

FIRST REGULAR SESSION

HOUSE BILL NO. 252

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSMER.

Read 1st time January 3, 2001, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0256L.011

AN ACT

To repeal sections 167.031, 167.051, 167.275, 302.060 and 302.171, RSMo 2000, section 302.130 as enacted by house bill no. 1730, eighty-ninth general assembly, second regular session and section 302.130 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, relating to the protection of certain children, and to enact in lieu thereof seven new sections relating to the same subject, with an effective date for certain sections and with penalty provisions.

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

Section A. Sections 167.031, 167.051, 167.275, 302.060 and 302.171, RSMo 2000, section 302.130 as enacted by house bill no. 1730, eighty-ninth general assembly, second regular session and section 302.130 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, are repealed and seven new sections enacted in lieu thereof, to be known as sections 167.031, 167.051, 167.275, 302.060, 302.130, 302.171 and 302.176, to read as follows:

167.031. 1. Every parent, guardian or other person in this state having charge, control or custody of a child not enrolled in a public, private, parochial, parish school or full-time equivalent attendance in a combination of such schools and between the ages of seven and [sixteen] **eighteen** years is responsible for enrolling the child in a program of academic instruction which complies with subsection 2 of this section. Any parent, guardian or other person who enrolls a child between the ages of five and seven years in a public school program

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

7 of academic instruction shall cause such child to attend the academic program on a regular basis,
8 according to this section. Nonattendance by such child shall cause such parent, guardian or other
9 responsible person to be in violation of the provisions of section 167.061, except as provided by
10 this section. A parent, guardian or other person in this state having charge, control, or custody
11 of a child between the ages of seven and [sixteen] **eighteen** years of age shall cause the child to
12 attend regularly some public, private, parochial, parish, home school or a combination of such
13 schools not less than the entire school term [of the] **or until graduation from such** school
14 [which the child attends]; except that:

15 (1) A child who, to the satisfaction of the superintendent of public schools of the district
16 in which he resides, or if there is no superintendent then the chief school officer, is determined
17 to be mentally or physically incapacitated may be excused from attendance at school for the full
18 time required, or any part thereof;

19 (2) A child between fourteen and [sixteen] **eighteen** years of age may be excused from
20 attendance at school for the full time required, or any part thereof, by the superintendent of
21 public schools of the district, or if there is none then by a court of competent jurisdiction, when
22 legal employment has been obtained by the child and found to be desirable, and after the parents
23 or guardian of the child have been advised of the pending action; or

24 (3) A child between five and seven years of age shall be excused from attendance at
25 school if a parent, guardian or other person having charge, control or custody of the child makes
26 a written request that the child be dropped from the school's rolls.

27 2. (1) As used in sections 167.031 to 167.071, a "home school" is a school, whether
28 incorporated or unincorporated, that:

29 (a) Has as its primary purpose the provision of private or religious-based instruction;

30 (b) Enrolls pupils between the ages of seven and [sixteen] **eighteen** years, of which no
31 more than four are unrelated by affinity or consanguinity in the third degree; and

32 (c) Does not charge or receive consideration in the form of tuition, fees, or other
33 remuneration in a genuine and fair exchange for provision of instruction;

34 (2) As evidence that a child is receiving regular instruction, the parent shall:

35 (a) Maintain the following records:

36 a. A plan book, diary, or other written record indicating subjects taught and activities
37 engaged in; and

38 b. A portfolio of samples of the child's academic work; and

39 c. A record of evaluations of the child's academic progress; or

40 d. Other written, or credible evidence equivalent to subparagraphs a., b. and c.; and

41 (b) Offer at least one thousand hours of instruction, at least six hundred hours of which
42 will be in reading, language arts, mathematics, social studies and science or academic courses

43 that are related to the aforementioned subject areas and consonant with the pupil's age and
44 ability. At least four hundred of the six hundred hours shall occur at the regular home school
45 location.

