

FIRST REGULAR SESSION  
[PERFECTED]  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 600, 337 & 413**  
**96TH GENERAL ASSEMBLY**

1167L.04P

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 43.260, 43.265, 70.695, 87.005, 87.006, 302.302, 302.309, 304.820, 306.111, 306.112, 306.113, 306.114, 306.116, 306.117, 306.118, 306.119, 306.130, 565.024, 565.035, 565.081, 565.083, 569.100, 570.080, 575.060, 577.023, RSMo, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session and section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house bill no. 683, ninety-fifth general assembly, first regular session, and to enact in lieu thereof thirty new sections relating to public safety, with penalty provisions.

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

Section A. Sections 43.260, 43.265, 70.695, 87.005, 87.006, 302.302, 302.309, 304.820, 306.111, 306.112, 306.113, 306.114, 306.116, 306.117, 306.118, 306.119, 306.130, 565.024, 565.035, 565.081, 565.083, 569.100, 570.080, 575.060, and 577.023, RSMo, section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 62, ninety-fifth general assembly, first regular session and section 565.082 as enacted by conference committee substitute for senate substitute for senate committee substitute for house bill no. 683, ninety-fifth general assembly, first regular session, are repealed and thirty new sections enacted in lieu thereof, to be known as sections 43.260, 43.265, 70.695, 87.005, 87.006, 302.302, 302.309, 304.820, 304.890, 304.892, 304.894, 306.111, 306.112, 306.113, 306.114, 306.116, 306.117, 306.118, 306.119, 306.130, 565.024, 565.035, 565.081, 565.082, 565.083, 569.100, 570.080, 575.060, 577.023, and 577.665 to read as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

43.260. Notwithstanding other provisions of law to the contrary, the Missouri state highway patrol is hereby authorized to sell surplus highway patrol motor vehicles, **watercraft, watercraft motors, and trailers**. Sales to municipal, county, political subdivisions or state governmental agencies shall be given preference over sales to the general public. Vehicles, **watercraft, watercraft motors, and trailers** may be offered for sale only after approval is given in writing by the commissioner of administration and an evaluation is made of each [vehicle] **asset** and a price determined by the commissioner of administration. The highway patrol shall accept not less than the amount authorized by the commissioner of administration for the sale of vehicles, **watercraft, watercraft motors, and trailers**.

43.265. There is hereby created in the state treasury the "Highway Patrol's Motor Vehicle [and] , Aircraft, and Watercraft Revolving Fund", which shall be administered by the superintendent of the highway patrol. All funds received by the highway patrol from:

(1) Any source for purchase of highway patrol motor vehicles, **watercraft, watercraft motors, and trailers**;

(2) Any source for reimbursement of costs associated with the official use of highway patrol vehicles;

(3) Any source for restitution for damage to or loss of a highway patrol vehicle or aircraft;

(4) Any other source for the purchase of highway patrol aircraft or aircraft parts; and

(5) Government agencies for the reimbursement of costs associated with aircraft flights flown on their behalf by the highway patrol;

13

shall be credited to the fund. The state treasurer is the custodian of the fund and shall approve disbursements from the fund subject to appropriation and as provided by law and the constitution of this state at the request of the superintendent of the highway patrol. The balances from this fund shall be used for the purchase of highway patrol motor vehicles, **highway patrol watercraft, watercraft motors, and trailers**, highway patrol aircraft or aircraft parts and operational costs. Any unexpended balance in the fund at the end of the fiscal year shall be exempt from the provisions of section 33.080 relating to the transfer of unexpended balances to the general revenue fund.

70.695. The right of a person to an allowance, to the return of accumulated contributions, the allowance itself, any allowance option, and any other right accrued or accruing under the provisions of sections 70.600 to 70.755, and all moneys belonging to the system shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or to any other process of law whatsoever, and shall be unassignable, except as is specifically provided in sections 70.600 to 70.755; except that:

7 (1) Any political subdivision shall have the right of setoff for any claim arising from  
8 embezzlement by or fraud of a member, retirant, or beneficiary; [and]

9 (2) Such rights shall not be exempt from attachment or execution in a proceeding  
10 instituted for the support and maintenance of children. In all such actions described in this  
11 subdivision, the system shall be entitled to collect a fee of up to twenty dollars chargeable against  
12 the person for each delinquent attachment, execution, sequestration or garnishment payment;  
13 **and**

14 (3) **A retirant may authorize the board to have deducted from his or her allowance**  
15 **the payments required of him or her to provide for health insurance or long-term care**  
16 **insurance premiums in accordance with Section 402 of the Internal Revenue Code of 1986,**  
17 **as amended.**

87.005. 1. Notwithstanding the provisions of any law to the contrary, after five years'  
2 service, any condition of impairment of health caused by any **infectious disease or** disease of  
3 the lungs or respiratory tract, hypertension, or disease of the heart resulting in total or partial  
4 disability or death to a uniformed member of a paid fire department, who successfully passed a  
5 physical examination within five years prior to the time a claim is made for such disability or  
6 death, which examination failed to reveal any evidence of such condition, shall be presumed to  
7 have been suffered in line of duty, unless the contrary be shown by competent evidence. **In order**  
8 **to receive the presumption that an infectious disease was contracted in the line of duty, the**  
9 **member shall submit to an annual physical examination, at which a blood test is**  
10 **administered.**

11 2. This section shall apply only to the provisions of chapter 87, RSMo 1959.

12 3. **As used in this section, the term "infectious disease" means the human**  
13 **immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A,**  
14 **hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis,**  
15 **methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
16 **acute respiratory syndrome.**

87.006. 1. Notwithstanding the provisions of any law to the contrary, and only for the  
2 purpose of computing retirement benefits provided by an established retirement plan, after five  
3 years' service, any condition of impairment of health caused by any **infectious disease or** disease  
4 of the lungs or respiratory tract, hypotension, hypertension, or disease of the heart resulting in  
5 total or partial disability or death to a uniformed member of a paid fire department, who  
6 successfully passed a physical examination within five years prior to the time a claim is made  
7 for such disability or death, which examination failed to reveal any evidence of such condition,  
8 shall be presumed to have been suffered in the line of duty, unless the contrary be shown by  
9 competent evidence.

10           2. Any condition of cancer affecting the skin or the central nervous, lymphatic, digestive,  
 11 hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver or prostate systems,  
 12 as well as any condition of cancer which may result from exposure to heat or radiation or to a  
 13 known or suspected carcinogen as determined by the International Agency for Research on  
 14 Cancer, which results in the total or partial disability or death to a uniformed member of a paid  
 15 fire department who successfully passed a physical examination within five years prior to the  
 16 time a claim is made for disability or death, which examination failed to reveal any evidence of  
 17 such condition, shall be presumed to have been suffered in the line of duty unless the contrary  
 18 be shown by competent evidence and it can be proven to a reasonable degree of medical certainty  
 19 that the condition did not result nor was contributed to by the voluntary use of tobacco.

20           3. This section shall apply to paid members of all fire departments of all counties, cities,  
 21 towns, fire districts, and other governmental units.

22           **4. As used in this section, the term "infectious disease" means the human**  
 23 **immunodeficiency virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A,**  
 24 **hepatitis B, hepatitis C, hepatitis D, diphtheria, meningococcal meningitis,**  
 25 **methicillin-resistant staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe**  
 26 **acute respiratory syndrome.**

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

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

8           (2) Speeding In violation of a state law . . . . . 3 points  
 9 In violation of a county or municipal ordinance . . . . . 2 points

10          (3) Leaving the scene of an accident in violation of section 577.060 . . . . . 12 points  
 11 In violation of any county or municipal ordinance . . . . . 6 points

12          (4) Careless and imprudent driving in violation of subsection [4] **1** of section [304.016]  
 13 **304.012** . . . . . 4 points  
 14 In violation of a county or municipal ordinance . . . . . 2 points

15          (5) Operating without a valid license in violation of subdivision (1) or (2) of subsection  
 16 1 of section 302.020:

