing
13 the skin prior to venapuncture. Upon the request of the person who is tested, full
14 information concerning the test taken at the direction of the law enforcement
15 officer shall be made available to him.

577.037. 1. Upon the trial of any person for violation of any of the
2 provisions of section 565.024, RSMo, or section 565.060, RSMo, or section 577.010
3 or 577.012, or upon the trial of any criminal action or violations of county or
4 municipal ordinances or in any license suspension or revocation proceeding
5 pursuant to the provisions of chapter 302, RSMo, arising out of acts alleged to
6 have been committed by any person while driving a motor vehicle while in an
7 intoxicated condition, the amount of alcohol in the person's blood at the time of
8 the act alleged as shown by any chemical analysis of the person's blood, breath,
9 saliva or urine is admissible in evidence and the provisions of subdivision (5) of

10 section 491.060, RSMo, shall not prevent the admissibility or introduction of such
11 evidence if otherwise admissible. If there was eight-hundredths of one percent
12 or more by weight of alcohol in the person's blood, this shall be prima facie
13 evidence that the person was intoxicated at the time the specimen was taken.

14 **2. Upon the trial of any person for violation of section 577.022**
15 **arising out of acts alleged to have been committed by any person while**
16 **driving a motor vehicle with a controlled substance in his or her body,**
17 **the presence of such controlled substance in the person's body at the**
18 **time of the act alleged as shown by any chemical analysis of the**
19 **person's blood or urine is admissible in evidence and the provisions of**
20 **subdivision (5) of section 491.060, RSMo, shall not prevent the**
21 **admissibility or introduction of such evidence if otherwise admissible.**

22 **3.** Percent by weight of alcohol in the blood shall be based upon grams of
23 alcohol per one hundred milliliters of blood or grams of alcohol per two hundred
24 ten liters of breath.

25 **[3.] 4.** The foregoing provisions of this section shall not be construed as
26 limiting the introduction of any other competent evidence bearing upon the
27 question whether the person was intoxicated.

28 **[4.] 5.** A chemical analysis of a person's breath, blood, saliva or urine, in
29 order to give rise to the presumption or to have the effect provided for in
30 subsection 1 **or 2** of this section, shall have been performed as provided in
31 sections 577.020 to 577.041 and in accordance with methods and standards
32 approved by the state department of health and senior services.

33 **[5.] 6.** Any charge alleging a violation of section 577.010 or 577.012 or
34 any county or municipal ordinance prohibiting driving while intoxicated or
35 driving under the influence of alcohol shall be dismissed with prejudice if a
36 chemical analysis of the defendant's breath, blood, saliva, or urine performed in
37 accordance with sections 577.020 to 577.041 and rules promulgated thereunder
38 by the state department of health and senior services demonstrate that there was
39 less than eight-hundredths of one percent of alcohol in the defendant's blood
40 unless one or more of the following considerations cause the court to find a
41 dismissal unwarranted:

42 (1) There is evidence that the chemical analysis is unreliable as evidence
43 of the defendant's intoxication at the time of the alleged violation due to the lapse
44 of time between the alleged violation and the obtaining of the specimen;

45 (2) There is evidence that the defendant was under the influence of a

46 controlled substance, or drug, or a combination of either or both with or without
47 alcohol; or

48 (3) There is substantial evidence of intoxication from physical
49 observations of witnesses or admissions of the defendant.

50 **7. Any charge alleging a violation of section 577.022 shall be**
51 **dismissed with prejudice if a chemical analysis of the defendant's blood**
52 **or urine performed in accordance with sections 577.050 to 577.041 and**
53 **rules promulgated thereunder by the state department of health and**
54 **senior services demonstrates there was no controlled substance in the**
55 **defendant's body.**

577.039. An arrest without a warrant by a law enforcement officer,
2 including a uniformed member of the state highway patrol, for a violation of
3 section 577.010 [or], 577.012, **or 577.022** is lawful whenever the arresting officer
4 has reasonable grounds to believe that the person to be arrested has violated the
5 section, whether or not the violation occurred in the presence of the arresting
6 officer and when such arrest without warrant is made within one and one-half
7 hours after such claimed violation occurred, unless the person to be arrested has
8 left the scene of an accident or has been removed from the scene to receive
9 medical treatment, in which case such arrest without warrant may be made more
10 than one and one-half hours after such violation occurred.