46 3. Nothing in this section shall require a private, parochial, parish or home school to
47 include in its curriculum any concept, topic, or practice in conflict with the school's religious
48 doctrines or to exclude from its curriculum any concept, topic, or practice consistent with the
49 school's religious doctrines. Any other provision of the law to the contrary notwithstanding, all
50 departments or agencies of the state of Missouri shall be prohibited from dictating through rule,
51 regulation or other device any statewide curriculum for private, parochial, parish or home
52 schools.

53 4. A school year begins on the first day of July and ends on the thirtieth day of June
54 following.

55 5. The production by a parent of a daily log showing that a home school has a course of
56 instruction which satisfies the requirements of this section shall be a defense to any prosecution
57 under this section and to any charge or action for educational neglect brought pursuant to chapter
58 210, RSMo.

167.051. 1. If a school board establishes part-time schools or classes for children under
2 [sixteen] **eighteen** years of age, lawfully engaged in any regular employment, every parent,
3 guardian or other person having charge, control or custody of such a child shall cause the child
4 to attend the school not less than four hours a week between the hours of eight o'clock in the
5 morning and five o'clock in the evening during the school year of the part-time classes.

6 2. All children who are under eighteen years of age, who have not completed the
7 elementary school course in the public schools of Missouri, or its equivalent, and who are not
8 attending regularly any day school shall be required to attend regularly the part-time classes not
9 less than four hours a week between the hours of eight o'clock in the morning and five o'clock
10 in the afternoon during the entire year of the part-time classes.

167.275. [Effective January 1, 1991,] **Beginning January 1, 2002**, all public and
2 nonpublic secondary schools shall report to the state literacy hot line office in Jefferson City the
3 name, mailing address and telephone number of all students [sixteen] **eighteen** years of age or
4 older who drop out of school for any reason other than to attend another school, college or
5 university, or enlist in the armed services. Such reports shall be made either by using the
6 telephone hot line number or on forms developed by the department of elementary and secondary
7 education. Upon such notification, the state literacy hot line office shall contact the student who
8 has been reported and refer that student to the nearest location that provides adult basic education
9 instruction leading to the completion of a general educational development certificate.

302.060. The director shall not issue any license and shall immediately deny any driving

2 privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as [hereinafter] provided
6 **in this section, or to any person who is under the age of eighteen years who fails to meet the**
7 **qualifications of section 302.176;**

8 (3) To any person whose license has been suspended, during such suspension, or to any
9 person whose license has been revoked, until the expiration of one year after such license was
10 revoked;

11 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

12 (5) To any person who has previously been adjudged to be incapacitated and who at the
13 time of application has not been restored to partial capacity;

14 (6) To any person who, when required by this law to take an examination, has failed to
15 pass such examination;

16 (7) To any person who has an unsatisfied judgment against such person, as defined in
17 chapter 303, RSMo, until such judgment has been satisfied or the financial responsibility of such
18 person, as defined in section 303.120, RSMo, has been established;

19 (8) To any person whose application shows that the person has been convicted within
20 one year prior to such application of violating the laws of this state relating to failure to stop after
21 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
22 consent;

23 (9) To any person who has been convicted more than twice of violating state law, or a
24 county or municipal ordinance where the judge in such cases was an attorney and the defendant
25 was represented by or waived the right to an attorney in writing, relating to driving while
26 intoxicated; except that, after the expiration of ten years from the date of conviction of the last
27 offense of violating such law or ordinance relating to driving while intoxicated, a person who
28 was so convicted may petition the circuit court of the county in which such last conviction was
29 rendered and the court shall review the person's habits and conduct since such conviction. If the
30 court finds that the petitioner has not been convicted of any offense related to alcohol, controlled
31 substances or drugs during the preceding ten years and that the petitioner's habits and conduct
32 show such petitioner to no longer pose a threat to the public safety of this state, the court may
33 order the director to issue a license to the petitioner if the petitioner is otherwise qualified
34 pursuant to the provisions of sections 302.010 to 302.540. No person may obtain a license
35 pursuant to the provisions of this subdivision through court action more than one time;

36 (10) To any person who has been convicted twice within a five-year period of violating
37 state law, or a county or municipal ordinance where the judge in such cases was an attorney and

