

FIRST REGULAR SESSION

HOUSE BILL NO. 518

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HARTZLER AND RECTOR (Co-sponsors).

Read 1st time January 24, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1394L.011

AN ACT

To repeal sections 302.302, 304.012, 556.061 and 577.020, RSMo 2000, relating to the operation of motor vehicles and public safety, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions and an effective date.

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

Section A. Sections 302.302, 304.012, 556.061 and 577.020, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 302.302, 304.012, 556.061 and 577.020, to read as follows:

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

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section

302.303 2 points

(except any violation of municipal stop sign ordinance where no accident is involved 1 point)

(2) Speeding

In violation of a state law 3 points

In violation of a county or municipal ordinance 2 points

(3) Leaving the scene of an accident in violation of section

577.060, RSMo 12 points

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

- 15 In violation of any county or municipal ordinance 6 points
- 16 (4) Careless and imprudent driving:
- 17 (a) **When an accident results in which any person suffers serious physical injury**
- 18 **as defined in section 556.061, RSMo, or dies 8 points;**
- 19 (b) **When an accident results in which any person suffers moderate physical injury**
- 20 **as defined in section 556.061, RSMo, but not serious physical injury, as defined in section**
- 21 **556.061, RSMo 6 points;**
- 22 (c) In violation of subsection 4 of section 304.016,
- 23 RSMo 4 points
- 24 (d) In violation of a county or municipal ordinance 2 points
- 25 (5) Operating without a valid license in violation of subdivision (1) or (2) of subsection
- 26 1 of section 302.020:
- 27 (a) For the first conviction 2 points
- 28 (b) For the second conviction 4 points
- 29 (c) For the third conviction 6 points
- 30 (6) Operating with a suspended or revoked license prior to restoration of operating
- 31 privileges 12 points
- 32 (7) Obtaining a license by misrepresentation 12 points
- 33 (8) For the first conviction of driving while in an intoxicated condition or under the
- 34 influence of controlled substances or drugs 8 points
- 35 (9) For the second or subsequent conviction of any of the following offenses however
- 36 combined: driving while in an intoxicated condition, driving under the influence of controlled
- 37 substances or drugs or driving with a blood alcohol content of ten-hundredths of one percent or
- 38 more by weight 12 points
- 39 (10) For the first conviction for driving with blood alcohol content ten-hundredths of one
- 40 percent or more by weight
- 41 In violation of state law 8 points
- 42 In violation of a county or municipal ordinance or federal law
- 43 or regulation 8 points
- 44 (11) Any felony involving the use of a motor vehicle 12 points
- 45 (12) Knowingly permitting unlicensed operator to operate a
- 46 motor vehicle 4 points
- 47 (13) For a conviction for failure to maintain financial responsibility pursuant to county
- 48 or municipal ordinance or pursuant to section 303.025, RSMo 4 points
- 49 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
- 50 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section

51 302.020, when the director issues such operator a license or permit pursuant to the provisions
52 of sections 302.010 to 302.340.

53 3. An additional two points shall be assessed when personal injury or property damage
54 results from any violation listed in subsection 1 of this section and if found to be warranted and
55 certified by the reporting court.

56 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
57 section constitutes both a violation of a state law and a violation of a county or municipal
58 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an
59 offense arising out of the same occurrence could be construed to be a violation of subdivisions
60 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more
61 than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for
62 offenses arising out of the same occurrence.

63 5. The director of revenue shall put into effect a system for staying the assessment of
64 points against an operator. The system shall provide that the satisfactory completion of a
65 driver-improvement program or, in the case of violations committed while operating a
66 motorcycle, a motorcycle-rider training course approved by the director of the department of
67 public safety, by an operator, when so ordered and verified by any court having jurisdiction over
68 any law of this state or county or municipal ordinance, regulating motor vehicles, other than a
69 violation committed in a commercial motor vehicle as defined in section 302.700, shall be
70 accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision
71 (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the
72 purposes of this subsection, the driver-improvement program shall meet or exceed the standards
73 of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a
74 violation which occurred during the operation of a motorcycle, the program shall meet the
75 standards established by the director of the department of public safety pursuant to sections
76 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider
77 training course shall not be accepted in lieu of points more than one time in any thirty-six-month
78 period and shall be completed within sixty days of the date of conviction in order to be accepted
79 in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions
80 of this subsection shall, within fifteen days after completion of the driver-improvement program
81 or motorcycle-rider training course by an operator, forward a record of the completion to the
82 director, all other provisions of the law to the contrary notwithstanding. The director shall
83 establish procedures for record keeping and the administration of this subsection.

