

FIRST REGULAR SESSION

HOUSE BILL NO. 814

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (14) (Sponsor), STREAM, FAITH, KRAUS, CUNNINGHAM (145), SCHOELLER, RUZICKA, DIXON, NANCE, MOORE, MEADOWS, McGHEE, SCHARNHORST, ONDER, DAVIS AND FUNDERBURK (Co-sponsors).

Read 1st time February 8, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1982L.011

AN ACT

To repeal sections 160.545, 311.310, 311.325, 577.021, and 577.500, RSMo, and to enact in lieu thereof five new sections relating to underage drinking, with penalty provisions.

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

Section A. Sections 160.545, 311.310, 311.325, 577.021, and 577.500, RSMo, are
2 repealed and five new sections enacted in lieu thereof, to be known as sections 160.545, 311.310,
3 311.325, 577.021, and 577.500, to read as follows:

160.545. 1. There is hereby established within the department of elementary and
2 secondary education the "A+ Schools Program" to be administered by the commissioner of
3 education. The program shall consist of grant awards made to public secondary schools that
4 demonstrate a commitment to ensure that:

5 (1) All students be graduated from school;

6 (2) All students complete a selection of high school studies that is challenging and for
7 which there are identified learning expectations; and

8 (3) All students proceed from high school graduation to a college or postsecondary
9 vocational or technical school or high-wage job with work place skill development opportunities.

10 2. The state board of education shall promulgate rules and regulations for the approval
11 of grants made under the program to schools that:

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.

12 (1) Establish measurable districtwide performance standards for the goals of the program
13 outlined in subsection 1 of this section; and

14 (2) Specify the knowledge, skills and competencies, in measurable terms, that students
15 must demonstrate to successfully complete any individual course offered by the school, and any
16 course of studies which will qualify a student for graduation from the school; and

17 (3) Do not offer a general track of courses that, upon completion, can lead to a high
18 school diploma; and

19 (4) Require rigorous coursework with standards of competency in basic academic
20 subjects for students pursuing vocational and technical education as prescribed by rule and
21 regulation of the state board of education; and

22 (5) Have a partnership plan developed in cooperation and with the advice of local
23 business persons, labor leaders, parents, and representatives of college and postsecondary
24 vocational and technical school representatives, with the plan then approved by the local board
25 of education. The plan shall specify a mechanism to receive information on an annual basis from
26 those who developed the plan in addition to senior citizens, community leaders, and teachers to
27 update the plan in order to best meet the goals of the program as provided in subsection 1 of this
28 section. Further, the plan shall detail the procedures used in the school to identify students that
29 may drop out of school and the intervention services to be used to meet the needs of such
30 students. The plan shall outline counseling and mentoring services provided to students who will
31 enter the work force upon graduation from high school, address apprenticeship and intern
32 programs, and shall contain procedures for the recruitment of volunteers from the community
33 of the school to serve in schools receiving program grants.

34 3. By rule and regulation, the state board of education may determine a local school
35 district variable fund match requirement in order for a school or schools in the district to receive
36 a grant under the program. However, no school in any district shall receive a grant under the
37 program unless the district designates a salaried employee to serve as the program coordinator,
38 with the district assuming a minimum of one-half the cost of the salary and other benefits
39 provided to the coordinator. Further, no school in any district shall receive a grant under the
40 program unless the district makes available facilities and services for adult literacy training as
41 specified by rule of the state board of education.

42 4. For any school that meets the requirements for the approval of the grants authorized
43 by this section and specified in subsection 2 of this section for three successive school years, by
44 August first following the third such school year, the commissioner of education shall present
45 a plan to the superintendent of the school district in which such school is located for the waiver
46 of rules and regulations to promote flexibility in the operations of the school and to enhance and
47 encourage efficiency in the delivery of instructional services in the school. The provisions of

48 other law to the contrary notwithstanding, the plan presented to the superintendent shall provide
49 a summary waiver, with no conditions, for the pupil testing requirements pursuant to section
50 160.257 in the school. Further, the provisions of other law to the contrary notwithstanding, the
51 plan shall detail a means for the waiver of requirements otherwise imposed on the school related
52 to the authority of the state board of education to classify school districts pursuant to subdivision
53 (9) of section 161.092, RSMo, and such other rules and regulations as determined by the
54 commissioner of education, except such waivers shall be confined to the school and not other
55 schools in the school district unless such other schools meet the requirements of this subsection.
56 However, any waiver provided to any school as outlined in this subsection shall be void on June
57 thirtieth of any school year in which the school fails to meet the requirements for the approval
58 of the grants authorized by this section as specified in subsection 2 of this section.

