

FIRST REGULAR SESSION

SENATE BILL NO. 434

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

0852S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 557, RSMo, by adding thereto one new section relating to a driving while intoxicated diversion program.

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

Section A. Chapter 557, RSMo, is amended by adding thereto
2 one new section, to be known as section 557.520, to read as
3 follows:

557.520. 1. For purposes of this section, the
2 following terms shall mean:

3 (1) "Bypass", failure to take a breath test performed
4 by the driver upon a certified ignition interlock device at
5 random intervals after the initial engine startup breath
6 test and while the vehicle's motor is running or failure to
7 take a breath retest with a breath alcohol concentration not
8 exceeding two-hundredths of one percent by weight of alcohol
9 in such person's blood;

10 (2) "Failed start", any attempt to start the vehicle
11 with a breath alcohol concentration exceeding three-
12 hundredths of one percent by weight of alcohol in such
13 person's blood, unless a subsequent test performed within
14 ten minutes registers a breath alcohol concentration not
15 exceeding two-hundredths of one percent by weight of alcohol
16 in such person's blood;

17 (3) "Vehicle", any mechanical device on wheels,
18 designed primarily for use, or used, on highways, not
19 including motorcycles.

20 2. In any criminal case involving an intoxicated-
21 related traffic offense, the judge presiding over the
22 criminal case may divert the criminal case to a driving
23 while intoxicated (DWI) diversion program if the defendant
24 meets the following criteria for eligibility into the
25 driving while intoxicated diversion program:

26 (1) The defendant has not previously been convicted of
27 any violation of driving a vehicle with eight-hundredths of
28 one percent or more by weight of alcohol in such person's
29 blood;

30 (2) The defendant is not currently enrolled in, and
31 has not in the previous ten years completed, a diversion
32 program pursuant to this section;

33 (3) The defendant does not hold a commercial driver's
34 license; and

35 (4) The offense did not occur while operating a
36 commercial vehicle.

37 3. The court may continue a diverted case involving an
38 intoxicated-related traffic offense for a period not to
39 exceed twenty-four months and order the defendant to comply
40 with terms, conditions, or requirements that the court deems
41 appropriate based on the specific situation of the defendant.

42 4. The DWI diversion plan shall be for a specified
43 period and be in writing. The court has the sole authority
44 to develop diversionary program requirements, but shall
45 require installation of an ignition interlock device for a
46 period of not less than one year, and other terms deemed
47 necessary by the court.

48 5. The court shall notify the defendant that he or she
49 is required to install a functioning, certified ignition
50 interlock device on any vehicle that the person operates and
51 the person is prohibited from operating a motor vehicle
52 unless that vehicle is equipped with a functioning,
53 certified ignition interlock device pursuant to this
54 section. These requirements shall be in addition to any
55 other provisions of this chapter or chapter 302 requiring
56 installation and maintenance of an ignition interlock
57 device. Any person required to use an ignition interlock
58 device shall comply with such requirement subject to the
59 penalties provided by section 577.599.

60 6. The department of revenue shall inform the
61 defendant of the requirements of this section, including the
62 term for which the person is required to have a certified
63 ignition interlock device installed and shall notify the
64 person that installation of a functioning, certified
65 ignition interlock device on a vehicle does not allow the
66 person to drive without a valid driver's license. The
67 department shall record the mandatory use of the device for
68 the term required and the time when the device is required
69 to be installed pursuant to the court order. A person who
70 is so notified by the department shall do all of the
71 following:

72 (1) Arrange for each vehicle operated by the person to
73 be equipped with a functioning, certified ignition interlock
74 device by a certified ignition interlock device provider as
75 determined by the department;

76 (2) Provide to the department proof of installation by
77 submitting a verification of installation which shall be
78 developed by the department;

79 (3) Pay a fee, as determined by the department, that
80 is sufficient to cover the costs of administration of this
81 section; and

82 (4) Arrange for each vehicle with a functioning,
83 certified ignition interlock device to be serviced by the
84 installer at least once every sixty days for the installer
85 to recalibrate and monitor the operation of the device.

86 7. The certified ignition interlock device provider
87 shall notify the department:

88 (1) If the device is removed or indicates that the
89 person has attempted to remove, bypass, or tamper with the
90 device;

91 (2) If the person fails three or more times to comply
92 with any requirement for the maintenance or calibration of
93 the ignition interlock device; or

94 (3) If the device registers a failed start.

95 If a person has any failed start that occurs within the last
96 sixty days of the required period of installation of the
97 ignition interlock device, the term shall be extended for a
98 period of ninety days.

99 8. After the completion of the DWI diversion program
100 and if the defendant has complied with all the imposed terms
101 and conditions, the court shall dismiss the criminal case
102 against the defendant, record the dismissal, and transmit
103 the record to the Missouri uniform law enforcement system
104 (MULES).

105 9. If the defendant is not complying with the terms
106 and conditions of the DWI diversion program, after notice to
107 the defendant, the court shall hold a hearing to determine
108 whether the criminal proceedings should be reinstated. If
109 the court finds that the defendant has not complied with the

110 terms and conditions of the diversion program, the court may
111 end the diversion program and order the criminal proceedings
112 reinstated.

113 10. Any defendant who is found guilty of any
114 intoxicated-related traffic offense and who has previously
115 utilized the DWI diversion program pursuant to this section,
116 shall be considered a prior offender as defined in section
117 577.001.

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