

SECOND REGULAR SESSION

# HOUSE BILL NO. 1319

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), BROWN (30), EMERY, DIXON, PAGE,  
PARSON, YOUNG, BIVINS AND MUSCHANY (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3954L.01I

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### AN ACT

To repeal sections 302.060 and 302.309, RSMo, and to enact in lieu thereof two new sections relating to driving privileges.

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

Section A. Sections 302.060 and 302.309, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 302.060 and 302.309, to read as follows:

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7 person whose license has been revoked, until the expiration of one year after such license was  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

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

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

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

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.

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

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

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

34 (10) To any person who has been convicted twice within a five-year period of violating  
35 state law, or a county or municipal ordinance where the defendant was represented by or waived  
36 the right to an attorney in writing, of driving while intoxicated, **or of driving with excessive**  
37 **blood alcohol content, or who has been convicted within a five-year period once of violating**  
38 **state law, or a county or municipal ordinance where the defendant was represented by or**  
39 **waived the right to an attorney in writing, of driving while intoxicated and once of**  
40 **violating state law, or a county or municipal ordinance where the defendant was**  
41 **represented by or waived the right to an attorney in writing, of driving with excessive**  
42 **blood alcohol content, or who has been convicted of the crime of involuntary manslaughter**  
43 while operating a motor vehicle in an intoxicated condition. The director shall not issue a license  
44 to such person for five years from the date such person was convicted for involuntary  
45 manslaughter while operating a motor vehicle in an intoxicated condition or for driving while  
46 intoxicated for the second time. Any person who has been denied a license for two convictions  
47 of driving while intoxicated prior to July 27, 1989, shall have the person's license issued, upon  
48 application, unless the two convictions occurred within a five-year period, in which case, no  
49 license shall be issued to the person for five years from the date of the second conviction;

50 (11) To any person who is otherwise disqualified pursuant to the provisions of sections  
51 302.010 to 302.780, chapter 303, RSMo, or section 544.046, RSMo;

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

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, RSMo.

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 or the director of revenue shall have jurisdiction to hear  
8 applications and make eligibility determinations granting limited driving privileges. Any  
9 application may be made in writing to the director of revenue and the person's reasons for  
10 requesting the limited driving privilege shall be made therein.

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

- 13 (a) A business, occupation, or employment;
- 14 (b) Seeking medical treatment for such operator;
- 15 (c) Attending school or other institution of higher education;
- 16 (d) Attending alcohol or drug treatment programs; or
- 17 (e) Any other circumstance the court or director finds would create an undue hardship  
18 on the operator;

19  
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 (7) 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 years, or  
56 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; or

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

77 (6) No person who possesses a commercial driver's license shall receive a limited driving  
78 privilege issued for the purpose of operating a commercial motor vehicle if such person's driving  
79 privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall  
80 prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial  
81 motor vehicle provided that pursuant to the provisions of this section, the applicant is not  
82 otherwise ineligible for a limited driving privilege.

83 (7) (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, **or two convictions of driving with**  
99 **excessive blood alcohol content, or one conviction of driving while intoxicated and one**  
100 **conviction of driving with excessive blood alcohol content** as prescribed in subdivision (10)  
101 of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such  
102 person has served at least two years of such disqualification or revocation. Such person shall  
103 present evidence satisfactory to the court or the director that such person has not been convicted  
104 of any offense related to alcohol, controlled substances or drugs during the preceding two years  
105 and that the person's habits and conduct show that the person no longer poses a threat to the  
106 public safety of this state. Any person who is denied a license permanently in this state because  
107 of an alcohol-related conviction subsequent to a restoration of such person's driving privileges  
108 pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege  
109 pursuant to the provisions of this subdivision.

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

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

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