

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1715
94TH GENERAL ASSEMBLY

Reported from the Special Committee on State Parks and Waterways February 21, 2008 with recommendation that House Committee Substitute for House Bill No. 1715 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

4105L.04C

AN ACT

To repeal sections 304.157, 306.010, 306.015, 306.100, 306.111, 306.112, 306.114, 306.117, 306.124, 306.125, 306.132, 306.147, 306.163, 306.221, 565.024, 565.082, and 577.080, RSMo, and to enact in lieu thereof eighteen new sections relating to watercraft, with penalty provisions.

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

Section A. Sections 304.157, 306.010, 306.015, 306.100, 306.111, 306.112, 306.114, 2 306.117, 306.124, 306.125, 306.132, 306.147, 306.163, 306.221, 565.024, 565.082, and 577.080, 3 RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 4 304.157, 306.010, 306.015, 306.100, 306.111, 306.112, 306.114, 306.117, 306.118, 306.124, 5 306.125, 306.132, 306.147, 306.163, 306.221, 565.024, 565.082, and 577.080, to read as 6 follows:

304.157. 1. If a person abandons property, as defined in section 304.001, on any real 2 property owned by another without the consent of the owner or person in possession of the 3 property, at the request of the person in possession of the real property, any member of the state 4 highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction 5 may authorize a towing company to remove such abandoned property from the property in the 6 following circumstances:

7 (1) The abandoned property is left unattended for more than forty-eight hours; or

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.

8 (2) In the judgment of a law enforcement officer, the abandoned property constitutes a
9 safety hazard or unreasonably interferes with the use of the real property by the person in
10 possession.

11 2. A local government agency may also provide for the towing of motor vehicles **or**
12 **vessels** from real property under the authority of any local ordinance providing for the towing
13 of vehicles **or vessels** which are derelict, junk, scrapped, disassembled or otherwise harmful to
14 the public health under the terms of the ordinance. Any local government agency authorizing
15 a tow under this subsection shall report the tow to the local law enforcement agency within two
16 hours with a crime inquiry and inspection report pursuant to section 304.155.

17 3. Neither the law enforcement officer, local government agency nor anyone having
18 custody of abandoned property under his or her direction shall be liable for any damage to such
19 abandoned property occasioned by a removal authorized by this section other than damages
20 occasioned by negligence or by willful or wanton acts or omissions.

21 4. The owner of real property or lessee in lawful possession of the real property or the
22 property or security manager of the real property may authorize a towing company to remove
23 abandoned property or property parked in a restricted or assigned area without authorization by
24 a law enforcement officer only when the owner, lessee or property or security manager of the real
25 property is present. A property or security manager must be a full-time employee of a business
26 entity. An authorization to tow pursuant to this subsection may be made only under any of the
27 following circumstances:

28 (1) There is displayed, in plain view at all entrances to the property, a sign not less than
29 seventeen by twenty-two inches in size, with lettering not less than one inch in height,
30 prohibiting public parking and indicating that unauthorized abandoned property or property
31 parked in a restricted or assigned area will be removed at the owner's expense, disclosing the
32 maximum fee for all charges related to towing and storage, and containing the telephone number
33 of the local traffic law enforcement agency where information can be obtained or a
34 twenty-four-hour staffed emergency information telephone number by which the owner of the
35 abandoned property or property parked in a restricted or assigned area may call to receive
36 information regarding the location of such owner's property;

37 (2) The abandoned property is left unattended on owner-occupied residential property
38 with four residential units or less, and the owner, lessee or agent of the real property in lawful
39 possession has notified the appropriate law enforcement agency, and ten hours have elapsed
40 since that notification; or

41 (3) The abandoned property is left unattended on private property, and the owner, lessee
42 or agent of the real property in lawful possession of real property has notified the appropriate law
43 enforcement agency, and ninety-six hours have elapsed since that notification.

44 5. Pursuant to this section, any owner or lessee in lawful possession of real property that
45 requests a towing company to tow abandoned property without authorization from a law
46 enforcement officer shall at that time complete an abandoned property report which shall be
47 considered a legal declaration subject to criminal penalty pursuant to section 575.060, RSMo.
48 The report shall be in the form designed, printed and distributed by the director of revenue and
49 shall contain the following:

50 (1) The year, model, make and abandoned property identification number of the property
51 and the owner and any lienholders, if known;

52 (2) A description of any damage to the abandoned property noted by owner, lessee or
53 property or security manager in possession of the real property;

54 (3) The license plate or registration number and the state of issuance, if available;

55 (4) The physical location of the property and the reason for requesting the property to
56 be towed;

57 (5) The date the report is completed;

58 (6) The printed name, address and phone number of the owner, lessee or property or
59 security manager in possession of the real property;

60 (7) The towing company's name and address;

61 (8) The signature of the towing operator;

62 (9) The signature of the owner, lessee or property or security manager attesting to the
63 facts that the property has been abandoned for the time required by this section and that all
64 statements on the report are true and correct to the best of the person's knowledge and belief and
65 that the person is subject to the penalties for making false statements;

66 (10) Space for the name of the law enforcement agency notified of the towing of the
67 abandoned property and for the signature of the law enforcement official receiving the report;
68 and

69 (11) Any additional information the director of revenue deems appropriate.

70 6. Any towing company which tows abandoned property without authorization from a
71 law enforcement officer pursuant to subsection 4 of this section shall deliver a copy of the
72 abandoned property report to the local law enforcement agency having jurisdiction over the
73 location from which the abandoned property was towed. The copy may be produced and sent
74 by facsimile machine or other device which produces a near exact likeness of the print and
75 signatures required, but only if the law enforcement agency receiving the report has the
76 technological capability of receiving such copy and has registered the towing company for such
77 purpose. The registration requirements shall not apply to law enforcement agencies located in
78 counties of the third or fourth classification. The report shall be delivered within two hours if

79 the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of this
80 section, otherwise the report shall be delivered within twenty-four hours.