38 the defendant was represented by or waived the right to an attorney in writing, of driving while
39 intoxicated, or who has been convicted of the crime of involuntary manslaughter while operating
40 a motor vehicle in an intoxicated condition. The director shall not issue a license to such person
41 for five years from the date such person was convicted for involuntary manslaughter while
42 operating a motor vehicle in an intoxicated condition or for driving while intoxicated for the
43 second time. Any person who has been denied a license for two convictions of driving while
44 intoxicated prior to July 27, 1989, shall have the person's license issued, upon application, unless
45 the two convictions occurred within a five-year period, in which case, no license shall be issued
46 to the person for five years from the date of the second conviction;

47 (11) To any person who is otherwise disqualified pursuant to the provisions of sections
48 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

49 (12) To any person who is under the age of eighteen years, if such person's parents or
50 legal guardians file a certified document with the department of revenue stating that the director
51 shall not issue such person a driver's license. Each document filed by the person's parents or
52 legal guardians shall be made upon a form furnished by the director and shall include identifying
53 information of the person for whom the parents or legal guardians are denying the driver's
54 license. The document shall also contain identifying information of the person's parents or legal
55 guardians. The document shall be certified by the parents or legal guardians to be true and
56 correct. This provision shall not apply to any person who is legally emancipated. The parents
57 or legal guardians may later file an additional document with the department of revenue which
58 reinstates the person's ability to receive a driver's license.

302.130. 1. Any person at least fifteen years of age who, except for age or lack of
2 instruction in operating a motor vehicle, would otherwise be qualified to obtain a license
3 pursuant to sections 302.010 to 302.340 may apply for and the director shall issue a temporary
4 instruction permit entitling the applicant, while [having] **in the possession of** such permit [in the
5 applicant's immediate possession], to drive a motor vehicle of the appropriate class upon the
6 highways for a period of twelve months, but any such person, except when operating a
7 motorcycle or motortricycle, must be accompanied by a licensed operator for the type of motor
8 vehicle being operated who is actually occupying a seat beside the driver for the purpose of
9 giving instruction in driving the motor vehicle, who is at least twenty-one years of age, and in
10 the case of any driver under sixteen years of age, the licensed operator occupying the seat beside
11 the driver shall be a grandparent, parent or guardian who has a valid [driver's] license **to operate**
12 **a motor vehicle, or shall be an instructor at a licensed driving school, including a driver**
13 **training program approved by the department of elementary and secondary education,**
14 **who is at least twenty-one years of age.** Beginning January 1, 2001, an applicant for a
15 temporary instruction permit shall successfully complete a vision test and a test of the applicant's

16 ability to understand highway signs which regulate, warn or direct traffic and practical
17 knowledge of the traffic laws of this state, pursuant to section 302.173. In addition, beginning
18 January 1, 2001, no permit shall be granted pursuant to this subsection unless a parent or legal
19 guardian gives written permission by signing the application and in so signing, state they, or their
20 designee as set forth in subsection 2 of this section, will provide a minimum of twenty hours of
21 behind-the-wheel driving instruction.

22 2. In the event the parent, grandparent or guardian of the person under sixteen years of
23 age has a physical disability which prohibits or disqualifies said parent, grandparent or guardian
24 from being a qualified licensed operator pursuant to this section, said parent, grandparent or
25 guardian may designate a maximum of two individuals authorized to accompany the applicant
26 for the purpose of giving instruction in driving the motor vehicle. An authorized designee must
27 be a licensed operator for the type of motor vehicle being operated and have attained twenty-one
28 years of age. At least one of the designees must occupy the seat beside the applicant while giving
29 instruction in driving the motor vehicle. The name of the authorized designees must be provided
30 to the department of revenue by the parent, grandparent or guardian at the time of application for
31 the temporary instruction permit. The name of each authorized designee shall be printed on the
32 temporary instruction permit, however, the director may delay the time at which permits are
33 printed bearing such names until the inventories of blank permits and related forms existing on
34 August 28, 1998, are exhausted.