17          (a) For the first conviction . . . . . 2 points

18          (b) For the second conviction . . . . . 4 points

19          (c) For the third conviction . . . . . 6 points

- 20 (6) Operating with a suspended or revoked license prior to restoration of operating
- 21 privileges ..... 12 points
- 22 (7) Obtaining a license by misrepresentation ..... 12 points
- 23 (8) For the first conviction of driving while in an intoxicated condition or under the
- 24 influence of controlled substances or drugs ..... 8 points
- 25 (9) For the second or subsequent conviction of any of the following offenses however
- 26 combined: driving while in an intoxicated condition, driving under the influence of controlled
- 27 substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent
- 28 or more by weight ..... 12 points
- 29 (10) For the first conviction for driving with blood alcohol content eight-hundredths of
- 30 one percent or more by weight In violation of state law ..... 8 points
- 31 In violation of a county or municipal ordinance or federal law or regulation ..... 8 points
- 32 (11) Any felony involving the use of a motor vehicle ..... 12 points
- 33 (12) Knowingly permitting unlicensed operator to operate a motor vehicle..... 4 points
- 34 (13) For a conviction for failure to maintain financial responsibility pursuant to county
- 35 or municipal ordinance or pursuant to section 303.025 ..... 4 points
- 36 (14) Endangerment of a highway worker in violation of section 304.585 ... 4 points
- 37 (15) Aggravated endangerment of a highway worker in violation of
- 38 section 304.585 ..... 12 points
- 39 (16) For a conviction of violating a municipal ordinance that prohibits tow truck
- 40 operators from stopping at or proceeding to the scene of an accident unless they have been
- 41 requested to stop or proceed to such scene by a party involved in such accident or by an officer
- 42 of a public safety agency ..... 4 points
- 43 **(17) Endangerment of emergency personnel or emergency responder in violation**
- 44 **of section 304.894 ..... 4 points**
- 45 **(18) Aggravated endangerment of emergency personnel or emergency responder**
- 46 **in violation of section 304.894 ..... 12 points**
- 47 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
- 48 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section
- 49 302.020, when the director issues such operator a license or permit pursuant to the provisions
- 50 of sections 302.010 to 302.340.
- 51 3. An additional two points shall be assessed when personal injury or property damage
- 52 results from any violation listed in subdivisions (1) to (13) of subsection 1 of this section and if
- 53 found to be warranted and certified by the reporting court.
- 54 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
- 55 section constitutes both a violation of a state law and a violation of a county or municipal

56 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an  
57 offense arising out of the same occurrence could be construed to be a violation of subdivisions  
58 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more  
59 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for  
60 offenses arising out of the same occurrence.

61         5. The director of revenue shall put into effect a system for staying the assessment of  
62 points against an operator. The system shall provide that the satisfactory completion of a  
63 driver-improvement program or, in the case of violations committed while operating a  
64 motorcycle, a motorcycle-rider training course approved by the state highways and transportation  
65 commission, by an operator, when so ordered and verified by any court having jurisdiction over  
66 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a  
67 violation committed in a commercial motor vehicle as defined in section 302.700 or a violation  
68 committed by an individual who has been issued a commercial driver's license or is required to  
69 obtain a commercial driver's license in this state or any other state, shall be accepted by the  
70 director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4)  
71 of subsection 1 of this section or pursuant to subsection 3 of this section. A court using a  
72 centralized violation bureau established under section 476.385 may elect to have the bureau order  
73 and verify completion of a driver-improvement program or motorcycle-rider training course as  
74 prescribed by order of the court. For the purposes of this subsection, the driver-improvement  
75 program shall meet or exceed the standards of the National Safety Council's eight-hour  
76 "Defensive Driving Course" or, in the case of a violation which occurred during the operation  
77 of a motorcycle, the program shall meet the standards established by the state highways and  
78 transportation commission pursuant to sections 302.133 to 302.137. The completion of a  
79 driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu  
80 of points more than one time in any thirty-six-month period and shall be completed within sixty  
81 days of the date of conviction in order to be accepted in lieu of the assessment of points. Every  
82 court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days  
83 after completion of the driver-improvement program or motorcycle-rider training course by an  
84 operator, forward a record of the completion to the director, all other provisions of the law to the  
85 contrary notwithstanding. The director shall establish procedures for record keeping and the  
86 administration of this subsection.

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

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

7           3. (1) All circuit courts, the director of revenue, or a commissioner operating under  
8 section 478.007 shall have jurisdiction to hear applications and make eligibility determinations  
9 granting limited driving privileges. Any application may be made in writing to the director of  
10 revenue and the person's reasons for requesting the limited driving privilege shall be made  
11 therein.

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

14           (a) [A business, occupation, or] **Driving to and from the operator's place of**  
15 employment;

16           (b) [Seeking medical treatment for such operator;

17           (c)] Attending school or other institution of higher education;

18           [(d)] (c) Attending alcohol or drug treatment programs; **or**

19           [(e)] (d) Seeking the required services of a certified ignition interlock device provider;

20 [or

21           (f) Any other circumstance the court or director finds would create an undue hardship  
22 on the operator;] 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 would result to the  
24 individual, and while so operating a motor vehicle within the restrictions and limitations of the  
25 limited driving privilege the driver shall not be guilty of operating a motor vehicle without a  
26 valid license.

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

40 privilege must state such restriction. When operating such vehicle under such restriction the  
41 person shall carry proof that the owner has complied with chapter 303 for that vehicle.

42 (4) No limited driving privilege shall be issued to any person otherwise eligible under  
43 the provisions of paragraph (a) of subdivision (6) of this subsection on a license revocation  
44 resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or a license  
45 denial under paragraph (a) or (b) of subdivision (8) of this subsection, until the applicant has  
46 filed proof with the department of revenue that any motor vehicle operated by the person is  
47 equipped with a functioning, certified ignition interlock device as a required condition of limited  
48 driving privilege.

49 (5) The court order or the director's grant of the limited or restricted driving privilege  
50 shall indicate the termination date of the privilege, which shall be not later than the end of the  
51 period of suspension or revocation. A copy of any court order shall be sent by the clerk of the  
52 court to the director, and a copy shall be given to the driver which shall be carried by the driver  
53 whenever such driver operates a motor vehicle. The director of revenue upon granting a limited  
54 driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant  
55 shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction  
56 which results in the assessment of points pursuant to section 302.302, other than a violation of  
57 a municipal stop sign ordinance where no accident is involved, against a driver who is operating  
58 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points  
59 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the  
60 limited driving privilege, the privilege shall not be terminated. Failure of the driver to maintain  
61 proof of financial responsibility, as required by chapter 303, or to maintain proof of installation  
62 of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege.  
63 The director shall notify by ordinary mail the driver whose privilege is so terminated.

64 (6) Except as provided in subdivision (8) of this subsection, no person is eligible to  
65 receive a limited driving privilege who at the time of application for a limited driving privilege  
66 has previously been granted such a privilege within the immediately preceding five years, or  
67 whose license has been suspended or revoked for the following reasons:

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

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

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

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

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

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

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

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

94 (8) (a) Provided that pursuant to the provisions of this section, the applicant is not  
95 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the  
96 manner prescribed in this subsection, allow a person who has had such person's license to operate  
97 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,  
98 as prescribed in subdivision (9) **of subsection 1** of section 302.060, to apply for a limited driving  
99 privilege pursuant to this subsection if such person has served at least three years of such  
100 disqualification or revocation. Such person shall present evidence satisfactory to the court or the  
101 director that such person has not been convicted of any offense related to alcohol, controlled  
102 substances or drugs during the preceding three years and that the person's habits and conduct  
103 show that the person no longer poses a threat to the public safety of this state.

104 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise  
105 ineligible for a limited driving privilege or convicted of involuntary manslaughter while  
106 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the  
107 manner prescribed in this subsection, allow a person who has had such person's license to operate  
108 a motor vehicle revoked where that person cannot obtain a new license for a period of five years  
109 because of two convictions of driving while intoxicated, as prescribed in subdivision (10) **of**  
110 **subsection 1** of section 302.060, to apply for a limited driving privilege pursuant to this  
111 subsection if such person has served at least two years of such disqualification or revocation.

112 Such person shall present evidence satisfactory to the court or the director that such person has  
113 not been convicted of any offense related to alcohol, controlled substances or drugs during the  
114 preceding two years and that the person's habits and conduct show that the person no longer  
115 poses a threat to the public safety of this state. Any person who is denied a license permanently  
116 in this state because of an alcohol-related conviction subsequent to a restoration of such person's  
117 driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited  
118 driving privilege pursuant to the provisions of this subdivision.

119 (9) A DWI docket or court established under section 478.007 may grant a limited driving  
120 privilege to a participant in or graduate of the program who would otherwise be ineligible for  
121 such privilege under another provision of law. The DWI docket or court shall not grant a limited  
122 driving privilege to a participant during his or her initial forty-five days of participation.