577.041. 1. If a person under arrest, or who has been stopped pursuant
2 to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the
3 request of the officer to submit to any test allowed pursuant to section 577.020,
4 then none shall be given and evidence of the refusal shall be admissible in a
5 proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or section
6 577.010 [or], 577.012, **or 577.022**. The request of the officer shall include the
7 reasons of the officer for requesting the person to submit to a test and also shall
8 inform the person that evidence of refusal to take the test may be used against
9 such person and that the person's license shall be immediately revoked upon
10 refusal to take the test. If a person when requested to submit to any test allowed
11 pursuant to section 577.020 requests to speak to an attorney, the person shall be
12 granted twenty minutes in which to attempt to contact an attorney. If upon the
13 completion of the twenty-minute period the person continues to refuse to submit
14 to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf
15 of the director of revenue, serve the notice of license revocation personally upon
16 the person and shall take possession of any license to operate a motor vehicle

17 issued by this state which is held by that person. The officer shall issue a
18 temporary permit, on behalf of the director of revenue, which is valid for fifteen
19 days and shall also give the person a notice of such person's right to file a
20 petition for review to contest the license revocation.

21 2. The officer shall make a certified report under penalties of perjury for
22 making a false statement to a public official. The report shall be forwarded to the
23 director of revenue and shall include the following:

24 (1) That the officer has:

25 (a) Reasonable grounds to believe that the arrested person was driving a
26 motor vehicle while in an intoxicated or drugged condition **or with any**
27 **controlled substance in his or her body**; or

28 (b) Reasonable grounds to believe that the person stopped, being under
29 the age of twenty-one years, was driving a motor vehicle with a blood alcohol
30 content of two-hundredths of one percent or more by weight; or

31 (c) Reasonable grounds to believe that the person stopped, being under the
32 age of twenty-one years, was committing a violation of the traffic laws of the
33 state, or political subdivision of the state, and such officer has reasonable grounds
34 to believe, after making such stop, that the person had a blood alcohol content of
35 two-hundredths of one percent or greater;

36 (2) That the person refused to submit to a chemical test;

37 (3) Whether the officer secured the license to operate a motor vehicle of
38 the person;

39 (4) Whether the officer issued a fifteen-day temporary permit;

40 (5) Copies of the notice of revocation, the fifteen-day temporary permit
41 and the notice of the right to file a petition for review, which notices and permit
42 may be combined in one document; and

43 (6) Any license to operate a motor vehicle which the officer has taken into
44 possession.

45 3. Upon receipt of the officer's report, the director shall revoke the license
46 of the person refusing to take the test for a period of one year; or if the person is
47 a nonresident, such person's operating permit or privilege shall be revoked for one
48 year; or if the person is a resident without a license or permit to operate a motor
49 vehicle in this state, an order shall be issued denying the person the issuance of
50 a license or permit for a period of one year.

51 4. If a person's license has been revoked because of the person's refusal
52 to submit to a chemical test, such person may petition for a hearing before a

53 circuit or associate circuit court in the county in which the arrest or stop
54 occurred. The person may request such court to issue an order staying the
55 revocation until such time as the petition for review can be heard. If the court,
56 in its discretion, grants such stay, it shall enter the order upon a form prescribed
57 by the director of revenue and shall send a copy of such order to the
58 director. Such order shall serve as proof of the privilege to operate a motor
59 vehicle in this state and the director shall maintain possession of the person's
60 license to operate a motor vehicle until termination of any revocation pursuant
61 to this section. Upon the person's request the clerk of the court shall notify the
62 prosecuting attorney of the county and the prosecutor shall appear at the hearing
63 on behalf of the director of revenue. At the hearing the court shall determine
64 only:

65 (1) Whether or not the person was arrested or stopped;

66 (2) Whether or not the officer had:

67 (a) Reasonable grounds to believe that the person was driving a motor
68 vehicle while in an intoxicated or drugged condition **or with any controlled**
69 **substance in his or her body**; or

70 (b) Reasonable grounds to believe that the person stopped, being under
71 the age of twenty-one years, was driving a motor vehicle with a blood alcohol
72 content of two-hundredths of one percent or more by weight; or

73 (c) Reasonable grounds to believe that the person stopped, being under the
74 age of twenty-one years, was committing a violation of the traffic laws of the
75 state, or political subdivision of the state, and such officer had reasonable
76 grounds to believe, after making such stop, that the person had a blood alcohol
77 content of two-hundredths of one percent or greater; and

78 (3) Whether or not the person refused to submit to the test.

79 5. If the court determines any issue not to be in the affirmative, the court
80 shall order the director to reinstate the license or permit to drive.

81 6. Requests for review as provided in this section shall go to the head of
82 the docket of the court wherein filed.