59 5. For any school year, grants authorized by subsections 1 to 3 of this section shall be
60 funded with the amount appropriated for this program, less those funds necessary to reimburse
61 eligible students pursuant to subsection 6 of this section.

62 6. The commissioner of education shall, by rule and regulation of the state board of
63 education and with the advice of the coordinating board for higher education, establish a
64 procedure for the reimbursement of the cost of tuition, books and fees to any public community
65 college or vocational or technical school for any student:

66 (1) Who has attended a public high school in the state for at least three years immediately
67 prior to graduation that meets the requirements of subsection 2 of this section, except that
68 students who are active duty military dependents who, in the school year immediately preceding
69 graduation, meet all other requirements of this subsection and are attending a school that meets
70 the requirements of subsection 2 of this section shall be exempt from the three-year attendance
71 requirement of this subdivision; and

72 (2) Who has made a good faith effort to first secure all available federal sources of
73 funding that could be applied to the reimbursement described in this subsection; and

74 (3) Who has earned a minimal grade average while in high school as determined by rule
75 of the state board of education, and other requirements for the reimbursement authorized by this
76 subsection as determined by rule and regulation of said board.

77 **7. Any person who pleads guilty to, is found guilty of, or is adjudicated for violating**
78 **section 311.325, RSMo, as a third offense shall not be eligible for initial or continual**
79 **reimbursement under subsection 6 of this section.**

80 **8.** The commissioner of education shall develop a procedure for evaluating the
81 effectiveness of the program described in this section. Such evaluation shall be conducted
82 annually with the results of the evaluation provided to the governor, speaker of the house, and
83 president pro tempore of the senate.

311.310. 1. Any licensee under this chapter, or his employee, who shall sell, vend, give
2 away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under
3 the age of twenty-one years, or to any person intoxicated or appearing to be in a state of
4 intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian
5 who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under
6 the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state
7 of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that
8 this section shall not apply to the supplying of intoxicating liquor to a person under the age of
9 twenty-one years for medical purposes only, or to the administering of such intoxicating liquor
10 to any person by a duly licensed physician. No person shall be denied a license or renewal of a
11 license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor
12 when serving in the capacity as an employee of a licensed establishment.

13 2. Any owner, occupant, or other person or legal entity with a lawful right to the
14 exclusive use and enjoyment of any property who knowingly allows a person under the age of
15 twenty-one to drink or possess intoxicating liquor or knowingly fails to stop a person under the
16 age of twenty-one from drinking or possessing intoxicating liquor on such property, unless such
17 person allowing the person under the age of twenty- one to drink or possess intoxicating liquor
18 is his or her parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent
19 violation of this subsection is a class A misdemeanor.

20 **3. Any person who pleads guilty to or is found guilty of a violation of this section**
21 **for:**

22 **(1) Procuring, selling, giving away, or otherwise supplying intoxicating liquor to**
23 **any person under the age of twenty-one years of age;**

24 **(2) Knowingly allowing a person under the age of twenty-one years of age to drink**
25 **or possess intoxicating liquor on property as described in subsection 2 of this section; or**

26 **(3) Knowingly failing to stop a person under the age of twenty-one from drinking**
27 **or possessing intoxicating liquor on property as described under subsection 2 of this**
28 **section;**

29

30 **may be subject to a claim by the parent or legal guardian of the person under the age of**
31 **twenty-one for any resulting damages suffered by the person under the age of twenty-one.**

32 **4. It shall be a defense to prosecution under this section if:**

33 **(1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds**
34 **a temporary permit, or an employee thereof;**

35 **(2) The defendant sold the intoxicating liquor to the minor with reasonable cause to**
36 **believe that the minor was twenty-one or more years of age; and**

37 (3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's
38 license, Missouri nondriver's identification card, or other official or apparently official document,
39 containing a photograph of the minor and purporting to establish that such minor was twenty-one
40 years of age and of the legal age for consumption of intoxicating liquor.