35 3. The director, upon proper application on a form prescribed by the director, [in his or
36 her discretion,] may issue a restricted instruction permit effective for a school year or more
37 restricted period to an applicant who is enrolled in a high school driver training program taught
38 by a driver training instructor holding a valid driver education endorsement on a teaching
39 certificate issued by the [state] department of elementary and secondary education even though
40 the applicant has not reached the age of sixteen years but [has passed the age of] **is at least**
41 **fifteen years of age**. Such instruction permit shall entitle the applicant, when the applicant has
42 **possession of** such permit [in his or her immediate possession], to operate a motor vehicle on
43 the highways, but only when a driver training instructor holding a valid driver education
44 endorsement on a teaching certificate issued by the state department of elementary and secondary
45 education is occupying a seat beside the driver.

46 4. The director[, in his or her discretion,] may issue a temporary driver's permit to an
47 applicant who is otherwise qualified for a license [permitting the applicant] to operate a motor
48 vehicle while the director is completing the director's investigation and determination of all facts
49 relative to such applicant's rights to receive a license. Such permit must be in the applicant's
50 immediate possession while operating a motor vehicle, and it shall be invalid when the
51 applicant's license has been issued or for good cause has been refused.

52 5. The director may adopt rules and regulations necessary to carry out the provisions of
53 this section.

2 [302.130. 1. Any person at least fifteen and one-half years of age who,
3 except for age or lack of instruction in operating a motor vehicle, would otherwise
4 be qualified to obtain a license pursuant to sections 302.010 to 302.340 may apply
5 for and the director shall issue a temporary instruction permit entitling the applicant,
6 while having such permit in the applicant's immediate possession, to drive a motor
7 vehicle of the appropriate class upon the highways for a period of six months, but any
8 such person, except when operating a motorcycle or motortricycle, must be
9 accompanied by a licensed operator for the type of motor vehicle being operated who
10 is actually occupying a seat beside the driver for the purpose of giving instruction in
11 driving the motor vehicle, and in the case of any driver under sixteen years of age,
12 the licensed operator occupying the seat beside the driver shall be a grandparent,
parent or guardian who has a valid driver's license.

13 2. In the event the parent, grandparent or guardian of the person under sixteen
14 years of age has a physical disability which prohibits or disqualifies said parent,
15 grandparent or guardian from being a qualified licensed operator pursuant to this
16 section, said parent, grandparent or guardian may designate a maximum of two
17 individuals authorized to accompany the applicant for the purpose of giving
18 instruction in driving the motor vehicle. An authorized designee must be a licensed
19 operator for the type of motor vehicle being operated and have attained twenty-one
20 years of age. At least one of the designees must occupy the seat beside the applicant
21 while giving instruction in driving the motor vehicle. The name of the authorized
22 designees must be provided to the department of revenue by the parent, grandparent
23 or guardian at the time of application for the temporary instruction permit. The name
24 of each authorized designee shall be printed on the temporary instruction permit,
25 however, the director may delay the time at which permits are printed bearing such
26 names until the inventories of blank permits and related forms existing on August 28,
27 1998, are exhausted.

28 3. The director, upon proper application on a form prescribed by the director,
29 in his or her discretion, may issue a restricted instruction permit effective for a school
30 year or more restricted period to an applicant who is enrolled in a high school driver
31 training program taught by a driver training instructor holding a valid driver
32 education endorsement on a teaching certificate issued by the state department of
33 elementary and secondary education even though the applicant has not reached the
34 age of sixteen years but has passed the age of fifteen years. Such instruction permit
35 shall entitle the applicant, when the applicant has such permit in his or her immediate
36 possession, to operate a motor vehicle on the highways, but only when a driver
37 training instructor holding a valid driver education endorsement on a teaching
38 certificate issued by the state department of elementary and secondary education is
39 occupying a seat beside the driver.

