

SECOND REGULAR SESSION

HOUSE BILL NO. 1379

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ST. ONGE (Sponsor), YAEGER, SMITH (14), WILSON (119), BIVINS, MUNZLINGER, KUESSNER, YOUNG, MCGHEE, MEADOWS AND BLACK (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

4070L.02I

AN ACT

To repeal sections 302.302 and 304.580, RSMo, and to enact in lieu thereof four new sections relating to highway work lane safety, with penalty provisions.

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

Section A. Sections 302.302 and 304.580, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 302.302, 304.580, 304.582, and 304.585, to read as follows: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
In violation of any county or municipal ordinance 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo 4 points

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 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, RSMo 4 points
- 36 **(14) Endangerment of a highway worker in violation of section**
- 37 **304.585, RSMo 8 points**
- 38 **(15) Aggravated endangerment of a highway worker in violation of section 304.585,**
- 39 **RSMo 12 points**
- 40 2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess
- 41 an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section
- 42 302.020, when the director issues such operator a license or permit pursuant to the provisions of
- 43 sections 302.010 to 302.340.
- 44 3. An additional two points shall be assessed when personal injury or property damage
- 45 results from any violation listed in **subdivisions (1) to (13)** of subsection 1 of this section and if
- 46 found to be warranted and certified by the reporting court.
- 47 4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this
- 48 section constitutes both a violation of a state law and a violation of a county or municipal
- 49 ordinance, points may be assessed for either violation but not for both. Notwithstanding that an

50 offense arising out of the same occurrence could be construed to be a violation of subdivisions
51 (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than
52 one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses
53 arising out of the same occurrence.

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

304.580. [1.] As used in [this section] **sections 304.582 and 304.585**, the term
2 "construction zone" or "work zone" means any area upon or around any highway as defined in
3 section 302.010, RSMo, which is visibly marked by the department of transportation or a
4 contractor **or subcontractor** performing work for the department of transportation as an area
5 where construction, maintenance, **incident removal**, or other work is temporarily occurring. The
6 term "work zone" or "construction zone" also includes the lanes of highway leading up to the area
7 upon which an activity described in this subsection is being performed, beginning at the point
8 where appropriate signs [directing motor vehicles to merge from one lane into another lane] **or**

9 **traffic control devices** are posted or placed. The terms "worker" or "highway worker" as
10 **used in sections 304.582 and 304.585 shall mean any person that is working in a**
11 **construction zone or work zone, or any employee of the department of transportation that**
12 **is performing duties under the department's motorist assist program on a state highway or**
13 **the right-of-way of a state highway.**

14 [2. Upon a conviction or a plea of guilty by any person for a moving violation as defined
15 in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess
16 a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the
17 offense occurred within a construction zone or a work zone.

18 3. Upon a conviction or plea of guilty by any person for a speeding violation pursuant to
19 either section 304.009 or 304.010, or a passing violation pursuant to subsection 6 of this section,
20 the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized
21 by law, if the offense occurred within a construction zone or a work zone and at the time the
22 speeding or passing violation occurred there was any person in such zone who was there to
23 perform duties related to the reason for which the area was designated a construction zone or work
24 zone. However, no person assessed an additional fine pursuant to this subsection shall also be
25 assessed an additional fine pursuant to subsection 2 of this section, and no person shall be
26 assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to
27 subsection 4 of this section.

28 4. The penalty authorized by subsection 3 of this section shall only be assessed by the
29 court if the department of transportation or contractor performing work for the department of
30 transportation has erected signs upon or around a construction or work zone which are clearly
31 visible from the highway and which state substantially the following message: "Warning: \$250
32 fine for speeding or passing in this work zone".

33 5. During any day in which no person is present in a construction zone or work zone
34 established pursuant to subsection 3 of this section to perform duties related to the purpose of the
35 zone, the sign warning of additional penalties shall not be visible to motorists. During any period
36 of two hours or more in which no person is present in such zone on a day in which persons have
37 been or will be present to perform duties related to the reason for which the area was designated
38 as a construction zone or work zone, the sign warning of additional penalties shall not be visible
39 to motorists. The department of transportation or contractor performing work for the department
40 of transportation shall be responsible for compliance with provisions of this subsection. Nothing
41 in this subsection shall prohibit warning or traffic control signs necessary for public safety in the
42 construction or work zone being visible to motorists at all times.

43 6. The driver of a motor vehicle may not overtake or pass another motor vehicle within
44 a work zone or construction zone. This subsection applies to a construction zone or work zone

45 located upon a highway divided into two or more marked lanes for traffic moving in the same
46 direction and for which motor vehicles are instructed to merge from one lane into another lane
47 by an appropriate sign erected by the department of transportation or a contractor performing
48 work for the department of transportation. Violation of this subsection is a class C misdemeanor.
49 7. This section shall not be construed to enhance the assessment of court costs or the
50 assessment of points pursuant to section 302.302, RSMo.]