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

130 5. The director of revenue shall promulgate rules and regulations necessary to carry out  
131 the provisions of this section. Any rule or portion of a rule, as that term is defined in section  
132 536.010, that is created under the authority delegated in this section shall become effective only  
133 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section  
134 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the  
135 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove  
136 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority  
137 and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

304.820. 1. Except as otherwise provided in this section, no person [twenty-one years  
2 of age or younger] operating a moving motor vehicle upon the highways of this state shall, by  
3 means of a hand-held electronic wireless communications device, send, read, or write a text  
4 message or electronic message, **unless the device is equipped with technology allowing for**  
5 **voice-recognition hands-free texting and is being used in such manner.**

6 2. The provisions of subsection 1 of this section shall not apply to a person operating:

7 (1) An authorized emergency vehicle; or

8 (2) A moving motor vehicle while using a hand-held electronic wireless communications  
9 device to:

10 (a) Report illegal activity;

- 11 (b) Summon medical or other emergency help;
- 12 (c) Prevent injury to a person or property; or
- 13 (d) Relay information between a transit or for-hire operator and that operator's  
14 dispatcher, in which the device is permanently affixed to the vehicle.
- 15 3. Nothing in this section shall be construed or interpreted as prohibiting a person from  
16 making or taking part in a telephone call, by means of a hand-held electronic wireless  
17 communications device, while operating a motor vehicle upon the highways of this state.
- 18 4. As used in this section, "electronic message" means a self-contained piece of digital  
19 communication that is designed or intended to be transmitted between hand-held electronic  
20 wireless communication devices. "Electronic message" includes, but is not limited to, electronic  
21 mail, a text message, an instant message, or a command or request to access an internet site.
- 22 5. As used in this section, "hand-held electronic wireless communications device"  
23 includes any hand-held cellular phone, palm pilot, blackberry, or other mobile electronic device  
24 used to communicate verbally or by text or electronic messaging, but shall not apply to any  
25 device that is permanently embedded into the architecture and design of the motor vehicle.
- 26 6. As used in this section, "making or taking part in a telephone call" means listening to  
27 or engaging in verbal communication through a hand-held electronic wireless communication  
28 device.
- 29 7. As used in this section, "send, read, or write a text message or electronic message"  
30 means using a hand-held electronic wireless telecommunications device to manually  
31 communicate with any person by using an electronic message. Sending, reading, or writing a  
32 text message or electronic message does not include reading, selecting, or entering a phone  
33 number or name into a hand-held electronic wireless communications device for the purpose of  
34 making a telephone call.
- 35 8. A violation of this section shall be deemed an infraction and shall be deemed a  
36 moving violation for purposes of point assessment under section 302.302, RSMo.
- 37 9. The state preempts the field of regulating the use of hand-held electronic wireless  
38 communications devices in motor vehicles, and the provisions of this section shall supercede any  
39 local laws, ordinances, orders, rules, or regulations enacted by a county, municipality, or other  
40 political subdivision to regulate the use of hand-held electronic wireless communication devices  
41 by the operator of a motor vehicle.
- 42 10. The provisions of this section shall not apply to:
- 43 (1) The operator of a vehicle that is lawfully parked or stopped;
- 44 (2) Any of the following while in the performance of their official duties: a law  
45 enforcement officer; a member of a fire department; or the operator of a public or private  
46 ambulance;

47 (3) The use of factory-installed or aftermarket global positioning systems (GPS) or  
48 wireless communications devices used to transmit or receive data as part of a digital dispatch  
49 system;

50 (4) The use of voice-operated technology;

51 (5) The use of two-way radio transmitters or receivers by a licensee of the Federal  
52 Communications Commission in the Amateur Radio Service.

**304.890. As used in sections 304.890 to 304.894, the term "active emergency zone" is defined as any area upon or around any highway as defined in section 302.010 which is visibly marked by emergency personnel performing work for the purpose of emergency response or an area where an active emergency or incident removal is temporarily occurring. The term "active emergency zone" also includes the lanes of highway leading up to the area upon which an activity described in this subsection is being performed, beginning at the point where appropriate signs or traffic control devices are posted or placed. As used in sections 304.890 to 304.894, the term "active emergency" means any incident occurring on a public highway or the right-of-way of a public highway that requires emergency services from police or highway patrol officers, firefighters, first responders, emergency medical workers, tow truck operators, or other emergency personnel. The terms "emergency personnel" or "emergency responder" as used in sections 304.890 to 304.894 shall mean any police officer, firefighter, highway patrol officer, first responder, emergency medical worker, tow truck operator or other emergency personnel responding to an emergency on a public highway or the right-of-way of a public highway.**

**304.892. 1. Upon the first conviction or plea of guilty by any person for a moving violation as defined in section 302.010 or any offense listed in section 302.302, other than those listed in subsection 2 of this section, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within an active emergency zone. Upon a second or subsequent such conviction or plea of guilty, the court shall assess a fine of seventy-five dollars in addition to any other fine authorized to be imposed by law.**

**2. Upon the first conviction or plea of guilty by any person for a speeding violation under either section 304.009 or 304.010, or a passing violation under subsection 4 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law if the offense occurred within an active emergency zone and at the time the speeding or passing violation occurred there were any emergency personnel or emergency responders in such zone. Upon a second or subsequent such conviction or plea of guilty, the court shall assess a fine of three hundred dollars in addition to any other fine**

15 authorized by law. However, no person assessed an additional fine under this subsection  
16 shall also be assessed an additional fine under subsection 1 of this section, and no person  
17 shall be assessed an additional fine under this subsection if the area is not visibly marked  
18 by emergency personnel under subsection 3 of this section.

19 **3. The penalty authorized by subsection 2 of this section shall only be assessed by**  
20 **the court if the emergency personnel or emergency responder has visibly marked the active**  
21 **emergency zone.**

22 **4. The driver of a motor vehicle may not overtake or pass another motor vehicle**  
23 **within an active emergency zone as provided in this subsection. Violation of this subsection**  
24 **is a class C misdemeanor.**

25 **5. The additional fines imposed by this section shall not be construed to enhance**  
26 **the assessment of court costs or the assessment of points under section 302.302.**

**304.894. 1. A person shall be deemed to commit the offense of endangerment of**  
2 **emergency personnel or emergency responder upon conviction for any of the following**  
3 **when the offense occurs within an active emergency zone, as defined in section 304.890:**

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

5 **(2) Passing in violation of subsection 4 of section 304.892;**

6 **(3) Failure to stop for an active emergency zone flagman or emergency personnel,**  
7 **or failure to obey traffic control devices erected or personnel posted in the active**  
8 **emergency zone for purposes of controlling the flow of motor vehicles through the zone;**

9 **(4) Driving through or around an active emergency zone by any lane not clearly**  
10 **designated to motorists for the flow of traffic through or around the active emergency**  
11 **zone;**

12 **(5) Physically assaulting, or attempting to assault, or threatening to assault an**  
13 **emergency responder in an active emergency zone, with a motor vehicle or other**  
14 **instrument;**

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

20 **(7) Committing any of the following offenses for which points may be assessed**  
21 **under section 302.302:**

22 **(a) Leaving the scene of an accident in violation of section 577.060;**

23 **(b) Careless and imprudent driving in violation of subsection 4 of section 304.016;**

24 (c) Operating without a valid license in violation of subdivision (1) or (2) of  
25 subsection 1 of section 302.020;

26 (d) Operating with a suspended or revoked license in violation of section 302.321;

27 (e) Driving while in an intoxicated condition or under the influence of controlled  
28 substances or drugs or driving with an excessive blood alcohol content in violation of  
29 sections 577.010 and 577.012; or

30 (f) Any felony involving the use of a motor vehicle.

31 2. Upon conviction or a plea of guilty for committing the offense of endangerment  
32 of an emergency responder under subsection 1 of this section if no injury or death to an  
33 emergency responder resulted from the offense, in addition to any other penalty authorized  
34 by law, the person shall be subject to a fine of not more than one thousand dollars and  
35 shall have four points assessed to his or her driver's license under section 302.302.

36 3. A person shall be deemed to commit the offense of aggravated endangerment of  
37 an emergency responder upon conviction or a plea of guilty for any offense under  
38 subsection 1 of this section when such offense occurs in an active emergency zone as  
39 defined in section 304.890 and results in the injury or death of an emergency responder.  
40 Upon conviction or a plea of guilty for committing the offense of aggravated endangerment  
41 of an emergency responder, in addition to any other penalty authorized by law, the person  
42 shall be subject to a fine of not more than five thousand dollars if the offense resulted in  
43 injury to an emergency responder and ten thousand dollars if the offense resulted in death  
44 to an emergency responder. In addition, such person shall have twelve points assessed to  
45 their driver's license under section 302.302 and shall be subject to the provisions of section  
46 302.304 regarding the revocation of the person's license and driving privileges.