40 4. The director, in his or her discretion, may issue a temporary driver's permit
41 to an applicant who is otherwise qualified for a license permitting the applicant to

operate a motor vehicle while the director is completing the director's investigation and determination of all facts relative to such applicant's rights to receive a license. Such permit must be in the applicant's immediate possession while operating a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

5. The director may adopt rules and regulations necessary to carry out the provisions of this section.]

302.171. 1. Application for a license shall be made upon an approved form furnished by the director. Every application shall state the full name, Social Security number, age, height, weight, color of eyes, sex, residence, mailing address of the applicant, and the classification for which the applicant has been licensed, and, if so, when and by what state, and whether or not such license has ever been suspended, revoked, or disqualified, and, if revoked, suspended or disqualified, the date and reason for such suspension, revocation or disqualification and whether the applicant is making a one-dollar donation to promote [an organ] a donation program as prescribed in [subsection 2] **subsections 3 and 4** of this section. The application shall also contain such information as the director may require to enable the director to determine the applicant's qualification for driving a motor vehicle[; and]. **The application** shall state whether or not the applicant has been convicted in this or any other state for violating the laws of this or any other state or any ordinance of any municipality, relating to driving without a license, careless driving, or driving while intoxicated, or failing to stop after an accident and disclosing the applicant's identity, or driving a motor vehicle without the owner's consent. The application shall contain a certification by the applicant as to the truth of the facts stated therein. Every person who applies for a license to operate a motor vehicle who is less than twenty-one years of age shall be provided with educational materials relating to the hazards of driving while intoxicated, including information on penalties imposed by law for violation of the intoxication-related offenses of the state. Beginning January 1, 2001, if the applicant is less than eighteen years of age, the applicant must comply with all requirements for the issuance of an intermediate driver's license pursuant to section 302.178.

2. **If an applicant for a license is less than eighteen years of age and is not an emancipated minor, then the applicant shall obtain the approval of a custodial parent or legal guardian and shall meet the requirements of this section in order to receive a license issued pursuant to this chapter. The parent or guardian of the applicant shall sign the application granting approval for the applicant to receive such a license. As used in this section, the term "emancipated minor" means a person:**

1) Who is at least sixteen years of age;

2) Who:

a) Marries;

31 **b) Enters active duty in the armed forces; or**
32 **c) Has been released from parental control by express or implied consent of the**
33 **parent or guardian; and**

34 **3) Who provides, through employment or other means, for his or her own food,**
35 **shelter and other living expenses.**

36 **3.** An applicant for a license may make a donation of one dollar to promote an organ
37 donor program. The director of revenue shall collect the donations and deposit all such
38 donations in the state treasury to the credit of the organ donor program fund established in
39 sections 194.297 to 194.304, RSMo. Moneys in the organ donor program fund shall be used
40 solely for the purposes established in sections 194.297 to 194.304, RSMo, except that the
41 department of revenue shall retain no more than one percent for its administrative costs. The
42 donation prescribed in this subsection is voluntary and may be refused by the applicant for the
43 license at the time of issuance or renewal of the license. The director shall make available an
44 informational booklet or other informational sources on the importance of organ donations to
45 applicants for licensure as designed by the organ donation advisory committee established in
46 sections 194.297 to 194.304, RSMo. The director shall inquire of each applicant at the time the
47 licensee presents the completed application to the director whether the applicant is interested in
48 making the one-dollar donation prescribed in this subsection and whether the applicant is
49 interested in making an organ donation and shall also specifically inform the licensee of the
50 ability to make an organ donation by completing the form on the reverse of the license that the
51 applicant will receive in the manner prescribed by subsection 6 of section 194.240, RSMo. The
52 director shall notify the department of health of information obtained from applicants who
53 indicate to the director that they are interested in making organ donations, and the department
54 of health shall enter the complete name, address, date of birth, race, gender and a unique personal
55 identifier in the registry established in subsection 1 of section 194.304, RSMo.

56 **[3.] 4.** An applicant for a license may make a donation of one dollar to promote a
57 blindness education, screening and treatment program. The director of revenue shall collect the
58 donations and deposit all such donations in the state treasury to the credit of the blindness
59 education, screening and treatment program fund established in section 192.935, RSMo. Moneys
60 in the blindness education, screening and treatment program fund shall be used solely for the
61 purposes established in section 192.935, RSMo, except that the department of revenue shall
62 retain no more than one percent for its administrative costs. The donation prescribed in this
63 subsection is voluntary and may be refused by the applicant for the license at the time of issuance
64 or renewal of the license. The director shall inquire of each applicant at the time the licensee
65 presents the completed application to the director whether the applicant is interested in making
66 the one- dollar donation prescribed in this subsection.