**304.582. 1. Upon the first conviction or plea of guilty by any person for a moving
2 violation as defined in section 302.010, RSMo, or any offense listed in section 302.302,
3 RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine
4 authorized to be imposed by law, if the offense occurred within a construction zone or a
5 work zone. A second or subsequent violation of this subsection shall result in the court
6 assessing a fine of seventy-five dollars in addition to any other fine authorized to be imposed
7 by law.**

8 **2. Upon the first conviction or plea of guilty by any person for a speeding violation**
9 **under section 304.009 or 304.010, or a passing violation under subsection 4 of this section,**
10 **the court shall assess a fine of two hundred fifty dollars in addition to any other fine**
11 **authorized by law if the offense occurred within a construction zone or a work zone and at**
12 **the time the speeding or passing violation occurred there was any highway worker in such**
13 **zone. A second or subsequent violation of this subsection shall result in the court assessing**
14 **a fine of three hundred dollars in addition to any other fine authorized by law. However,**
15 **no person assessed an additional fine under this subsection shall also be assessed an**
16 **additional fine under subsection 1 of this section, and no person shall be assessed an**
17 **additional fine under this subsection if no signs have been posted under subsection 3 of this**
18 **section.**

19 **3. The penalty authorized by subsection 2 of this section shall only be assessed by**
20 **the court if the department of transportation or a contractor or subcontractor performing**
21 **work for the department of transportation has erected signs upon or around a construction**
22 **or work zone which are clearly visible from the highway and which state substantially the**
23 **following message: "Warning: Minimum \$250 fine for speeding or passing in this work**
24 **zone when workers are present".**

25 **4. (1) The driver of a motor vehicle shall not overtake or pass another motor vehicle**
26 **within a work zone or construction zone as provided in this subsection. Violation of this**
27 **subsection is a class C misdemeanor.**

28 **(2) This subsection applies to a construction zone or work zone located upon a**
29 **highway divided into two or more marked lanes for traffic moving in the same direction and**
30 **for which motor vehicles are instructed to merge from one lane into another lane and not**

31 pass by appropriate signs or traffic control devices erected by the department of
32 transportation or a contractor or subcontractor performing work for the department of
33 transportation.

34 (3) This subsection also prohibits the operator of a motor vehicle from passing or
35 attempting to pass another motor vehicle in a work zone or construction zone located upon
36 a two-lane highway when highway workers or equipment are working and when
37 appropriate signs or traffic control devices have been erected by the department of
38 transportation or a contractor or subcontractor performing work for the department of
39 transportation.

40 5. The additional fines imposed by this section shall not be construed to enhance the
41 assessment of court costs or the assessment of points under section 302.302, RSMo.

304.585. 1. A person commits the offense of endangerment of a highway worker
2 upon conviction or plea of guilty for any of the following offenses when such offense occurs
3 within a construction zone or work zone, as defined in section 304.580:

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

5 (2) Passing in violation of subsection 4 of section 304.582;

6 (3) Failure to stop for a work zone flagman or failure to obey traffic control devices
7 erected in the construction zone or work zone for purposes of controlling the flow of motor
8 vehicles through the zone;

9 (4) Driving through or around a work zone by any lane not clearly designated to
10 motorists for the flow of traffic through the work zone;

11 (5) Physically assaulting, attempting to assault, or threatening to assault a highway
12 worker in a construction zone or work zone with a motor vehicle or other instrument;

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

17 (7) Committing any of the following offenses for which points may be assessed under
18 section 302.302, RSMo:

19 (a) Leaving the scene of an accident in violation of section 577.060, RSMo;

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

21 (c) Operating without a valid license in violation of subdivision (1) or (2) of
22 subsection 1 of section 302.020, RSMo;

23 (d) Operating with a suspended or revoked license;

24 (e) Obtaining a license by misrepresentation;

25 **(f) Driving while in an intoxicated condition or under the influence of controlled**
26 **substances or drugs or driving with an excessive blood alcohol content;**

27 **(g) Any felony involving the use of a motor vehicle; or**

28 **(h) Knowingly permitting an unlicensed operator to operate a motor vehicle.**

29 **2. Upon conviction or a plea of guilty for committing the offense of endangerment**
30 **of a highway worker under subsection 1 of this section if no injury or death to a highway**
31 **worker resulted from the offense, in addition to any other penalty authorized by law, the**
32 **person shall be subject to a fine of not more than one thousand dollars and shall have eight**
33 **points assessed to his or her driver's license under section 302.302, RSMo, and shall be**
34 **subject to the provisions of section 302.304, RSMo, regarding the suspension of the person's**
35 **license and driving privileges.**

36 **3. A person commits the offense of aggravated endangerment of a highway worker**
37 **upon conviction or a plea of guilty for any offense under subsection 1 of this section when**
38 **such offense occurs in a construction zone or work zone as defined in section 304.580 and**
39 **results in the injury or death of a highway worker. Upon conviction or a plea of guilty for**
40 **committing the offense of aggravated endangerment of a highway worker, in addition to any**
41 **other penalty authorized by law, the person shall be subject to a fine of not more than five**
42 **thousand dollars if the offense resulted in injury to a highway worker and ten thousand**
43 **dollars if the offense resulted in death to a highway worker. In addition, such person shall**
44 **have twelve points assessed to their driver's license under section 302.302, RSMo, and shall**
45 **be subject to the provisions of section 302.304, RSMo, regarding the revocation of the**
46 **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 a highway**
49 **worker except when the act or omission constituting the offense occurred when one or more**
50 **highway workers were in the construction zone or work zone.**

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

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