

SECOND REGULAR SESSION

HOUSE BILL NO. 1539

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CLAYTON.

Read 1st time January 17, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3468L.02I

AN ACT

To repeal section 302.309, RSMo, and to enact in lieu thereof one new section relating to drivers' licenses.

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

Section A. Section 302.309, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.309, to read as follows:

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

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

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

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

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; or

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

17 (e) Any other circumstance the court or director finds would create an undue hardship
18 on the operator;

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

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

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

53 (5) Except as provided in subdivision (6) of this subsection, no person is eligible to
54 receive a limited driving privilege who at the time of application for a limited driving privilege
55 has previously been granted such a privilege within the immediately preceding [five] **two** years,
56 or whose license has been suspended or revoked for the following reasons:

57 (a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any
58 similar provision of any federal or state law, or a municipal or county law where the judge in
59 such case was an attorney and the defendant was represented by or waived the right to an
60 attorney in writing, until the person has completed the first thirty days of a suspension or
61 revocation imposed pursuant to this chapter;

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

63 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
64 (6), (7), (8), (9), (10) or (11) of section 302.060;

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

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

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

73 (g) Disqualification of a commercial driver's license pursuant to sections 302.700 to
74 302.780, however, nothing in this subsection shall prevent a person holding a commercial
75 driver's license who is suspended or revoked as a result of an action occurring while not driving
76 a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an
77 operator of a personal vehicle from applying for a limited driving privilege to operate a
78 commercial vehicle, if otherwise eligible for such limited privilege; or

79 (h) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not
80 completed the first thirty days of such suspension, provided the person is not otherwise ineligible
81 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525
82 if such person has not completed such revocation.

83 (6) (a) Provided that pursuant to the provisions of this section, the applicant is not
84 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
85 manner prescribed in this subsection, allow a person who has had such person's license to operate
86 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,
87 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege
88 pursuant to this subsection if such person has served at least three years of such disqualification

89 or revocation. Such person shall present evidence satisfactory to the court or the director that
90 such person has not been convicted of any offense related to alcohol, controlled substances or
91 drugs during the preceding three years and that the person's habits and conduct show that the
92 person no longer poses a threat to the public safety of this state.

93 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
94 ineligible for a limited driving privilege or convicted of involuntary manslaughter while
95 operating a motor vehicle in an intoxicated condition, 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 five years
98 because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of
99 section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person
100 has served at least two years of such disqualification or revocation. Such person shall present
101 evidence satisfactory to the court or the director that such person has not been convicted of any
102 offense related to alcohol, controlled substances or drugs during the preceding two years and that
103 the person's habits and conduct show that the person no longer poses a threat to the public safety
104 of this state. Any person who is denied a license permanently in this state because of an
105 alcohol-related conviction subsequent to a restoration of such person's driving privileges
106 pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege
107 pursuant to the provisions of this subdivision.

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

115 5. The director of revenue shall promulgate rules and regulations necessary to carry out
116 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
117 536.010, RSMo, that is created under the authority delegated in this section shall become
118 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,
119 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
120 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
121 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
122 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
123 after August 28, 2001, shall be invalid and void.