81 7. The law enforcement agency receiving such abandoned property report must record
82 the date on which the abandoned property report is filed with such agency and shall promptly
83 make an inquiry into the national crime information center and any statewide Missouri law
84 enforcement computer system to determine if the abandoned property has been reported as
85 stolen. The law enforcement agency shall enter the information pertaining to the towed property
86 into the statewide law enforcement computer system, and an officer shall sign the abandoned
87 property report and provide the towing company with a signed copy. The department of revenue
88 may design and sell to towing companies informational brochures outlining owner or lessee of
89 real property obligations pursuant to this section.

90 8. The law enforcement agency receiving notification that abandoned property has been
91 towed by a towing company shall search the records of the department of revenue and provide
92 the towing company with the latest owner and lienholder information, **if available**, on the
93 abandoned property, and if the tower has online access to the department of revenue's records,
94 the tower shall comply with the requirements of section 301.155, RSMo. If the abandoned
95 property is not claimed within ten working days, the towing company shall send a copy of the
96 abandoned property report signed by a law enforcement officer to the department of revenue.

97 9. If any owner or lessee of real property knowingly authorizes the removal of abandoned
98 property in violation of this section, then the owner or lessee shall be deemed guilty of a class
99 C misdemeanor.

306.010. As used in this chapter the following terms mean:

2 (1) "Motorboat", any vessel propelled by machinery, whether or not such machinery is
3 a principal source of propulsion;

4 (2) "Operate", to navigate or otherwise use a motorboat or a vessel;

5 (3) "Operator", the person who operates or has charge of the navigation or use of a
6 vessel;

7 (4) "Owner", a person other than a lienholder, having the property in or title to a
8 motorboat. The term includes a person entitled to the use or possession of a motorboat subject
9 to an interest of another person, reserved or created by agreement and securing payment or
10 performance of an obligation, but the term excludes a lessee under a lease not intended as
11 security;

12 (5) "Parasailing", the towing of any person equipped with a parachute or kite equipment
13 by any watercraft operating on the waters of this state;

14 (6) "Personal watercraft", a class of vessel, which is less than sixteen feet in length,
15 propelled by machinery which is designed to be operated by a person sitting, standing or kneeling
16 on the vessel, rather than being operated by a person sitting or standing inside the vessel;

17 (7) **"Skiing", any activity that involves a person or persons being towed by a vessel,**
18 **including but not limited to waterskiing, wake boarding, wake surfing, knee boarding, and**
19 **tubing;**

20 (8) "Vessel", every motorboat and every description of motorized watercraft, and any
21 watercraft more than twelve feet in length which is powered by sail alone or by a combination
22 of sail and machinery, used or capable of being used as a means of transportation on water, but
23 not any watercraft having as the only means of propulsion a paddle or oars;

24 ~~[(8)]~~ (9) "Watercraft", any boat or craft, including a vessel, used or capable of being used
25 as a means of transport on waters;

26 ~~[(9)]~~ (10) "Waters of this state", any waters within the territorial limits of this state and
27 lakes constructed or maintained by the United States Army Corps of Engineers except bodies of
28 water owned by a person, corporation, association, partnership, municipality or other political
29 subdivision, public water supply impoundments, and except drainage ditches constructed by a
30 drainage district, but the term does include any body of water which has been leased to or owned
31 by the state department of conservation.

306.015. 1. The owner of a vessel kept within this state shall cause it to be registered
2 in the office of the director of revenue who shall issue a certificate of title for the same.

3 2. The owner of any vessel acquired or brought into the state shall file his application
4 for title within sixty days after it is acquired or brought into this state. The director of revenue
5 may grant extensions of time for titling to any person in deserving cases.

6 3. The fee for the certificate of title shall be seven dollars fifty cents and shall be paid
7 to the director of revenue at the time of making application. If application for certificate of title
8 is not made within sixty days after the vessel is acquired or brought into the state, a delinquency
9 penalty fee of ten dollars for each thirty days of delinquency, not to exceed a total of thirty
10 dollars, shall be imposed. If the director of revenue learns that any person has failed to make
11 application for certificate of title within sixty days after acquiring or bringing into the state a
12 vessel or has sold a vessel without obtaining a certificate of title, he shall cancel the registration
13 of all motorboats, vessels, and watercraft registered in the name of the person, either as sole
14 owner or as co-owner, and shall notify the person that the cancellation will remain in force until
15 the person pays the delinquency penalty fee provided in this section together with all fees,
16 charges, and payments which he should have paid in connection with the certificate of title of
17 the vessel.

18 **4. In the event of a sale or transfer of ownership of a vessel or outboard motor for**
19 **which a certificate of ownership or manufacturer's statement of origin has been issued, the**
20 **holder of such certificate shall endorse on the same an assignment thereof, with warranty**
21 **of title in form printed thereon, and prescribed by the director of revenue, with a statement**
22 **of all liens or encumbrances on such vessel or outboard motor, and deliver the same to the**
23 **buyer at the time of delivery to the buyer of such vessel or outboard motor; provided that,**
24 **when the transfer of a vessel or outboard motor occurs within a corporation which holds**
25 **a license to operate as a motor vehicle or boat dealer under sections 301.550 to 301.573,**
26 **RSMo, and this section, the provisions of subdivision (3) of subsection 6 of section 144.070,**
27 **RSMo, shall not apply.**

 306.100. 1. For the purpose of this section, vessels shall be divided into four classes as
2 follows:

- 3 (1) Class A, less than sixteen feet in length;
- 4 (2) Class 1, at least sixteen and less than twenty-six feet in length;
- 5 (3) Class 2, at least twenty-six and less than forty feet in length;
- 6 (4) Class 3, forty feet and over.

7 2. All vessels shall display from sunset to sunrise the following lights when under way,
8 and during such time no other lights [which may be mistaken for those prescribed], **continuous**
9 **spotlights or docking lights, or other nonprescribed lights** shall be exhibited:

10 (1) Vessels of classes A and 1:

11 (a) A bright white light aft to show all around the horizon;

12 (b) A combined light in the forepart of the vessel and lower than the white light aft,
13 showing green to starboard and red to port, so fixed as to throw the light from right ahead to two
14 points (22 1/2 degrees) abaft the beam on their respective sides.