47 4. Except for the offense established under subdivision (6) of subsection 1 of this  
48 section, no person shall be deemed to commit the offense of endangerment of an emergency  
49 responder except when the act or omission constituting the offense occurred when one or  
50 more emergency responders were responding to an active emergency as defined in section  
51 304.890.

52 5. No person shall be cited or convicted for endangerment of an emergency  
53 responder or aggravated endangerment of an emergency responder, for any act or  
54 omission otherwise constituting an offense under subsection 1 of this section, if such act or  
55 omission resulted in whole or in part from mechanical failure of the person's vehicle or  
56 from the negligence of another person or emergency responder.

306.111. 1. A person commits the crime of negligent operation of a vessel if when  
2 operating a vessel he or she acts with criminal negligence, as defined in subsection 5 of section  
3 562.016, to cause physical injury to any other person or damage to the property of any other

4 person. A person convicted of negligent operation of a vessel is guilty of a class B misdemeanor  
5 upon conviction for the first violation, guilty of a class A misdemeanor upon conviction for the  
6 second violation, and guilty of a class D felony for conviction for the third and subsequent  
7 violations.

8 2. A person commits the crime of operating a vessel while intoxicated if he or she  
9 operates a vessel on the [Mississippi River, Missouri River or the lakes] **waters** of this state  
10 while in an intoxicated condition. Operating a vessel while intoxicated is a class B  
11 misdemeanor.

12 3. A person commits the crime of involuntary manslaughter with a vessel if, while in an  
13 intoxicated condition, he or she operates any vessel and, when so operating, acts with criminal  
14 negligence to cause the death of any person. Involuntary manslaughter with a vessel is a class  
15 C felony.

16 4. A person commits the crime of assault with a vessel in the second degree if, while in  
17 an intoxicated condition, he or she operates any vessel and, when so operating, acts with criminal  
18 negligence to cause physical injury to any other person. Assault with a vessel in the second  
19 degree is a class D felony.

20 5. For purposes of this section, a person is in an intoxicated condition when he or she  
21 is under the influence of alcohol, a controlled substance or drug, or any combination thereof.

22 **6. For purposes of sections 306.111 to 306.118, the term "vessel" means every**  
23 **motorboat and every description of motorized watercraft, and any watercraft more than**  
24 **twelve feet in length which is powered by sail alone or by a combination of sail and**  
25 **machinery, used or capable of being used as a means of transportation on water, but not**  
26 **any watercraft having as the only means of propulsion a paddle or oars.**

306.112. 1. A person commits the crime of operating a vessel with excessive blood  
2 alcohol content if such person operates a vessel on the [Mississippi River, Missouri River or the  
3 lakes] **waters** of this state with eight-hundredths of one percent or more by weight of alcohol in  
4 such person's blood.

5 2. As used in this section, percent by weight of alcohol in the blood shall be based upon  
6 grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis  
7 of the person's blood, breath, urine, or saliva.

8 3. Operating a vessel with excessive blood alcohol content is a class B misdemeanor.

306.113. 1. For purposes of sections [306.111] **306.110** to 306.119, the term "operate"  
2 means to physically control the movement of a vessel in motion under mechanical or sail power  
3 in water.

4 2. No arrest shall be made under sections [306.111] **306.110** to 306.119 unless probable  
5 cause exists for that arrest.

306.114. 1. No person convicted of or pleading guilty to a violation of section **306.110**, 306.111, or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on probation for a minimum of two years and a record of the conviction or plea of guilty is entered into the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol.

2. Chemical tests of a person's blood, breath, urine, or saliva to be considered valid under the provisions of sections [306.111] **306.110** to 306.119 shall be performed according to methods and devices approved by the department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the department of health and senior services for this purpose. In addition, any state, county, or municipal law enforcement officer who is certified pursuant to chapter 590 may, prior to arrest, administer a portable chemical test to any person suspected of operating any vessel in violation of section **306.110**, 306.111, or 306.112. A portable chemical test shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this section.

3. The department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections [306.111] **306.110** to 306.119, and shall establish standards as to the qualifications and competence of individuals to conduct analyses and to issue permits which shall be subject to termination, suspension or revocation by the department of health and senior services.

4. A licensed physician, registered nurse, or trained medical technician, acting at the request and direction of a law enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of the blood, unless the medical personnel, in the exercise of good faith medical judgment, believes such procedure would endanger the life or health of the person in custody. Blood may be withdrawn only by such medical personnel, but such restriction shall not apply to the taking of a breath test or a urine or saliva specimen. In withdrawing blood for the purpose of determining the alcohol content in the blood, only a previously unused and sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict accord with accepted medical practices. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to such person.

5. No person who administers any test pursuant to the provisions of sections [306.111] **306.110** to 306.119 upon the request of a law enforcement officer, no hospital in or with which such person is employed or is otherwise associated or in which such test is administered, and no other person, firm, or corporation by whom or with which such person is employed or is in any

37 way associated shall be civilly liable for damages to the person tested, except for negligence in  
38 administering of the test or for willful and wanton acts or omissions.

39 6. Any person who is dead, unconscious or who is otherwise in a condition rendering  
40 such person incapable of refusing to take a test as provided in sections [306.111] **306.110** to  
41 306.119 shall be deemed not to have withdrawn the consent provided by section 306.116 and the  
42 test or tests may be administered.

306.116. 1. Any person who operates a vessel upon the [Mississippi River, Missouri  
2 River or the lakes] **waters** of this state shall be deemed to have given consent to, subject to the  
3 provisions of sections [306.111] **306.110** to 306.119, a chemical test or tests of such person's  
4 breath, blood, urine, or saliva for the purpose of determining the alcohol or drug content of such  
5 person's blood if arrested for any offense arising out of acts which the arresting law enforcement  
6 officer had reasonable grounds to believe were committed while the person was operating a  
7 vessel upon the [Mississippi River, Missouri River or lakes] **waters** of this state in violation of  
8 section **306.110**, 306.111, or 306.112. The test shall be administered at the direction of the  
9 arresting law enforcement officer whenever the person has been arrested for the offense.

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

13 3. The person tested may have a physician, or a qualified technician, chemist, registered  
14 nurse, or other qualified person of such person's choosing and at such person's expense  
15 administer a test in addition to any administered at the direction of a law enforcement officer.  
16 The failure or inability to obtain an additional test by a person shall not preclude the admission  
17 of evidence relating to the test taken at the direction of a law enforcement officer.

18 4. Upon the request of the person who is tested, full information concerning the test shall  
19 be made available to such person.

306.117. 1. Upon the trial of any person for violation of any of the provisions of section  
2 **306.110**, 306.111, or 306.112 the amount of alcohol or drugs in the person's blood at the time  
3 of the act alleged as shown by any chemical analysis of the person's blood, breath, urine, or saliva  
4 is admissible in evidence and the provisions of subdivision (5) of section 491.060 shall not  
5 prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of  
6 alcohol in a person's blood shall be given the following effect:

7 (1) If there was five-hundredths of one percent or less by weight of alcohol in such  
8 person's blood, it shall be presumed that the person was not intoxicated at the time the specimen  
9 was obtained;

10 (2) If there was in excess of five-hundredths of one percent but less than  
11 eight-hundredths of one percent by weight of alcohol in such person's blood, the fact shall not

12 give rise to any presumption that the person was or was not intoxicated, but the fact may be  
13 considered with other competent evidence in determining whether the person was intoxicated;

14 (3) If there was eight-hundredths of one percent or more by weight of alcohol in the  
15 person's blood, this shall be prima facie evidence that the person was intoxicated at the time the  
16 specimen was taken.

17 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per  
18 one hundred milliliters of blood.

19 3. A chemical analysis of a person's breath, blood, urine, or saliva, in order to give rise  
20 to the presumption or to have the effect provided for in subsection 1 of this section, shall have  
21 been performed as provided in sections [306.111] **306.110** to 306.119 and in accordance with  
22 methods and standards approved by the department of health and senior services.

23 4. The provisions of this section shall not be construed as limiting the introduction of  
24 any other competent evidence bearing upon the question whether the person was intoxicated or  
25 under the influence of a controlled substance, or drug, or a combination of either or both with  
26 or without alcohol.