311.325. 1. Any person under the age of twenty-one years, who purchases or attempts
2 to purchase, or has in his or her possession, any intoxicating liquor as defined in section 311.020
3 or who is visibly intoxicated as defined in section 577.001, RSMo, or has a detectable blood
4 alcohol content of more than two-hundredths of one percent or more by weight of alcohol in such
5 person's blood is guilty of a misdemeanor. For purposes of prosecution under this section or any
6 other provision of this chapter involving an alleged illegal sale or transfer of intoxicating liquor
7 to a person under twenty-one years of age, a manufacturer-sealed container describing that there
8 is intoxicating liquor therein need not be opened or the contents therein tested to verify that there
9 is intoxicating liquor in such container. The alleged violator may allege that there was not
10 intoxicating liquor in such container, but the burden of proof of such allegation is on such
11 person, as it shall be presumed that such a sealed container describing that there is intoxicating
12 liquor therein contains intoxicating liquor.

13 2. For purposes of determining violations of any provision of this chapter, or of any rule
14 or regulation of the supervisor of alcohol and tobacco control, a manufacturer-sealed container
15 describing that there is intoxicating liquor therein need not be opened or the contents therein
16 tested to verify that there is intoxicating liquor in such container. The alleged violator may allege
17 that there was not intoxicating liquor in such container, but the burden of proof of such allegation
18 is on such person, as it shall be presumed that such a sealed container describing that there is
19 intoxicating liquor therein contains intoxicating liquor.

20 3. The provisions of this section shall not apply to a student who:

21 (1) Is eighteen years of age or older;

22 (2) Is enrolled in an accredited college or university and is a student in a culinary course;

23 (3) Is required to taste, but not consume or imbibe, any beer, ale, porter, wine, or other
24 similar malt or fermented beverage as part of the required curriculum; and

25 (4) Tastes a beverage under subdivision (3) of this subsection only for instructional
26 purposes during classes that are part of the curriculum of the accredited college or university.

27

28 The beverage must at all times remain in the possession and control of an authorized instructor
29 of the college or university, who must be twenty-one years of age or older. Nothing in this
30 subsection may be construed to allow a student under the age of twenty-one to receive any beer,
31 ale, porter, wine, or other similar malt or fermented beverage unless the beverage is delivered

32 as part of the student's required curriculum and the beverage is used only for instructional
33 purposes during classes conducted as part of the curriculum.

34 **4. Any peace officer, as defined in section 590.010, RSMo, who believes that a**
35 **person less than twenty-one years of age is in violation of this section by being intoxicated,**
36 **may request that such person submit to a chemical test prescribed under section 577.021,**
37 **RSMo. Any person less than twenty-one years of age who refuses, upon the request of the**
38 **peace officer, to submit to such chemical test to determine his or her blood alcohol content**
39 **shall be deemed visibly intoxicated for the purposes of this section.**

40 **5. As of August 28, 2007, the clerks of the courts shall forward a copy of the**
41 **judgement and date of birth of any person who is convicted of, pleads guilty or nolo**
42 **contendere to, is found guilty of, or is adjudicated for violating section 311.325. The**
43 **information shall be forwarded to the highway patrol within twenty days of the date of**
44 **judgement. The highway patrol shall enter the information into the Missouri uniform law**
45 **enforcement system (MULES) where it is available to members of the criminal justice**
46 **system, and other entities as provided by law, upon request. No record or information**
47 **shall be made public in violation of chapter 610, RSMo.**

577.021. 1. Any state, county, or municipal law enforcement officer who has the power
2 of arrest for violations of section **311.325, RSMo, section 577.010, or section 577.012** and who
3 is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a chemical test to any
4 person suspected of operating a motor vehicle in violation of section 577.010 or 577.012 **or any**
5 **person suspected of being intoxicated in violation of section 311.325, RSMo.**

6 2. Any state, county, or municipal law enforcement officer who has the power of arrest
7 for violations of section 577.010 or 577.012 and who is certified under chapter 590, RSMo, shall
8 make all reasonable efforts to administer a chemical test to any person suspected of driving a
9 motor vehicle involved in a collision which resulted in a fatality or serious physical injury as
10 defined in section 565.002, RSMo.