15 (2) Vessels of classes 2 and 3:

16 (a) A bright white light in the forepart of the vessel as near the stem as practicable, so
17 constructed as to show the unbroken light over an arc of the horizon of twenty points (225
18 degrees) of the compass, so fixed as to throw the light ten points (112 1/2 degrees) on each side
19 of the vessel; namely, from right ahead to two points (22 1/2 degrees) abaft the beam on either
20 side;

21 (b) A bright white light aft to show all around the horizon and higher than the white light
22 forward;

23 (c) On the starboard side a green light so constructed as to show an unbroken light over
24 an arc of the horizon of ten points (112 1/2 degrees) of the compass, so fixed as to throw the light
25 from right ahead to two points (22 1/2 degrees) abaft the beam on the starboard side; on the port
26 side a red light so constructed as to show an unbroken light over an arc of the horizon of ten

27 points (112 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two
28 points (22 1/2 degrees) abaft the beam on the portside. The side lights shall be fitted with
29 inboard screens so set as to prevent these lights from being seen across the bow.

30 (3) Vessels of classes A and 1 when propelled by sail alone shall exhibit the combined
31 light prescribed by this section and a twelve point (135 degree) white light aft. Vessels of classes
32 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened, prescribed by
33 this section and a twelve point (135 degree) white light aft.

34 (4) All vessels between the hours of sunset and sunrise that are not under way, moored
35 at permanent dockage or attached to an immovable object on shore so that they do not extend
36 more than fifty feet from the shore shall display one three-hundred-sixty-degree white light
37 visible three hundred sixty degrees around the horizon.

38 (5) Every white light prescribed by this section shall be of such character as to be visible
39 at a distance of at least two miles. Every colored light prescribed by this section shall be of such
40 character as to be visible at a distance of at least one mile. The word "visible" in this subsection,
41 when applied to lights, shall mean visible on a dark night with clear atmosphere.

42 (6) When propelled by sail and machinery every vessel shall carry the lights required by
43 this section for a motorboat propelled by machinery only.

44 3. Any watercraft not defined as a vessel shall, from sunset to sunrise, carry, ready at
45 hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to
46 avert collision.

47 4. Any vessel may carry and exhibit the lights required by the federal regulations for
48 preventing collisions at sea, in lieu of the lights required by subsection 2 of this section.

49 5. All other watercraft over sixty-five feet in length and those propelled solely by wind
50 effect on the sail shall display lights prescribed by federal regulations.

51 6. Any watercraft used by a person engaged in the act of sport fishing is not required to
52 display any lights required by this section if no other vessel is within the immediate vicinity of
53 the first vessel, the vessel is using an electric trolling motor and the vessel is within fifty feet of
54 the shore.

55 7. Every vessel, except those in class A, shall have on board at least one wearable
56 personal flotation device of type I, II or III for each person on board and each person being towed
57 who is not wearing one. Every such vessel shall also have on board at least one type IV
58 throwable personal flotation device.

59 8. All class A motorboats and all watercraft traveling on the waters of this state shall
60 have on board at least one type I, II, III or IV personal flotation device for each person on board
61 and each person being towed who is not wearing one.

62 9. All lifesaving devices required by subsections 7 and 8 of this section shall be United
63 States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

64 10. Every vessel which is carrying or using flammable or toxic fluid in any enclosure for
65 any purpose, and which is not an entirely open vessel, shall have an efficient natural or
66 mechanical ventilation system which must be capable of removing resulting gases prior to and
67 during the time the vessel is occupied by any person.

68 11. Motorboats shall carry on board at least the following United States Coast Guard
69 approved fire extinguishers:

70 (1) Every class A and every class 1 motorboat carrying or using gasoline or any other
71 flammable or toxic fluid, one B1 type fire extinguisher;

72 (2) Every class 2 motorboat, one B2 or two B1 type fire extinguishers;

73 (3) Every class 3 motorboat:

74 (a) Three B1 type fire extinguishers; or

75 (b) One B2 type and one B1 type fire extinguisher; or

76 (c) A fixed fire extinguishing system and one B2 type fire extinguisher; or

77 (d) A fixed fire extinguishing system and two B1 type fire extinguishers.

78 12. All class 1 and 2 motorboats and vessels shall have a sounding device. All class 3
79 motorboats and vessels shall have at least a sounding device and one bell.

80 13. No person shall operate any watercraft which is not equipped as required by this
81 section.

82 14. A Missouri state water patrol officer may direct the operator of any watercraft being
83 operated without sufficient personal flotation devices, fire-fighting devices or in an overloaded
84 or other unsafe condition or manner to take whatever immediate and reasonable steps are
85 necessary for the safety of those aboard when, in the judgment of the officer, such operation
86 creates a hazardous condition. The officer may direct the operator to return the watercraft to the
87 nearest safe mooring and to remain there until the situation creating the hazardous condition is
88 corrected.

89 15. A Missouri state water patrol officer may remove any unmanned or unattended
90 watercraft from the water when, in the judgment of the officer, the watercraft creates a hazardous
91 condition.

92 **16. Nothing in this section shall prohibit the use of additional specialized lighting**
93 **used in the act of sport fishing.**

306.111. 1. A person commits the crime of negligent operation of a vessel if when
2 operating a vessel on the Mississippi River, Missouri River or the lakes waters of this state he
3 **or she** acts with criminal negligence, as defined in subsection 5 of section 562.016, RSMo, to
4 cause physical injury to any other person or damage to the property of any other person. A

5 person convicted of negligent operation of a vessel is guilty of a class B misdemeanor upon
6 conviction for the first violation, guilty of a class A misdemeanor upon conviction for the second
7 violation, and guilty of a class D felony for conviction for the third and subsequent violations.