304.012. 1. Every person operating a motor vehicle on the roads and highways of this
2 state shall drive the vehicle in a careful and prudent manner and at a rate of speed so as not to
3 endanger the property of another or the life or limb of any person and shall exercise the highest

4 degree of care.

5 2. Any person who violates the provisions of this section is guilty of a class B
6 misdemeanor, unless an accident is involved **or there are aggravating circumstances** then it
7 shall be a class A misdemeanor. **For the purposes of this section, the term "aggravating**
8 **circumstances" shall be defined as circumstances in which any person suffers death or**
9 **serious physical injury, as defined in section 565.002, RSMo, as a result of the violation of**
10 **this section.**

 556.061. In this code, unless the context requires a different definition, the following
2 shall apply:

3 (1) "Affirmative defense" has the meaning specified in section 556.056;

4 (2) "Burden of injecting the issue" has the meaning specified in section 556.051;

5 (3) "Commercial film and photographic print processor", any person who develops
6 exposed photographic film into negatives, slides or prints, or who makes prints from negatives
7 or slides, for compensation. The term commercial film and photographic print processor shall
8 include all employees of such persons but shall not include a person who develops film or makes
9 prints for a public agency;

10 (4) "Confinement":

11 (a) A person is in confinement when such person is held in a place of confinement
12 pursuant to arrest or order of a court, and remains in confinement until:

13 a. A court orders the person's release; or

14 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

15 c. A public servant having the legal power and duty to confine the person authorizes his
16 release without guard and without condition that he return to confinement;

17 (b) A person is not in confinement if:

18 a. The person is on probation or parole, temporary or otherwise; or

19 b. The person is under sentence to serve a term of confinement which is not continuous,
20 or is serving a sentence under a work-release program, and in either such case is not being held
21 in a place of confinement or is not being held under guard by a person having the legal power
22 and duty to transport the person to or from a place of confinement;

23 (5) "Consent": consent or lack of consent may be expressed or implied. Assent does not
24 constitute consent if:

25 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged
26 to constitute the offense and such mental incapacity is manifest or known to the actor; or

27 (b) It is given by a person who by reason of youth, mental disease or defect, or
28 intoxication, is manifestly unable or known by the actor to be unable to make a reasonable
29 judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

- 30 (c) It is induced by force, duress or deception;
- 31 (6) "Criminal negligence" has the meaning specified in section 562.016, RSMo;
- 32 (7) "Custody", a person is in custody when the person has been arrested but has not been
33 delivered to a place of confinement;
- 34 (8) "Dangerous felony" means the felonies of arson in the first degree, assault in the first
35 degree, forcible rape, forcible sodomy, kidnapping, murder in the second degree and robbery in
36 the first degree;
- 37 (9) "Dangerous instrument" means any instrument, article or substance, which, under the
38 circumstances in which it is used, is readily capable of causing death or other serious physical
39 injury;
- 40 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any weapon from
41 which a shot, readily capable of producing death or serious physical injury, may be discharged,
42 or a switchblade knife, dagger, billy, blackjack or metal knuckles;
- 43 (11) "Felony" has the meaning specified in section 556.016;
- 44 (12) "Forcible compulsion" means either:
- 45 (a) Physical force that overcomes reasonable resistance; or
- 46 (b) A threat, express or implied, that places a person in reasonable fear of death, serious
47 physical injury or kidnapping of such person or another person;
- 48 (13) "Incapacitated" means that physical or mental condition, temporary or permanent,
49 in which a person is unconscious, unable to appraise the nature of such person's conduct, or
50 unable to communicate unwillingness to an act. A person is not incapacitated with respect to an
51 act committed upon such person if he or she became unconscious, unable to appraise the nature
52 of such person's conduct or unable to communicate unwillingness to an act, after consenting to
53 the act;
- 54 (14) "Infraction" has the meaning specified in section 556.021;
- 55 (15) "Inhabitable structure" has the meaning specified in section 569.010, RSMo;
- 56 (16) "Knowingly" has the meaning specified in section 562.016, RSMo;
- 57 (17) "Law enforcement officer" means any public servant having both the power and
58 duty to make arrests for violations of the laws of this state, and federal law enforcement officers
59 authorized to carry firearms and to make arrests for violations of the laws of the United States;
- 60 (18) "Misdemeanor" has the meaning specified in section 556.016;
- 61 (19) **"Moderate physical injury" means physical injury requiring medical attention**
62 **at a hospital;**
- 63 (20) "Offense" means any felony, misdemeanor or infraction;
- 64 [(20)] (21) "Physical injury" means physical pain, illness, or any impairment of physical
65 condition;