306.118. 1. For purposes of this section, unless the context clearly indicates otherwise,  
2 the following terms mean:

3 (1) "Aggravated offender", a person who:

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

6 (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related  
7 boating offenses and any of the following: involuntary manslaughter under subsection 3 of  
8 section 306.111; **involuntary manslaughter involving a vessel under section 565.024**; assault  
9 with a vessel in the second degree under subsection 4 of section 306.111, or assault of a law  
10 enforcement officer in the second degree under subdivision (4) of subsection 1 of section  
11 565.082;

12 (2) "Chronic offender":

13 (a) A person who has pleaded guilty to or has been found guilty of four or more  
14 intoxication-related boating offenses; or

15 (b) A person who has pleaded guilty to or has been found guilty of, on two or more  
16 separate occasions, any combination of the following: involuntary manslaughter under subsection  
17 3 of section 306.111; **involuntary manslaughter involving a vessel under section 565.024**;  
18 assault with a vessel in the second degree under subsection 4 of section 306.111; or assault of  
19 a law enforcement officer in the second degree under subdivision (4) of subsection 1 of section  
20 565.082; or

21 (c) A person who has pleaded guilty to or has been found guilty of two or more  
22 intoxication-related boating offenses and any of the following: involuntary manslaughter under  
23 subsection 3 of section 306.111; **involuntary manslaughter involving a vessel under section**  
24 **565.024**; assault with a vessel in the second degree under subsection 4 of section 306.111; or  
25 assault of a law enforcement officer in the second degree under subdivision (4) of subsection 1  
26 of section 565.082;

27 (3) "Intoxication-related boating offense", operating a vessel while intoxicated under  
28 subsection 2 of section 306.111; operating a vessel with excessive blood alcohol content under  
29 section 306.112; involuntary manslaughter under subsection 3 of section 306.111; **involuntary**  
30 **manslaughter involving a vessel under section 565.024**; assault with a vessel in the second  
31 degree under subsection 4 of section 306.111; any violation of subsection 2 of section 306.110;  
32 or assault of a law enforcement officer in the second degree under subdivision (4) of subsection  
33 1 of section 565.082;

34 (4) "Persistent offender", one of the following:

35 (a) A person who has pleaded guilty to or has been found guilty of two or more  
36 intoxication-related boating offenses;

37 (b) A person who has pleaded guilty to or has been found guilty of involuntary  
38 manslaughter under subsection 3 of section 306.111[,] ; **involuntary manslaughter involving**  
39 **a vessel under section 565.024**; assault in the second degree under subsection 4 of section  
40 306.111 [,] ; assault of a law enforcement officer in the second degree under subdivision (4) of  
41 subsection 1 of section 565.082;

42 (5) "Prior offender", a person who has pleaded guilty to or has been found guilty of one  
43 intoxication-related boating offense, where such prior offense occurred within five years of the  
44 occurrence of the intoxication-related boating offense for which the person is charged.

45 2. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of  
46 section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a prior  
47 offender shall be guilty of a class A misdemeanor.

48 3. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of  
49 section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a  
50 persistent offender shall be guilty of a class D felony.

51 4. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of  
52 section 306.110, section 306.111, or section 306.112, who is alleged and proved to be an  
53 aggravated offender shall be guilty of a class C felony.

54 5. Any person who pleads guilty to or is found guilty of a violation of subsection 2 of  
55 section 306.110, section 306.111, or section 306.112 who is alleged and proved to be a chronic  
56 offender shall be guilty of a class B felony.

57           6. No state, county, or municipal court shall suspend the imposition of sentence as to a  
58 prior offender, persistent offender, aggravated offender, or chronic offender under this section,  
59 nor sentence such person to pay a fine in lieu of a term of imprisonment, notwithstanding the  
60 provisions of section 557.011 to the contrary notwithstanding. No prior offender shall be eligible  
61 for parole or probation until he or she has served a minimum of five days imprisonment, unless  
62 as a condition of such parole or probation such person performs at least thirty days of community  
63 service under the supervision of the court in those jurisdictions which have a recognized program  
64 for community service. No persistent offender shall be eligible for parole or probation until he  
65 or she has served a minimum of ten days imprisonment, unless as a condition of such parole or  
66 probation such person performs at least sixty days of community service under the supervision  
67 of the court. No aggravated offender shall be eligible for parole or probation until he or she has  
68 served a minimum of sixty days imprisonment. No chronic offender shall be eligible for parole  
69 or probation until he or she has served a minimum of two years imprisonment.

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

72           (1) The indictment or information, original or amended, or the information in lieu of an  
73 indictment pleads all essential facts warranting a finding that the defendant is a prior offender,  
74 persistent offender, aggravated offender, or chronic offender; and

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

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

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

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

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

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

88           12. Nothing in this section shall prevent the use of presentence investigations or  
89 commitments.

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

92 14. The pleas or findings of guilt shall be prior to the date of commission of the present  
93 offense.

94 15. The court shall not instruct the jury as to the range of punishment or allow the jury,  
95 upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of  
96 prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

306.119. 1. If an arresting officer requests a person under arrest to submit to a chemical  
2 test, such request shall include the reasons of the officer for requesting the person to submit to  
3 a test and shall inform the person that he or she may refuse such request but that such person's  
4 refusal may be used as evidence against him or her. If a person refuses a test as provided in this  
5 subsection, no test shall be given.

6 2. If a person refuses to submit to a chemical test of such person's breath, blood, urine,  
7 or saliva and that person stands trial for the crimes provided in section **306.110**, 306.111, or  
8 306.112, such refusal may be admissible into evidence at the trial.

306.130. 1. The **Missouri state highway patrol**, water patrol division, shall authorize  
2 the holding of regattas, motorboat or other watercraft races, marine parades, tournaments,  
3 parasail operations or exhibitions on any waters of this state when it has determined that said  
4 event will not create conditions of excessive danger for the participants, observers or operators  
5 of other watercraft nor unduly disrupt navigation. It shall adopt and may, from time to time,  
6 amend regulations concerning the safety of motorboats and other watercraft and persons thereon,  
7 either observers or participants. Whenever a regatta, motorboat or other watercraft race, marine  
8 parade, tournament, parasail operation or exhibition is proposed to be held, the person in charge  
9 thereof shall, at least fifteen days prior thereto, file an application with the **Missouri state** water  
10 patrol division for permission to hold the regatta, motorboat or other watercraft race, marine  
11 parade, tournament, parasail operation or exhibition, and it shall not be conducted without  
12 authorization of the **Missouri state** water patrol division in writing.

13 2. **A person who holds a permit issued by the Missouri state water patrol division**  
14 **to host a regatta, motorboat or other watercraft race, marine parade, tournament, parasail**  
15 **operation or exhibition on any waters of the state shall not knowingly violate any term of**  
16 **the permit.**

17 3. The provisions of this section shall not exempt any person from compliance with  
18 applicable federal law or regulation, but nothing contained herein shall be construed to require  
19 the securing of a state permit pursuant to this section if a permit therefor has been obtained from  
20 an authorized agency of the United States.

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree  
2 if he or she:

3 (1) Recklessly causes the death of another person; or

4 (2) While in an intoxicated condition operates a motor vehicle or vessel in this state and,  
5 when so operating, acts with criminal negligence to cause the death of any person; or

6 (3) While in an intoxicated condition operates a motor vehicle or vessel in this state, and,  
7 when so operating, acts with criminal negligence to:

8 (a) Cause the death of any person not a passenger in the vehicle or vessel operated by  
9 the defendant, including the death of an individual that results from the defendant's vehicle  
10 leaving a highway, as defined by section 301.010, or the highway's right-of-way; or vessel  
11 leaving the water; or

12 (b) Cause the death of two or more persons; or

13 (c) Cause the death of any person while he or she has a blood alcohol content of at least  
14 eighteen-hundredths of one percent by weight of alcohol in such person's blood; or

15 (4) Operates a motor vehicle in violation of subsection 2 of section 304.022, and when  
16 so operating, acts with criminal negligence to cause the death of any person authorized to operate  
17 an emergency vehicle, as defined in section 304.022, while such person is in the performance of  
18 official duties; **or**

19 (5) Operates a vessel in violation of subsections 1 and 2 of section 306.132, and when  
20 so operating acts with criminal negligence to cause the death of any person authorized to operate  
21 an emergency watercraft, as defined in section 306.132, while such person is in the performance  
22 of official duties.