302.176. 1. In addition to the requirements of section 302.171, the director shall require any applicant for an operator's license or a temporary permit issued pursuant to section 302.130 who is less than eighteen years of age to present a diploma or other certificate of graduation issued to such person from an accredited public or any private, parochial, home or parish high school in this state or any other state, or documentation that the applicant is:

(1) Currently enrolled and progressing in accordance with school district policy in and regularly attending a public high school in this or any other state and shall have earned a minimum of 2.25 units of credit the preceding semester of attendance or shall be enrolled and progressing in accordance with school district policy in an alternative curriculum designed by the state board of education which places an emphasis on vocational education and job training for students who are at risk of not completing the required curriculum or be enrolled and progressing in accordance with school district policy in a full course at the applicant's level in a special education program for the handicapped approved by the department of elementary and secondary education which, though ungraded, enrolls pupils of equivalent age;

(2) Enrolled in a secondary private school or a home school program; or

(3) Enrolled and making satisfactory progress in a state-approved course leading to a certificate of high school equivalence or has obtained such certificate.

2. The superintendent of schools, or in the case of nonpublic schools, the chief administrative official, or in the case of a home school, the parent, shall provide verification of enrollment status on a form provided by the department of revenue to any student sixteen years of age or older upon request for presentation to the department of revenue on application for or reinstatement of an operator's license or temporary permit. Such verification of enrollment status shall include: the student's name, date of birth, address, the date of the verification, and signature of the superintendent, the chief administrative official, or the parent, which verifies that the student is enrolled in one of the programs listed in subsection 1 of this section. Whenever a student sixteen years of age or older withdraws from school, except as provided in subsection 4 of this section, the superintendent, or in the case of nonpublic schools, the chief administrative official, shall notify the department of revenue within thirty days of such withdrawal. If a child sixteen years of age or older withdraws from a home school program, the parent shall notify the department of revenue within thirty days of such withdrawal. Within five days of the receipt of such notice, the department of revenue shall send notice to the licensee that the license will be suspended on the thirtieth day after notice is mailed to the licensee by the department, unless the licensee sends documentation of compliance with the provisions of

37 this section to the department within the thirty-day period. The department may charge
38 a reinstatement fee in accordance with the provisions of section 302.304.

39 **3. For the purposes of this section, the term "withdrawal" means ten or more**
40 **consecutive or fifteen total days of unexcused absences in a single semester or means**
41 **missing five or more consecutive sessions in a course leading to a certificate of high school**
42 **equivalence due to unexcused absences. The determination of unexcused absences shall**
43 **be made by the superintendent or chief administrative official of the school or the parent**
44 **in the case of a home school.**

45 **4. Whenever the withdrawal from school or failure to enroll in a course leading to**
46 **a certificate of high school equivalence is for the purpose of transferring to another school**
47 **or program, which is confirmed in writing by the student's parent or guardian within five**
48 **days of such transfer, no such notice need be sent to the department of revenue in order**
49 **to suspend the student's operator's license. In addition, any person who is an emancipated**
50 **minor, as defined in section 302.171, who does not meet the qualifications prescribed by**
51 **subsection 1 of this section may request the school board of the school district in which**
52 **such person resides to grant a waiver from the requirements of this section and such**
53 **waiver shall be granted if the school board determines that having a license to operate a**
54 **motor vehicle is in the best interests of that person.**

55 **5. Any person who knowingly submits false information to the department**
56 **pursuant to the provisions of this section is guilty of a class C misdemeanor.**

Section B. The repeal and reenactment of section 302.060 and 302.171, RSMo 2000,
2 section 302.130 as enacted by house bill 1730, eighty-ninth general assembly, second regular
3 session, and section 302.130 as enacted by conference committee substitute for house substitute
4 for senate substitute for senate committee substitute for senate bill no. 19, and the enactment of
5 section 302.176, shall take effect on January 1, 2002.