8 2. A person commits the crime of operating a vessel while intoxicated if he **or she**
9 operates a vessel [on the Mississippi River, Missouri River or the lakes waters of this state] while
10 in an intoxicated condition. [A person convicted of] Operating a vessel while intoxicated is
11 [guilty of] a class B misdemeanor [upon conviction for the first violation, guilty of a class A
12 misdemeanor upon conviction for the second violation, and guilty of a class D felony for
13 conviction for the third and subsequent violations].

14 3. A person commits the crime of involuntary manslaughter with a vessel if, while in an
15 intoxicated condition, he **or she** operates any vessel [on the Mississippi River, Missouri River
16 or the lakes of this state] and, when so operating, acts with criminal negligence to cause the death
17 of any person. Involuntary manslaughter with a vessel is a class C felony.

18 4. A person commits the crime of assault with a vessel in the second degree if, while in
19 an intoxicated condition, he **or she** operates any vessel [on the Mississippi River, Missouri River
20 or the lakes of this state] and, when so operating, acts with criminal negligence to cause physical
21 injury to any other person. Assault with a vessel in the second degree is a class D felony.

22 5. For purposes of this section, a person is in an intoxicated condition when he **or she**
23 is under the influence of alcohol, a controlled substance or drug, or any combination thereof.

306.112. 1. A person commits the crime of operating a vessel with excessive blood
2 alcohol content if such person operates a vessel on the Mississippi River, Missouri River or the
3 lakes of this state with [ten-hundredths] **eight-hundredths** of one percent or more by weight of
4 alcohol in such person's blood.

5 2. As used in this section, percent by weight of alcohol in the blood shall be based upon
6 grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis
7 of the person's blood, breath, urine, or saliva.

8 3. [Any person convicted of] Operating a vessel with excessive blood alcohol content
9 is [guilty of] a class B misdemeanor [upon conviction for the first violation, guilty of a class A
10 misdemeanor upon conviction for the second violation, and guilty of a class D felony for
11 conviction for the third and subsequent violations].

306.114. 1. No person convicted of or pleading guilty to a violation of section 306.111
2 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on
3 probation for a minimum of two years and a record of the conviction or plea of guilty is entered
4 into the records of the Missouri uniform law enforcement system maintained by the Missouri
5 state highway patrol.

6 2. Chemical tests of a person's blood, breath, urine, or saliva to be considered valid under
7 the provisions of sections 306.111 to 306.119 shall be performed according to methods and
8 devices approved by the department of health and senior services by licensed medical personnel
9 or by a person possessing a valid permit issued by the department of health and senior services
10 for this purpose. In addition, any state, county, or municipal law enforcement officer who is
11 certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a portable chemical test
12 to any person suspected of operating any vessel in violation of section 306.111 or 306.112. A
13 portable chemical test shall be admissible as evidence of probable cause to arrest and as
14 exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The
15 provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this
16 section.

17 3. The department of health and senior services shall approve satisfactory techniques,
18 devices, equipment, or methods to conduct tests required by sections 306.111 to 306.119, and
19 shall establish standards as to the qualifications and competence of individuals to conduct
20 analyses and to issue permits which shall be subject to termination, suspension or revocation by
21 the department of health and senior services.

22 4. A licensed physician, registered nurse, or trained medical technician, acting at the
23 request and direction of a law enforcement officer, shall withdraw blood for the purpose of
24 determining the alcohol content of the blood, unless the medical personnel, in the exercise of
25 good faith medical judgment, believes such procedure would endanger the life or health of the
26 person in custody. Blood may be withdrawn only by such medical personnel, but such restriction
27 shall not apply to the taking of a breath test or a urine or saliva specimen. In withdrawing blood
28 for the purpose of determining the alcohol content in the blood, only a previously unused and
29 sterile needle and sterile vessel shall be used and the withdrawal shall otherwise be in strict
30 accord with accepted medical practices. [A nonalcoholic antiseptic shall be used for cleansing
31 the skin prior to a venapuncture.] Upon the request of the person who is tested, full information
32 concerning the test taken at the direction of the law enforcement officer shall be made available
33 to such person.

34 5. No person who administers any test pursuant to the provisions of sections 306.111 to
35 306.119 upon the request of a law enforcement officer, no hospital in or with which such person
36 is employed or is otherwise associated or in which such test is administered, and no other person,
37 firm, or corporation by whom or with which such person is employed or is in any way associated
38 shall be civilly liable for damages to the person tested, except for negligence in administering
39 of the test or for willful and wanton acts or omissions.

40 6. Any person who is dead, unconscious or who is otherwise in a condition rendering
41 such person incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall

42 be deemed not to have withdrawn the consent provided by section 306.116 and the test or tests
43 may be administered.

306.117. 1. Upon the trial of any person for violation of any of the provisions of section
2 306.111 or 306.112 the amount of alcohol or drugs in the person's blood at the time of the act
3 alleged as shown by any chemical analysis of the person's blood, breath, urine, or saliva is
4 admissible in evidence and the provisions of subdivision (5) of section 491.060, RSMo, shall not
5 prevent the admissibility or introduction of such evidence if otherwise admissible. Evidence of
6 alcohol in a person's blood shall be given the following effect:

7 (1) If there was five-hundredths of one percent or less by weight of alcohol in such
8 person's blood, it shall be presumed that the person was not intoxicated at the time the specimen
9 was obtained;

10 (2) If there was in excess of five-hundredths of one percent but less than
11 [ten-hundredths] **eight-hundredths** of one percent by weight of alcohol in such person's blood,
12 the fact shall not give rise to any presumption that the person was or was not intoxicated, but the
13 fact may be considered with other competent evidence in determining whether the person was
14 intoxicated;

15 (3) If there was [ten-hundredths] **eight-hundredths** of one percent or more by weight
16 of alcohol in the person's blood, this shall be prima facie evidence that the person was
17 intoxicated at the time the specimen was taken.

18 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
19 one hundred milliliters of blood.

20 3. A chemical analysis of a person's breath, blood, urine, or saliva, in order to give rise
21 to the presumption or to have the effect provided for in subsection 1 of this section, shall have
22 been performed as provided in sections 306.111 to 306.119 and in accordance with methods and
23 standards approved by the department of health and senior services.