83 7. No person who has had a license to operate a motor vehicle suspended
84 or revoked pursuant to the provisions of this section shall have that license
85 reinstated until such person has participated in and successfully completed a
86 substance abuse traffic offender program defined in section 577.001, or a program
87 determined to be comparable by the department of mental health or the
88 court. Assignment recommendations, based upon the needs assessment as

89 described in subdivision (22) of section 302.010, RSMo, shall be delivered in
90 writing to the person with written notice that the person is entitled to have such
91 assignment recommendations reviewed by the court if the person objects to the
92 recommendations. The person may file a motion in the associate division of the
93 circuit court of the county in which such assignment was given, on a printed form
94 provided by the state courts administrator, to have the court hear and determine
95 such motion pursuant to the provisions of chapter 517, RSMo. The motion shall
96 name the person or entity making the needs assessment as the respondent and
97 a copy of the motion shall be served upon the respondent in any manner allowed
98 by law. Upon hearing the motion, the court may modify or waive any assignment
99 recommendation that the court determines to be unwarranted based upon a
100 review of the needs assessment, the person's driving record, the circumstances
101 surrounding the offense, and the likelihood of the person committing a like
102 offense in the future, except that the court may modify but may not waive the
103 assignment to an education or rehabilitation program of a person determined to
104 be a prior or persistent offender as defined in section 577.023, or of a person
105 determined to have operated a motor vehicle with fifteen-hundredths of one
106 percent or more by weight in such person's blood. Compliance with the court
107 determination of the motion shall satisfy the provisions of this section for the
108 purpose of reinstating such person's license to operate a motor vehicle. The
109 respondent's personal appearance at any hearing conducted pursuant to this
110 subsection shall not be necessary unless directed by the court.

111 8. The fees for the substance abuse traffic offender program, or a portion
112 thereof to be determined by the division of alcohol and drug abuse of the
113 department of mental health, shall be paid by the person enrolled in the
114 program. Any person who is enrolled in the program shall pay, in addition to any
115 fee charged for the program, a supplemental fee to be determined by the
116 department of mental health for the purposes of funding the substance abuse
117 traffic offender program defined in section 302.010, RSMo, and section
118 577.001. The administrator of the program shall remit to the division of alcohol
119 and drug abuse of the department of mental health on or before the fifteenth day
120 of each month the supplemental fee for all persons enrolled in the program, less
121 two percent for administrative costs. Interest shall be charged on any unpaid
122 balance of the supplemental fees due the division of alcohol and drug abuse
123 pursuant to this section and shall accrue at a rate not to exceed the annual rates
124 established pursuant to the provisions of section 32.065, RSMo, plus three

125 percentage points. The supplemental fees and any interest received by the
126 department of mental health pursuant to this section shall be deposited in the
127 mental health earnings fund which is created in section 630.053, RSMo.

128 9. Any administrator who fails to remit to the division of alcohol and drug
129 abuse of the department of mental health the supplemental fees and interest for
130 all persons enrolled in the program pursuant to this section shall be subject to a
131 penalty equal to the amount of interest accrued on the supplemental fees due the
132 division pursuant to this section. If the supplemental fees, interest, and penalties
133 are not remitted to the division of alcohol and drug abuse of the department of
134 mental health within six months of the due date, the attorney general of the state
135 of Missouri shall initiate appropriate action of the collection of said fees and
136 interest accrued. The court shall assess attorney fees and court costs against any
137 delinquent program.

577.049. 1. Upon a plea of guilty or a finding of guilty for an offense of
2 violating the provisions of section 577.010 [or], 577.012, or **577.022** or violations
3 of county or municipal ordinances involving alcohol- or drug-related traffic
4 offenses, the court shall order the person to participate in and successfully
5 complete a substance abuse traffic offender program defined in section 577.001.

6 2. The fees for the substance abuse traffic offender program, or a portion
7 thereof, to be determined by the division of alcohol and drug abuse of the
8 department of mental health, shall be paid by the person enrolling in the
9 program. Any person who is enrolled in the program shall pay, in addition to any
10 fee charged for the program, a supplemental fee to be determined by the
11 department of mental health for the purposes of funding the substance abuse
12 traffic offender program defined in section 302.010, RSMo, and section
13 577.001. The administrator of the program shall remit to the division of alcohol
14 and drug abuse of the department of mental health on or before the fifteenth day
15 of each month the supplemental fees for all persons enrolled in the program, less
16 two percent for administrative costs. Interest shall be charged on any unpaid
17 balance of the supplemental fees due the division of alcohol and drug abuse
18 pursuant to this section and shall accrue at a rate not to exceed the annual rates
19 established pursuant to the provisions of section 32.065, RSMo, plus three
20 percentage points. The supplemental fees and any interest received by the
21 department of mental health pursuant to this section shall be deposited in the
22 mental health earnings fund which is created in section 630.053, RSMo.

23 3. Any administrator who fails to remit to the division of alcohol and drug

24 abuse of the department of mental health the supplemental fees and interest for
25 all persons enrolled in the program pursuant to this section shall be subject to a
26 penalty equal to the amount of interest accrued on the supplemental fees due the
27 division pursuant to this section. If the supplemental fees, interest, and penalties
28 are not remitted to the division of alcohol and drug abuse of the department of
29 mental health within six months of the due date, the attorney general of the state
30 of Missouri shall initiate appropriate action of the collection of said fees and
31 interest accrued. The court shall assess attorney fees and court costs against any
32 delinquent program.

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