23 2. Involuntary manslaughter in the first degree under subdivision (1) or (2) of subsection  
24 1 of this section is a class C felony. Involuntary manslaughter in the first degree under  
25 subdivision (3) of subsection 1 of this section is a class B felony; **except that, any person who**  
26 **has a prior conviction or plea of guilty to driving while intoxicated who violates subdivision**  
27 **(3) of this section is guilty of a class A felony.** A second or subsequent violation of subdivision  
28 (3) of subsection 1 of this section is a class A felony. For any violation of subdivision (3) of  
29 subsection 1 of this section, the minimum prison term which the defendant must serve shall be  
30 eighty-five percent of his or her sentence. Any violation of subdivisions (4) and (5) of subsection  
31 1 of this section is a class B felony.

32 3. A person commits the crime of involuntary manslaughter in the second degree if he  
33 acts with criminal negligence to cause the death of any person.

34 4. Involuntary manslaughter in the second degree is a class D felony.

565.035. 1. Whenever the death penalty is imposed in any case, and upon the judgment  
2 becoming final in the trial court, the sentence shall be reviewed on the record by the supreme  
3 court of Missouri. The circuit clerk of the court trying the case, within ten days after receiving  
4 the transcript, shall transmit the entire record and transcript to the supreme court together with  
5 a notice prepared by the circuit clerk and a report prepared by the trial judge. The notice shall

6 set forth the title and docket number of the case, the name of the defendant and the name and  
7 address of his attorney, a narrative statement of the judgment, the offense, and the punishment  
8 prescribed. The report by the judge shall be in the form of a standard questionnaire prepared and  
9 supplied by the supreme court of Missouri.

10 2. The supreme court of Missouri shall consider the punishment as well as any errors  
11 enumerated by way of appeal.

12 3. With regard to the sentence, the supreme court shall determine:

13 (1) Whether the sentence of death was imposed under the influence of passion, prejudice,  
14 or any other arbitrary factor; and

15 (2) Whether the evidence supports the jury's or judge's finding of a statutory aggravating  
16 circumstance as enumerated in subsection 2 of section 565.032 and any other circumstance  
17 found;

18 (3) Whether the sentence of death is excessive or disproportionate to the penalty imposed  
19 in similar cases **in which a sentence of death was imposed**, considering both the crime, the  
20 strength of the evidence and the defendant.

21 4. Both the defendant and the state shall have the right to submit briefs within the time  
22 provided by the supreme court, and to present oral argument to the supreme court.

23 5. The supreme court shall include in its decision a reference to those similar cases which  
24 it took into consideration. In addition to its authority regarding correction of errors, the supreme  
25 court, with regard to review of death sentences, shall be authorized to:

26 (1) Affirm the sentence of death; or

27 (2) Set the sentence aside and resentence the defendant to life imprisonment without  
28 eligibility for probation, parole, or release except by act of the governor; or

29 (3) Set the sentence aside and remand the case for retrial of the punishment hearing. A  
30 new jury shall be selected or a jury may be waived by agreement of both parties and then the  
31 punishment trial shall proceed in accordance with this chapter, with the exception that the  
32 evidence of the guilty verdict shall be admissible in the new trial together with the official  
33 transcript of any testimony and evidence properly admitted in each stage of the original trial  
34 where relevant to determine punishment.

35 6. There shall be an assistant to the supreme court, who shall be an attorney appointed  
36 by the supreme court and who shall serve at the pleasure of the court. The court shall accumulate  
37 the records of all cases in which the sentence of death or life imprisonment without probation  
38 or parole was imposed after May 26, 1977, or such earlier date as the court may deem  
39 appropriate. The assistant shall provide the court with whatever extracted information the court  
40 desires with respect thereto, including but not limited to a synopsis or brief of the facts in the  
41 record concerning the crime and the defendant. The court shall be authorized to employ an

42 appropriate staff, within the limits of appropriations made for that purpose, and such methods  
43 to compile such data as are deemed by the supreme court to be appropriate and relevant to the  
44 statutory questions concerning the validity of the sentence. The office of the assistant to the  
45 supreme court shall be attached to the office of the clerk of the supreme court for administrative  
46 purposes.

47 7. In addition to the mandatory sentence review, there shall be a right of direct appeal  
48 of the conviction to the supreme court of Missouri. This right of appeal may be waived by the  
49 defendant. If an appeal is taken, the appeal and the sentence review shall be consolidated for  
50 consideration. The court shall render its decision on legal errors enumerated, the factual  
51 substantiation of the verdict, and the validity of the sentence.

565.081. 1. A person commits the crime of assault of a law enforcement officer,  
2 corrections officer, emergency personnel, highway worker in a construction zone or work zone,  
3 **utility worker**, or probation and parole officer in the first degree if such person attempts to kill  
4 or knowingly causes or attempts to cause serious physical injury to a law enforcement officer,  
5 corrections officer, emergency personnel, highway worker in a construction zone or work zone,  
6 **utility worker**, or probation and parole officer.

7 2. As used in this section, "emergency personnel" means any paid or volunteer  
8 firefighter, emergency room or trauma center personnel, or emergency medical technician as  
9 defined in subdivisions (15), (16), (17), and (18) of section 190.100.

10 3. As used in this section the term "corrections officer" includes any jailer or corrections  
11 officer of the state or any political subdivision of the state.

12 4. When used in this section, the terms "highway worker", "construction zone", or "work  
13 zone" shall have the same meaning as such terms are defined in section 304.580.

14 5. **As used in this section, the term "utility worker" means any employee while in**  
15 **performance of their job duties, including any person employed under contract, of a utility**  
16 **that provides gas, heat, electricity, water, steam, telecommunications services, or sewer**  
17 **services, whether privately, municipally, or cooperatively owned.**

18 6. Assault of a law enforcement officer, corrections officer, emergency personnel,  
19 highway worker in a construction zone or work zone, **utility worker**, or probation and parole  
20 officer in the first degree is a class A felony.

[565.082. 1. A person commits the crime of assault of a law enforcement  
2 officer, corrections officer, emergency personnel, or probation and parole officer  
3 in the second degree if such person:

4 (1) Knowingly causes or attempts to cause physical injury to a law  
5 enforcement officer, corrections officer, emergency personnel, or probation and  
6 parole officer by means of a deadly weapon or dangerous instrument;

7 (2) Knowingly causes or attempts to cause physical injury to a law  
8 enforcement officer, corrections officer, emergency personnel, highway worker  
9 in a construction zone or work zone, or probation and parole officer by means  
10 other than a deadly weapon or dangerous instrument;

11 (3) Recklessly causes serious physical injury to a law enforcement  
12 officer, corrections officer, emergency personnel, or probation and parole officer;  
13 or

14 (4) While in an intoxicated condition or under the influence of controlled  
15 substances or drugs, operates a motor vehicle or vessel in this state and when so  
16 operating, acts with criminal negligence to cause physical injury to a law  
17 enforcement officer, corrections officer, emergency personnel, or probation and  
18 parole officer;

19 (5) Acts with criminal negligence to cause physical injury to a law  
20 enforcement officer, corrections officer, emergency personnel, or probation and  
21 parole officer by means of a deadly weapon or dangerous instrument;

22 (6) Purposely or recklessly places a law enforcement officer, corrections  
23 officer, emergency personnel, or probation and parole officer in apprehension of  
24 immediate serious physical injury; or

25 (7) Acts with criminal negligence to create a substantial risk of death or  
26 serious physical injury to a law enforcement officer, corrections officer,  
27 emergency personnel, or probation and parole officer.

28 2. As used in this section, "emergency personnel" means any paid or  
29 volunteer firefighter, emergency room or trauma center personnel, or emergency  
30 medical technician as defined in subdivisions (15), (16), (17), and (18) of section  
31 190.100.

32 3. As used in this section the term "corrections officer" includes any jailer  
33 or corrections officer of the state or any political subdivision of the state.

34 4. Assault of a law enforcement officer, corrections officer, emergency  
35 personnel, or probation and parole officer in the second degree is a class B felony  
36 unless committed pursuant to subdivision (2), (5), (6), or (7) of subsection 1 of  
37 this section in which case it is a class C felony.]