24 4. The provisions of this section shall not be construed as limiting the introduction of
25 any other competent evidence bearing upon the question whether the person was intoxicated or
26 under the influence of a controlled substance, or drug, or a combination of either or both with
27 or without alcohol.

**306.118. 1. For purposes of this section, unless the context clearly indicates
2 otherwise, the following terms mean:**

3 (1) "Aggravated offender", a person who:

4 (a) Has pleaded guilty to or has been found guilty of three or more
5 intoxication-related boating offenses; or

6 (b) Has pleaded guilty to or has been found guilty of one or more
7 intoxication-related boating offenses and any of the following: involuntary manslaughter

8 under subsection 3 of section 306.111; assault with a vessel in the second degree under
9 subsection 4 of section 306.111, or assault of a law enforcement officer in the second degree
10 under subdivision (4) of subsection 1 of section 565.082, RSMo;

11 (2) "Chronic offender":

12 (a) A person who has pleaded guilty to or has been found guilty of four or more
13 intoxication-related boating offenses; or

14 (b) A person who has pleaded guilty to or has been found guilty of, on two or more
15 separate occasions, any combination of the following: involuntary manslaughter under
16 subsection 3 of section 306.111; assault with a vessel in the second degree under subsection
17 4 of section 306.111; or assault of a law enforcement officer in the second degree under
18 subdivision (4) of subsection 1 of section 565.082, RSMo; or

19 (c) A person who has pleaded guilty to or has been found guilty of two or more
20 intoxication-related boating offenses and any of the following: involuntary manslaughter
21 under subsection 3 of section 306.111; assault with a vessel in the second degree under
22 subsection 4 of section 306.111; or assault of a law enforcement officer in the second degree
23 under subdivision (4) of subsection 1 of section 565.082, RSMo;

24 (3) "Intoxication-related boating offense", operating a vessel while intoxicated
25 under subsection 2 of section 306.111; operating a vessel with excessive blood alcohol
26 content under section 306.112; involuntary manslaughter under subsection 3 of section
27 306.111; assault with a vessel in the second degree under subsection 4 of section 306.111;
28 any violation of subsection 2 of section 306.110; or assault of a law enforcement officer in
29 the second degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

30 (4) "Persistent offender", one of the following:

31 (a) A person who has pleaded guilty to or has been found guilty of two or more
32 intoxication-related boating offenses;

33 (b) A person who has pleaded guilty to or has been found guilty of involuntary
34 manslaughter under subsection 3 of section 306.111, assault in the second degree under
35 subsection 4 of section 306.111, assault of a law enforcement officer in the second degree
36 under subdivision (4) of subsection 1 of section 565.082, RSMo;

37 (5) "Prior offender", a person who has pleaded guilty to or has been found guilty
38 of one intoxication-related boating offense, where such prior offense occurred within five
39 years of the occurrence of the intoxication-related boating offense for which the person is
40 charged.

41 2. Any person who pleads guilty to or is found guilty of a violation of subsection 2
42 of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a
43 prior offender shall be guilty of a class A misdemeanor.

44 **3. Any person who pleads guilty to or is found guilty of a violation of subsection 2**
45 **of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be a**
46 **persistent offender shall be guilty of a class D felony.**

47 **4. Any person who pleads guilty to or is found guilty of a violation of subsection 2**
48 **of section 306.110, section 306.111, or section 306.112, who is alleged and proved to be an**
49 **aggravated offender shall be guilty of a class C felony.**

50 **5. Any person who pleads guilty to or is found guilty of a violation of subsection 2**
51 **of section 306.110, section 306.111, or section 306.112 who is alleged and proved to be a**
52 **chronic offender shall be guilty of a class B felony.**

53 **6. No state, county, or municipal court shall suspend the imposition of sentence as**
54 **to a prior offender, persistent offender, aggravated offender, or chronic offender under**
55 **this section, nor sentence such person to pay a fine in lieu of a term of imprisonment,**
56 **notwithstanding the provisions of section 557.011, RSMo, to the contrary notwithstanding.**
57 **No prior offender shall be eligible for parole or probation until he or she has served a**
58 **minimum of five days imprisonment, unless as a condition of such parole or probation such**
59 **person performs at least thirty days of community service under the supervision of the**
60 **court in those jurisdictions which have a recognized program for community service. No**
61 **persistent offender shall be eligible for parole or probation until he or she has served a**
62 **minimum of ten days imprisonment, unless as a condition of such parole or probation such**
63 **person performs at least sixty days of community service under the supervision of the**
64 **court. No aggravated offender shall be eligible for parole or probation until he or she has**
65 **served a minimum of sixty days imprisonment. No chronic offender shall be eligible for**
66 **parole or probation until he or she has served a minimum of two years imprisonment.**

67 **7. The state, county, or municipal court shall find the defendant to be a prior**
68 **offender, persistent offender, aggravated offender, or chronic offender if:**

69 **(1) The indictment or information, original or amended, or the information in lieu**
70 **of an indictment pleads all essential facts warranting a finding that the defendant is a prior**
71 **offender, persistent offender, aggravated offender, or chronic offender; and**

72 **(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a**
73 **finding beyond a reasonable doubt the defendant is a prior offender, persistent offender,**
74 **aggravated offender, or chronic offender; and**

75 **(3) The court makes findings of fact that warrant a finding beyond a reasonable**
76 **doubt by the court that the defendant is a prior offender, persistent offender, aggravated**
77 **offender, or chronic offender.**

78 **8. In a jury trial, the facts shall be pleaded, established and found prior to**
79 **submission to the jury outside of its hearing.**

80 **9. In a trial without a jury or upon a plea of guilty, the court may defer the proof**
81 **in findings of such facts to a later time, but prior to sentencing.**

82 **10. The defendant shall be accorded full rights of confrontation and**
83 **cross-examination, with the opportunity to present evidence, at such hearings.**

84 **11. The defendant may waive proof of the facts alleged.**

85 **12. Nothing in this section shall prevent the use of presentence investigations or**
86 **commitments.**

87 **13. At the sentencing hearing both the state, county, or municipality and the**
88 **defendant shall be permitted to present additional information bearing on the issue of**
89 **sentence.**

90 **14. The pleas or findings of guilty shall be prior to the date of commission of the**
91 **present offense.**

92 **15. The court shall not instruct the jury as to the range of punishment or allow the**
93 **jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict**
94 **in cases of prior offenders, persistent offenders, aggravated offenders, or chronic offenders.**

306.124. 1. (1) "Aids to navigation" means buoys, beacons or other fixed objects in the
2 water which are used to mark obstructions to navigation or to direct navigation through safe
3 channels.