11 3. A test administered pursuant to this section shall be admissible as evidence of
12 probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of
13 blood alcohol content. The provisions of sections 577.019 and 577.020 shall not apply to a test
14 administered prior to arrest pursuant to this section.

15 [The provisions changing chapter 577 are severable from this legislation. The general assembly
16 would have enacted the remainder of this legislation without the changes made to chapter 577,
17 and the remainder of the legislation is not essentially and inseparably connected with or
18 dependent upon the changes to chapter 577.]

577.500. 1. A court of competent jurisdiction shall, upon a plea of guilty, conviction or
2 finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the offense was

3 committed by a juvenile, enter an order suspending or revoking the driving privileges of any
4 person determined to have committed one of the following offenses and who, at the time said
5 offense was committed, was under twenty-one years of age:

6 (1) Any alcohol-related traffic offense in violation of state law or a county or, beginning
7 July 1, 1992, municipal ordinance, where the defendant was represented by or waived the right
8 to an attorney in writing;

9 (2) Any offense in violation of state law or, beginning July 1, 1992, a county or
10 municipal ordinance, where the defendant was represented by or waived the right to an attorney
11 in writing, involving the possession or use of alcohol, committed while operating a motor
12 vehicle;

13 (3) Any offense involving the possession or use of a controlled substance as defined in
14 chapter 195, RSMo, in violation of the state law or, beginning July 1, 1992, a county or
15 municipal ordinance, where the defendant was represented by or waived the right to an attorney
16 in writing;

17 (4) Any offense involving the alteration, modification or misrepresentation of a license
18 to operate a motor vehicle in violation of section 311.328, RSMo;

19 (5) Any offense in violation of state law or, beginning July 1, 1992, a county or
20 municipal ordinance, where the defendant was represented by or waived the right to an attorney
21 in writing, involving the possession or use of alcohol for a second time; except that a
22 determination of guilt or its equivalent shall have been made for the first offense and both
23 offenses shall have been committed by the person when the person was under eighteen years of
24 age.

25 2. A court of competent jurisdiction shall, upon a plea of guilty or nolo contendere,
26 conviction or finding of guilt, or, if the court is a juvenile court, upon a finding of fact that the
27 offense was committed by a juvenile, enter an order suspending or revoking the driving
28 privileges of any person determined to have committed a crime or violation of section 311.325,
29 RSMo, and who, at the time said crime or violation was committed, was more than fifteen years
30 of age and under twenty-one years of age.

31 3. The court shall require the surrender to it of any license to operate a motor vehicle,
32 temporary instruction permit, intermediate driver's license or any other driving privilege then
33 held by any person against whom a court has entered an order suspending or revoking driving
34 privileges under subsections 1 and 2 of this section.

35 4. The court, if other than a juvenile court, shall forward to the director of revenue the
36 order of suspension or revocation of driving privileges and any licenses, temporary instruction
37 permits, intermediate driver's licenses, or any other driving privilege acquired under subsection
38 3 of this section.

39 5. (1) The court, if a juvenile court, shall forward to the director of revenue the order
40 of suspension or revocation of driving privileges and any licenses, temporary instruction permits,
41 intermediate driver's licenses, or any other driving privilege acquired under subsection 3 of this
42 section for any person sixteen years of age or older, the provision of chapter 211, RSMo, to the
43 contrary notwithstanding.

44 (2) The court, if a juvenile court, shall hold the order of suspension or revocation of
45 driving privileges for any person less than sixteen years of age until thirty days before the
46 person's sixteenth birthday, at which time the juvenile court shall forward to the director of
47 revenue the order of suspension or revocation of driving privileges, the provision of chapter 211,
48 RSMo, to the contrary notwithstanding.

49 6. The period of suspension for a first offense under subsection 1 of this section shall be
50 ninety days. Any second or subsequent offense under subsection 1 of this section shall result in
51 revocation of the offender's driving privileges for one year. The period of suspension for a first
52 offense under subsection 2 of this section shall be thirty days. The period of suspension for a
53 second offense under subsection 2 of this section shall be ninety days. Any third or subsequent
54 offense under subsection 2 of this section shall result in revocation of the offender's driving
55 privileges for one year. **The suspension of driving privileges for a first offense under this**
56 **subsection shall not be included on the person's driving record. However, internal use of**
57 **such information by the department of revenue for administrative purposes shall be**
58 **allowed.**

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