66 [(21)] **(22)** "Place of confinement" means any building or facility and the grounds thereof
67 wherein a court is legally authorized to order that a person charged with or convicted of a crime
68 be held;

69 [(22)] **(23)** "Possess" or "possessed" means having actual or constructive possession of
70 an object with knowledge of its presence. A person has actual possession if such person has the
71 object on his or her person or within easy reach and convenient control. A person has
72 constructive possession if such person has the power and the intention at a given time to exercise
73 dominion or control over the object either directly or through another person or persons.
74 Possession may also be sole or joint. If one person alone has possession of an object, possession
75 is sole. If two or more persons share possession of an object, possession is joint;

76 [(23)] **(24)** "Public servant" means any person employed in any way by a government of
77 this state who is compensated by the government by reason of such person's employment, any
78 person appointed to a position with any government of this state, or any person elected to a
79 position with any government of this state. It includes, but is not limited to, legislators, jurors,
80 members of the judiciary and law enforcement officers. It does not include witnesses;

81 [(24)] **(25)** "Purposely" has the meaning specified in section 562.016, RSMo;

82 [(25)] **(26)** "Recklessly" has the meaning specified in section 562.016, RSMo;

83 [(26)] **(27)** "Ritual" or "ceremony" means an act or series of acts performed by two or
84 more persons as part of an established or prescribed pattern of activity;

85 [(27)] **(28)** "Serious emotional injury", an injury that creates a substantial risk of
86 temporary or permanent medical or psychological damage, manifested by impairment of a
87 behavioral, cognitive or physical condition. Serious emotional injury shall be established by
88 testimony of qualified experts upon the reasonable expectation of probable harm to a reasonable
89 degree of medical or psychological certainty;

90 [(28)] **(29)** "Serious physical injury" means physical injury that creates a substantial risk
91 of death or that causes serious disfigurement or protracted loss or impairment of the function of
92 any part of the body;

93 [(29)] **(30)** "Sexual conduct" means acts of human masturbation; deviate sexual
94 intercourse; sexual intercourse; or physical contact with a person's clothed or unclothed genitals,
95 pubic area, buttocks, or the breast of a female in an act of apparent sexual stimulation or
96 gratification;

97 [(30)] **(31)** "Sexual contact" means any touching of the genitals or anus of any person,
98 or the breast of any female person, or any such touching through the clothing, for the purpose of
99 arousing or gratifying sexual desire of any person;

100 [(31)] **(32)** "Sexual performance", any performance, or part thereof, which includes
101 sexual conduct by a child who is less than seventeen years of age;

102 [(32)] **(33)** "Voluntary act" has the meaning specified in section 562.011, RSMo.

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

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

9 (2) If the person is under the age of twenty-one, has been stopped by a law enforcement
10 officer, and the law enforcement officer has reasonable grounds to believe that such person was
11 driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more
12 by weight; or

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

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

21 **(5) If the person, while operating a motor vehicle, has been involved in a motor**
22 **vehicle collision which resulted in a fatality or a readily apparent serious physical injury**
23 **as defined in section 565.002, RSMo, and has been arrested as evidenced by the issuance**
24 **of a Uniform Traffic Ticket for the violation of any state law or county or municipal**
25 **ordinance with the exception of equipment violations contained in chapter 306, RSMo, or**
26 **similar provisions contained in county or municipal ordinances; or**

27 **(6) If the person, while operating a motor vehicle, has been involved in a motor**
28 **vehicle collision which resulted in a fatality.**

29

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

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

35 3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid

36 pursuant to the provisions of sections 577.020 to 577.041 shall be performed according to
37 methods approved by the state department of health by licensed medical personnel or by a person
38 possessing a valid permit issued by the state department of health for this purpose.

39 4. The state department of health shall approve satisfactory techniques, devices,
40 equipment, or methods to be considered valid pursuant to the provisions of sections 577.020 to
41 577.041 and shall establish standards to ascertain the qualifications and competence of
42 individuals to conduct analyses and to issue permits which shall be subject to termination or
43 revocation by the state department of health.

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

49 6. Upon the request of the person who is tested, full information concerning the test shall
50 be made available to [him] **such person**.

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

Section B. Section A of this act shall become effective on January 1, 2001.