4 (2) "Regulatory markers" means any anchored or fixed markers in or on the water or
5 signs on the shore or on bridges over the water other than aids to navigation and shall include
6 but not be limited to bathing markers, speed zone markers, information markers, danger zone
7 markers, boat keep-out areas, and mooring buoys.

8 2. The Missouri state water patrol after a public hearing pursuant to notice thereof
9 published not less than ten days prior thereto in each county to be affected may provide for the
10 uniform marking of the water areas in this state through the placement of aids to navigation and
11 regulatory markers. The Missouri state water patrol shall establish a marking system compatible
12 with the system of aids to navigation prescribed by the United States Coast Guard. No city,
13 county, or person shall mark or obstruct the water of this state in any manner so as to endanger
14 the operation of watercraft or conflict with the marking system prescribed by the state water
15 patrol.

16 3. Whenever, due to any actual or imminent man-made or natural disaster, the navigation
17 or use of any waters of this state presents an unreasonable danger to persons or property, the
18 Missouri state water patrol may, with the consent of the director of the department of public
19 safety, close such waters [by the placement of regulatory markers].

20 4. The operation of any watercraft within prohibited areas that are marked shall be prima
21 facie evidence of negligent operation.

22 5. It shall be unlawful for any person to operate a watercraft on the waters of this state
23 in a manner other than that prescribed or permitted by regulatory markers.

24 6. No person shall moor or fasten a watercraft to or willfully damage, tamper, remove,
25 obstruct, or interfere with any aid to navigation or regulatory marker established pursuant to
26 sections 306.010 to 306.126.

 306.125. 1. Every person shall operate a motorboat, vessel or watercraft in a careful and
2 prudent manner and at a rate of speed so as not to endanger the property of another or the life or
3 limb of any person and shall exercise the highest degree of care.

4 2. No person shall operate a motorboat, vessel or watercraft at any time from a half-hour
5 after sunset until an hour before sunrise the following day at a speed exceeding thirty miles per
6 hour. [This subsection shall only apply to the waters of the Mississippi River, the waters of the
7 Missouri River, and lakes with an aggregate shoreline in excess of one hundred sixty miles.]

8 3. Vessels shall not be operated within one hundred feet of any dock, pier, occupied
9 anchored boat or buoyed restricted area on any lake at a speed in excess of slow-no wake speed.

10 4. Subsection 1 of this section shall not apply to a motorboat or other boat race
11 authorized under section 306.130.

 306.132. 1. Any person operating a watercraft on the waters of this state shall stop such
2 watercraft upon a signal of any member of the Missouri state water patrol and obey any other
3 reasonable signal or direction of such member of the Missouri state water patrol given in
4 directing the movement of traffic on the waters of this state.

5 2. Any person operating a watercraft upon the waters of this state shall immediately stop
6 or position such watercraft in such a way as to give the right-of-way on the water to any
7 emergency watercraft, as established by the Missouri state water patrol, when such emergency
8 watercraft gives an audible signal by siren or gives a visible signal by having at least one lighted
9 lamp exhibiting a red or blue light visible under normal atmospheric conditions from a distance
10 of five hundred feet to the front of such emergency watercraft.

11 3. **Vessels shall not be operated at a speed in excess of slow no-wake speed within**
12 **one hundred feet of any emergency vessel that has red or blue lighting displayed.**

13 4. Any person who violates the provisions of this section is guilty of a class C
14 misdemeanor.

 306.147. 1. As used in this section, the term "muffler" means a sound suppression
2 device or system designed and installed to abate the sound of exhaust gases emitted from an
3 internal combustion engine and which prevents excessive or unusual noise.

4 2. Effective January 1, 1996, a person shall not manufacture, sell or offer for sale or
5 operate in this state any motorboat manufactured after that date that exceeds the noise level of
6 90dB(A) when subjected to a stationary sound level test as prescribed by SAE J2005. All

7 motorboats manufactured prior to January 1, 1996, shall not exceed eighty-six decibels on an
8 A-weighted scale when subjected to a sound level test as prescribed by SAE J34 when measured
9 from a distance of fifty or more feet from the motorboat.

10 3. No person shall remove, alter or otherwise modify in any way a muffler or muffler
11 system in a manner which will prevent it from being operated in accordance with this section.
12 Nothing in this section shall preclude a person from removing, altering or modifying a muffler
13 or muffler system so long as the muffler or muffler system continues to comply with subsection
14 2 of this section. This section shall not be construed so as to prohibit the use of any exhaust
15 system or device, including but not limited to those not discharging water with exhaust gases,
16 so long as the device or system is in compliance with subsection 2 of this section.

17 4. No motorboat shall be equipped with any electrical or mechanical device or switch
18 that when manipulated in any manner would allow the muffler or exhaust system to emit a noise
19 level that exceeds the maximums in subsection 2 of this section.

20 5. Effective January 1, 1996, a person shall not manufacture, nor shall any person sell
21 or offer for sale any motorboat which is manufactured after January 1, 1996, which is equipped
22 with a muffler or muffler system which does not comply with this section. The subsection shall
23 not apply to power vessels designed, manufactured and sold for the sole purpose of competing
24 in racing events and for no other purpose. Any such exemption or exception shall be
25 documented in every sale agreement and shall be formally acknowledged by signature on the part
26 of both the buyer and the seller. Copies of such agreement shall be maintained by both parties.
27 A copy of such agreement shall be kept on board whenever the motorboat is operated. Any
28 motorboat sold under this exemption may only be operated on the waters of this state in
29 accordance with subsection 7 of this section.