38

565.082. 1. A person commits the crime of assault of a law enforcement officer,  
2 corrections officer, emergency personnel, highway worker in a construction zone or work zone,  
3 **utility worker**, or probation and parole officer in the second degree if such person:

4 (1) Knowingly causes or attempts to cause physical injury to a law enforcement officer,  
5 corrections officer, emergency personnel, **highway worker in a construction zone or work**  
6 **zone, utility worker**, or probation and parole officer by means of a deadly weapon or dangerous  
7 instrument;

8 (2) Knowingly causes or attempts to cause physical injury to a law enforcement officer,  
9 corrections officer, emergency personnel, highway worker in a construction zone or work zone,

10 **utility worker**, or probation and parole officer by means other than a deadly weapon or  
11 dangerous instrument;

12 (3) Recklessly causes serious physical injury to a law enforcement officer, corrections  
13 officer, emergency personnel, highway worker in a construction zone or work zone, **utility**  
14 **worker**, or probation and parole officer; or

15 (4) While in an intoxicated condition or under the influence of controlled substances or  
16 drugs, operates a motor vehicle or vessel in this state and when so operating, acts with criminal  
17 negligence to cause physical injury to a law enforcement officer, corrections officer, emergency  
18 personnel, highway worker in a construction zone or work zone, **utility worker**, or probation and  
19 parole officer;

20 (5) Acts with criminal negligence to cause physical injury to a law enforcement officer,  
21 corrections officer, emergency personnel, highway worker in a construction zone or work zone,  
22 **utility worker**, or probation and parole officer by means of a deadly weapon or dangerous  
23 instrument;

24 (6) Purposely or recklessly places a law enforcement officer, corrections officer,  
25 emergency personnel, highway worker in a construction zone or work zone, **utility worker**, or  
26 probation and parole officer in apprehension of immediate serious physical injury; or

27 (7) Acts with criminal negligence to create a substantial risk of death or serious physical  
28 injury to a law enforcement officer, corrections officer, emergency personnel, highway worker  
29 in a construction zone or work zone, **utility worker**, or probation and parole officer.

30 2. As used in this section, "emergency personnel" means any paid or volunteer  
31 firefighter, emergency room or trauma center personnel, or emergency medical technician as  
32 defined in subdivisions (15), (16), (17), and (18) of section 190.100.

33 3. As used in this section the term "corrections officer" includes any jailer or corrections  
34 officer of the state or any political subdivision of the state.

35 4. When used in this section, the terms "highway worker", "construction zone", or "work  
36 zone" shall have the same meaning as such terms are defined in section 304.580.

37 5. **As used in this section, the term "utility worker" means any employee while in**  
38 **performance of their job duties, including any person employed under contract, of a utility**  
39 **that provides gas, heat, electricity, water, steam, telecommunications services, or sewer**  
40 **services, whether privately, municipally, or cooperatively owned.**

41 6. Assault of a law enforcement officer, corrections officer, emergency personnel,  
42 highway worker in a construction zone or work zone, **utility worker**, or probation and parole  
43 officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5),  
44 (6), or (7) of subsection 1 of this section in which case it is a class C felony. For any violation

45 of subdivision (1), (3), or (4) of subsection 1 of this section, the defendant must serve mandatory  
46 jail time as part of his or her sentence.

565.083. 1. A person commits the crime of assault of a law enforcement officer,  
2 corrections officer, emergency personnel, highway worker in a construction zone or work zone,  
3 **utility worker**, or probation and parole officer in the third degree if:

4 (1) Such person recklessly causes physical injury to a law enforcement officer,  
5 corrections officer, emergency personnel, highway worker in a construction zone or work zone,  
6 **utility worker**, or probation and parole officer;

7 (2) Such person purposely places a law enforcement officer, corrections officer,  
8 emergency personnel, highway worker in a construction zone or work zone, **utility worker**, or  
9 probation and parole officer in apprehension of immediate physical injury;

10 (3) Such person knowingly causes or attempts to cause physical contact with a law  
11 enforcement officer, corrections officer, emergency personnel, highway worker in a construction  
12 zone or work zone, **utility worker**, or probation and parole officer without the consent of the law  
13 enforcement officer, corrections officer, emergency personnel, highway worker in a construction  
14 zone or work zone, **utility worker**, or probation and parole officer.

15 2. As used in this section, "emergency personnel" means any paid or volunteer  
16 firefighter, emergency room or trauma center personnel, or emergency medical technician as  
17 defined in subdivisions (15), (16), (17), and (18) of section 190.100.

18 3. As used in this section the term "corrections officer" includes any jailer or corrections  
19 officer of the state or any political subdivision of the state.

20 4. When used in this section, the terms "highway worker", "construction zone", or "work  
21 zone" shall have the same meaning as such terms are defined in section 304.580.

22 5. **As used in this section, the term "utility worker" means any employee while in**  
23 **performance of their job duties, including any person employed under contract, of a utility**  
24 **that provides gas, heat, electricity, water, steam, telecommunications services, or sewer**  
25 **services, whether privately, municipally, or cooperatively owned.**

26 6. Assault of a law enforcement officer, corrections officer, emergency personnel,  
27 highway worker in a construction zone or work zone, **utility worker**, or probation and parole  
28 officer in the third degree is a class A misdemeanor.

569.100. 1. A person commits the crime of property damage in the first degree if **such**  
2 **person**:

3 (1) [He] Knowingly damages property of another to an extent exceeding seven hundred  
4 and fifty dollars; or

5 (2) [He] Damages property to an extent exceeding one thousand dollars for the purpose  
6 of defrauding an insurer; or

7           **(3) Knowingly damages a motor vehicle of another and the damage occurs while**  
8 **such person is making entry into the motor vehicle for the purpose of committing the crime**  
9 **of stealing therein or the damage occurs while such person is committing the crime of**  
10 **stealing within the motor vehicle.**

11           2. Property damage in the first degree **committed under subdivision (1) or (2) of**  
12 **subsection 1 of this section** is a class D felony. **Property damage in the first degree**  
13 **committed under subdivision (3) of subsection 1 of this section is a class C felony unless**  
14 **committed as a second or subsequent violation of subdivision (3) of subsection 1 of this**  
15 **section in which case it is a class B felony.**

570.080. 1. A person commits the crime of receiving stolen property if for the purpose  
2 of depriving the owner of a lawful interest therein, he or she receives, retains or disposes of  
3 property of another knowing that it has been stolen, or believing that it has been stolen.

4           2. Evidence of the following is admissible in any criminal prosecution pursuant to this  
5 section to prove the requisite knowledge or belief of the alleged receiver:

6           (1) That he or she was found in possession or control of other property stolen on separate  
7 occasions from two or more persons;

8           (2) That he or she received other stolen property in another transaction within the year  
9 preceding the transaction charged;

10           (3) That he or she acquired the stolen property for a consideration which he or she knew  
11 was far below its reasonable value;

12           (4) That he or she obtained control over stolen property knowing the property to have  
13 been stolen or under such circumstances as would reasonably induce a person to believe the  
14 property was stolen.

15           3. [Receiving stolen property is a class A misdemeanor unless the property involved has  
16 a value of five hundred dollars or more, or the person receiving the property is a dealer in goods  
17 of the type in question, or the property involved is an explosive weapon as that term is defined  
18 in section 571.010, in which cases receiving stolen property is a class C felony.]  
19 **Notwithstanding any other provision of law, any violation of this section in which the value**  
20 **of property or services is an element is a class C felony if:**

21           **(1) The value of the property or services appropriated is five hundred dollars or**  
22 **more but less than twenty-five thousand dollars; or**

23           **(2) The actor physically takes the property appropriated from the person of the**  
24 **victim; or**

25           **(3) The property appropriated consists of:**

26           **(a) Any motor vehicle, watercraft or aircraft; or**

27           **(b) Any will or unrecorded deed affecting real property; or**

- 28 (c) Any credit card or letter of credit; or  
29 (d) Any firearms; or  
30 (e) Any explosive weapon as defined in section 571.010; or  
31 (f) A U.S. national flag designed, intended, and used for display on buildings or  
32 stationary flagstaffs in the open; or  
33 (g) Any original copy of an act, bill, or resolution, introduced or acted upon by the  
34 legislature of the state of Missouri; or  
35 (h) Any pleading, notice, judgment, or any other record or entry of any court of this  
36 state, any other state, or of the U.S.; or  
37 (i) Any book of registration or list of voters required by chapter 115; or  
38 (j) Any animal considered livestock as that term is defined in section 144.010; or  
39 (k) Live fish raised for commercial sale with a value of seventy-five dollars; or  
40 (l) Captive wildlife held under permit issued by the conservation commission; or  
41 (m) Any controlled substance as defined by section 195.010; or  
42 (n) Anhydrous ammonia; or  
43 (o) Ammonium nitrate; or  
44 (p) Any document of historical significance which has fair market value of five  
45 hundred dollars or more.
- 46 4. The receipt of any item of property or services under subsection 3 of this section  
47 which exceeds five hundred dollars may be considered a separate felony and may be  
48 charged in separate counts.
- 49 5. Any person with a prior conviction of paragraph (j) or (l) of subdivision (3) of  
50 subsection 3 of this section and who violates the provisions of paragraph (j) or (l) of  
51 subdivision (3) of subsection 3 of this section when the value of the animal or animals stolen  
52 exceeds three thousand dollars is guilty of a class B felony. Notwithstanding any provision  
53 of law to the contrary, such person shall serve a minimum prison term of not less than  
54 eighty percent of his or her sentence before he or she is eligible for probation, parole,  
55 conditional release, or other early release by the department of corrections.
- 56 6. Any offense in which the value of property or services is an element is a class B  
57 felony if the value of the property or services equals or exceeds twenty-five thousand  
58 dollars.
- 59 7. Any violation of this section for which no other penalty is specified in this section  
60 is a class A misdemeanor.