30 6. As of January 1, 1996, every manufacturer which delivers a new motorboat for sale
31 in this state shall certify, if the purchaser or dealer makes a request in writing, that the decibel
32 level of the motorboat engine, muffler and exhaust system, as delivered to any licensed dealer
33 in this state, does not exceed the noise level of 90dB(A) when subjected to a stationary sound
34 level test as prescribed by SAE J2005. Such certificate of decibel level from the manufacturer
35 shall be given by the dealer to the purchaser of the new motorboat if the motorboat is sold for
36 use upon the waters of this state. The purchaser shall sign a statement acknowledging receipt
37 of the certificate of decibel level which shall be supplied by the dealer. The dealer shall
38 represent by affidavit whether or not the engine or muffler system of the new motorboat being
39 sold has been altered or modified in any way.

40 7. The provisions of this section shall not apply to motorboats registered and actually
41 participating in a racing event or tune-up periods for such racing events or to a motorboat being
42 operated by a boat or engine manufacturer for the purpose of testing or development. The

43 operator of any motorboat operated upon the waters of this state for the purpose of a tune-up for
44 a sanctioned race or for testing or development by a boat or engine manufacturer shall at all times
45 have in such operator's possession and produce on demand by a law enforcement officer a test
46 permit issued by the state water patrol. For the purpose of races or racing events, such race shall
47 only be sanctioned when conducted in accordance with and approved by the United States Coast
48 Guard or this state.

49 8. Any officer authorized to enforce the provisions of this section who has probable
50 cause to believe that a motorboat is not in compliance with the noise levels established in this
51 section may direct the operator of such motorboat to submit the motorboat to an on-site test to
52 measure noise levels, with the officer on board if such officer chooses, and the operator shall
53 comply with such request. The owner of any motorboat which violates any provision of this
54 section shall have sixty days from the date of the violation to bring the motorboat into
55 compliance with the provisions of this section. Thereafter, it shall be the owner's responsibility
56 to have the motorboat tested by the state water patrol. If the motorboat fails the state water patrol
57 test, the owner shall immediately moor the motorboat and shall keep the motorboat moored until
58 the state water patrol certifies that the motorboat is in compliance with the provisions of this
59 section. Any person who fails to comply with a request or direction of an officer made pursuant
60 to this subsection is guilty of a class C misdemeanor. Nothing in this subsection shall be
61 construed to limit the officer's ability to enforce this section and to issue citations to the owner
62 or operator of any motorboat during the sixty-day compliance period.

63 9. Any officer who conducts motorboat sound level tests as provided in this section shall
64 be qualified in motorboat noise testing by the department of public safety. Such qualifications
65 shall include but may not be limited to the selection of the measurement site, and the calibration
66 and use of noise testing equipment in accordance with the testing procedure prescribed by SAE
67 J2005 and SAE J34.

68 10. Unless otherwise indicated, any person who knowingly violates this section is guilty
69 of an infraction for a first offense with a penalty not to exceed one hundred dollars, is guilty of
70 an infraction for a second offense with a penalty not to exceed two hundred dollars, and is guilty
71 of an infraction for a third or subsequent offense with a penalty not to exceed three hundred
72 dollars.

73 11. [This section shall only apply to the waters of the Mississippi River, the waters of
74 the Missouri River, and lakes with an aggregate shoreline in excess of one hundred sixty miles.]
75 This section shall not apply to motorboats not intended for use in this state.

306.163. 1. The governor, by and with the advice and consent of the senate, shall
2 appoint a commissioner of the Missouri state water patrol **from its uniformed membership** to

3 serve at the pleasure of the governor. The commissioner shall take and subscribe an oath of
4 office to perform the commissioner's duties faithfully and impartially.

5 2. The commissioner shall prescribe rules for instruction and discipline and make
6 administrative rules and regulations and fix the hours of duty for the members of the patrol. The
7 commissioner shall have charge of the office of the patrol, shall be custodian of the records of
8 the patrol, and shall direct the day-to-day activities of the officers, patrolmen and office
9 personnel.

10 3. The commissioner shall be given a certificate of appointment, a copy of which shall
11 be filed with the secretary of state, granting him or her all the powers of a peace officer to
12 enforce all the laws of this state within the jurisdiction of the water patrol as listed in section
13 306.165, provided that he has completed a law enforcement training course which meets the
14 standards established in chapter 590, RSMo.

15 4. In the absence, or upon the disability, of the commissioner, or at the time the
16 commissioner designates, the lieutenant colonel shall assume the duties of the commissioner.
17 In case of the disability of the commissioner and the lieutenant colonel, the governor may
18 designate a major as acting commissioner and when so designated, the acting commissioner shall
19 have all the powers and duties of the commissioner.

306.221. 1. No person shall operate or otherwise position a vessel or other object or any
2 person in such manner as to obstruct or impede the normal flow of traffic on the [lakes] **waters**
3 of this state.

4 2. Any person who violates subsection 1 of this section is guilty upon the first conviction
5 of a class C misdemeanor and upon the second and any subsequent conviction of a class B
6 misdemeanor.