575.060. 1. A person commits the crime of making a false declaration if, with the  
2 purpose to mislead a public servant in the performance of his or her duty, [he] such person:  
3 (1) Submits any written false statement, which he or she does not believe to be true

- 4 (a) In an application for any pecuniary benefit or other consideration; or  
 5 (b) On a form bearing notice, authorized by law, that false statements made therein are  
 6 punishable; or  
 7 (2) Submits or invites reliance on:  
 8 (a) Any writing which he **or she** knows to be forged, altered or otherwise lacking in  
 9 authenticity; or  
 10 (b) Any sample, specimen, map, boundary mark, or other object which he **or she** knows  
 11 to be false; **or**  
 12 **(3) Provides any verbal false statement regarding their identity, which he or she**  
 13 **believes or knows not to be true.**
- 14 2. The falsity of the statement or the item under subsection 1 of this section must be as  
 15 to a fact which is material to the purposes for which the statement is made or the item submitted;  
 16 and the provisions of subsections 2 and 3 of section 575.040 shall apply to prosecutions under  
 17 subsection 1 of this section.
- 18 3. It is a defense to a prosecution under subsection 1 of this section that the actor  
 19 retracted the false statement or item but this defense shall not apply if the retraction was made  
 20 after:  
 21 (1) The falsity of the statement or item was exposed; or  
 22 (2) The public servant took substantial action in reliance on the statement or item.
- 23 4. The defendant shall have the burden of injecting the issue of retraction under  
 24 subsection 3 of this section.
- 25 5. For the purpose of this section, "written" shall include filings submitted in an  
 26 electronic or other format or medium approved or prescribed by the secretary of state.
- 27 6. Making a false declaration is a class B misdemeanor.
- 577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:  
 2 (1) An "aggravated offender" is a person who:  
 3 (a) Has pleaded guilty to or has been found guilty of three or more intoxication-related  
 4 traffic offenses; or  
 5 (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related  
 6 traffic offense and, in addition, any of the following: involuntary manslaughter under  
 7 subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under  
 8 section 565.021, where the underlying felony is an intoxication-related traffic offense; [or]  
 9 assault in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault  
 10 of a law enforcement officer in the second degree under subdivision (4) of subsection 1 of  
 11 section 565.082;  
 12 (2) A "chronic offender" is:

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

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

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

29 (3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal  
30 alcohol concentration levels and tampering attempts at least once every hour, regardless of the  
31 location of the person who is being monitored, and regularly transmitting the data. Continuous  
32 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of  
33 section 217.690;

34 (4) An "intoxication-related traffic offense" is driving while intoxicated, driving with  
35 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of  
36 subsection 1 of section 565.024, murder in the second degree under section 565.021, where the  
37 underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant  
38 to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the  
39 second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under  
40 the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

41 (5) A "persistent offender" is one of the following:

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

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

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

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

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

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

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

64 6. No state, county, or municipal court shall suspend the imposition of sentence as to a  
65 prior offender, persistent offender, aggravated offender, or chronic offender under this section  
66 nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the  
67 contrary notwithstanding.

68 (1) No prior offender shall be eligible for parole or probation until he or she has served  
69 a minimum of ten days imprisonment:

70 (a) Unless as a condition of such parole or probation such person performs at least thirty  
71 days of community service under the supervision of the court in those jurisdictions which have  
72 a recognized program for community service; or

73 (b) The offender participates in and successfully completes a program established  
74 pursuant to section 478.007 or other court-ordered treatment program, if available, **and as part**  
75 **of either program, the offender performs at least thirty days of community service under**  
76 **the supervision of the court.**

77 (2) No persistent offender shall be eligible for parole or probation until he or she has  
78 served a minimum of thirty days imprisonment:

79 (a) Unless as a condition of such parole or probation such person performs at least sixty  
80 days of community service under the supervision of the court; or

81 (b) The offender participates in and successfully completes a program established  
82 pursuant to section 478.007 or other court-ordered treatment program, if available, **and as part**  
83 **of either program, the offender performs at least sixty days of community service under**  
84 **the supervision of the court.**

85 (3) No aggravated offender shall be eligible for parole or probation until he or she has  
86 served a minimum of sixty days imprisonment.

87 (4) No chronic offender shall be eligible for parole or probation until he or she has  
88 served a minimum of two years imprisonment. In addition to any other terms or conditions of  
89 probation, the court shall consider, as a condition of probation for any person who pleads guilty  
90 to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain  
91 from consuming or using alcohol or any products containing alcohol as demonstrated by  
92 continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of  
93 four times per day as scheduled by the court for such duration as determined by the court, but not  
94 less than ninety days. The court may, in addition to imposing any other fine, costs, or  
95 assessments provided by law, require the offender to bear any costs associated with continuous  
96 alcohol monitoring or verifiable breath alcohol testing.

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

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

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

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

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

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

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

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

115 12. Nothing in this section shall prevent the use of presentence investigations or  
116 commitments.

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

119 14. The pleas or findings of guilt shall be prior to the date of commission of the present  
120 offense.

121           15. The court shall not instruct the jury as to the range of punishment or allow the jury,  
122 upon a finding of guilt, to assess and declare the punishment as part of its verdict in cases of  
123 prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

124           16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an  
125 intoxication-related traffic offense shall be heard and determined by the trial court out of the  
126 hearing of the jury prior to the submission of the case to the jury, and shall include but not be  
127 limited to evidence received by a search of the records of the Missouri uniform law enforcement  
128 system, including criminal history records from the central repository or records from the driving  
129 while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or  
130 the certified driving record maintained by the Missouri department of revenue. After hearing the  
131 evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed  
132 by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence,  
133 probation or parole or any combination thereof in any intoxication-related traffic offense in a  
134 state, county or municipal court or any combination thereof, shall be treated as a prior plea of  
135 guilty or finding of guilt for purposes of this section.

**577.665. 1. As used in this section, the following terms shall mean:**

2           (1) **"Tanning device", any equipment that emits electromagnetic radiation with**  
3 **wavelengths in the air between two hundred and four hundred nanometers used for**  
4 **tanning of the skin, including but not limited to a sunlamp, tanning booth or tanning bed;**

5           (2) **"Tanning facility", any location, place, area, structure, or business which**  
6 **provides persons access to any tanning device for a fee, membership dues, or any other**  
7 **form of compensation.**

8           2. **Prior to any person less than eighteen years of age using a tanning device in a**  
9 **tanning facility, a parent or guardian of such person shall appear in person at the tanning**  
10 **facility and sign a written statement acknowledging that the parent or guardian has read**  
11 **and understands the warnings given by the tanning facility and consents to the person's**  
12 **use of a tanning device at the tanning facility.**

13           3. **The department of health and senior services shall, by rule, develop a standard**  
14 **consent form to be used by all tanning facilities operating in this state. Any rule or portion**  
15 **of a rule, as that term is defined in section 536.010, that is created under the authority**  
16 **delegated in this section shall become effective only if it complies with and is subject to all**  
17 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**  
18 **chapter 536 are nonseverable and if any of the powers vested with the general assembly**  
19 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**  
20 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**  
21 **any rule proposed or adopted after August 28, 2011, shall be invalid and void.**

22           **4. Any person who violates the provisions of this section is guilty of a class C**  
23 **misdemeanor. Any tanning facility that violates the provisions of this section shall be**  
24 **subject to a fine of one thousand dollars for each violation. Every use of a tanning device**  
25 **in a tanning facility in violation of this section is a separate offense.**

26           **5. The enforcement of the provisions of this section shall be provided by existing**  
27 **personnel and resources of law enforcement and the department of health and senior**  
28 **services.**

✓