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree
2 if he or she:

3 (1) Recklessly causes the death of another person; or

4 (2) While in an intoxicated condition operates a motor vehicle **or vessel** in this state and,
5 when so operating, acts with criminal negligence to cause the death of any person; or

6 (3) While in an intoxicated condition operates a motor vehicle **or vessel** in this state,
7 and, when so operating, acts with criminal negligence to:

8 (a) Cause the death of any person not a passenger in the vehicle **or vessel** operated by
9 the defendant, including the death of an individual that results from the defendant's vehicle
10 leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or
11 **vessel leaving the water; or**

12 (b) Cause the death of two or more persons; or

13 (c) Cause the death of any person while he or she has a blood alcohol content of at least
14 eighteen-hundredths of one percent by weight of alcohol in such person's blood; or

15 (4) Operates a motor vehicle in violation of subsection 2 of section 304.022, RSMo, and
16 when so operating, acts with criminal negligence to cause the death of any person authorized to
17 operate an emergency vehicle, as defined in section 304.022, RSMo, while such person is in the
18 performance of official duties;

19 **(5) Operates a vessel in violation of subsections 1 and 2 of section 306.132, RSMo,**
20 **and when so operating acts with criminal negligence to cause the death of any person**
21 **authorized to operate an emergency watercraft, as defined in section 306.132, RSMo, while**
22 **such person is in the performance of official duties.**

23 2. Involuntary manslaughter in the first degree under subdivision (1) or (2) of subsection
24 1 of this section is a class C felony. Involuntary manslaughter in the first degree under
25 subdivision (3) of subsection 1 of this section is a class B felony. A second or subsequent
26 violation of subdivision (3) of subsection 1 of this section is a class A felony. For any violation
27 of subdivision (3) of subsection 1 of this section, the minimum prison term which the defendant
28 must serve shall be eighty-five percent of his or her sentence. Any violation of [subdivision]
29 **subdivisions (4) and (5)** of subsection 1 of this section is a class B felony.

30 3. A person commits the crime of involuntary manslaughter in the second degree if he
31 acts with criminal negligence to cause the death of any person.

32 4. Involuntary manslaughter in the second degree is a class D felony.

565.082. 1. A person commits the crime of assault of a law enforcement officer,
2 emergency personnel, or probation and parole officer in the second degree if such person:

3 (1) Knowingly causes or attempts to cause physical injury to a law enforcement officer,
4 emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous
5 instrument;

6 (2) Knowingly causes or attempts to cause physical injury to a law enforcement officer,
7 emergency personnel, or probation and parole officer by means other than a deadly weapon or
8 dangerous instrument;

9 (3) Recklessly causes serious physical injury to a law enforcement officer, emergency
10 personnel, or probation and parole officer; or

11 (4) While in an intoxicated condition or under the influence of controlled substances or
12 drugs, operates a motor vehicle **or vessel** in this state and when so operating, acts with criminal
13 negligence to cause physical injury to a law enforcement officer, emergency personnel, or
14 probation and parole officer;

15 (5) Acts with criminal negligence to cause physical injury to a law enforcement officer,
16 emergency personnel, or probation and parole officer by means of a deadly weapon or dangerous
17 instrument;

18 (6) Purposely or recklessly places a law enforcement officer, emergency personnel, or
19 probation and parole officer in apprehension of immediate serious physical injury; or

20 (7) Acts with criminal negligence to create a substantial risk of death or serious physical
21 injury to a law enforcement officer, emergency personnel, or probation and parole officer.

22 2. As used in this section, "emergency personnel" means any paid or volunteer
23 firefighter, emergency room or trauma center personnel, or emergency medical technician as
24 defined in subdivisions (15), (16), and (17) of section 190.100, RSMo.

25 3. Assault of a law enforcement officer, emergency personnel, or probation and parole
26 officer in the second degree is a class B felony unless committed pursuant to subdivision (2), (5),
27 (6), or (7) of subsection 1 of this section in which case it is a class C felony.

577.080. 1. A person commits the crime of abandoning a motor vehicle, **vessel**, or trailer
2 if he abandons any motor vehicle, **vessel**, or trailer on the right-of-way of any public road or state
3 highway or on or in any of the waters in this state or on the banks of any stream, or on any land
4 or water owned, operated or leased by the state, any board, department, agency or commission
5 thereof, or any political subdivision thereof or on any land or water owned, operated or leased
6 by the federal government or on any private real property owned by another without his consent.

7 2. For purposes of this section, the last owner of record of a motor vehicle, **vessel**, or
8 trailer found abandoned and not shown to be transferred pursuant to sections 301.196 and
9 301.197, RSMo, shall be deemed prima facie to have been the owner of such motor vehicle,
10 **vessel**, or trailer at the time it was abandoned and to have been the person who abandoned the
11 motor vehicle, **vessel**, or trailer or caused or procured its abandonment. The registered owner
12 of the abandoned motor vehicle, **vessel**, or trailer shall not be subject to the penalties provided
13 by this section if the motor vehicle, **vessel**, or trailer was in the care, custody, or control of
14 another person at the time of the violation. In such instance, the owner shall submit such
15 evidence in an affidavit permitted by the court setting forth the name, address, and other
16 pertinent information of the person who leased, rented, or otherwise had care, custody, or control
17 of the motor vehicle, **vessel**, or trailer at the time of the alleged violation. The affidavit
18 submitted pursuant to this subsection shall be admissible in a court proceeding adjudicating the
19 alleged violation and shall raise a rebuttable presumption that the person identified in the
20 affidavit was in actual control of the motor vehicle, **vessel**, or trailer. In such case, the court has
21 the authority to terminate the prosecution of the summons issued to the owner and issue a
22 summons to the person identified in the affidavit as the operator. If the motor vehicle, **vessel**,
23 or trailer is alleged to have been stolen, the owner of the motor vehicle, **vessel**, or trailer shall

24 submit proof that a police report was filed in a timely manner indicating that the vehicle **or**
25 **vessel** was stolen at the time of the alleged violation.

26 3. Abandoning a motor vehicle, **vessel**, or trailer is a class A misdemeanor.

27 4. Any person convicted pursuant to this section shall be civilly liable for all reasonable
28 towing, storage, and administrative costs associated with the abandonment of the motor vehicle,
29 **vessel**, or trailer. Any reasonable towing, storage, and administrative costs in excess of the value
30 of the abandoned motor vehicle, **vessel**, or trailer that exist at the time the motor vehicle **or**
31 **vessel** is transferred pursuant to section 304.156, RSMo, shall remain the liability of the person
32 convicted pursuant to this section so long as the towing company, as defined in chapter 304,
33 RSMo, provided the title owner and lienholders, as ascertained by the department of revenue
34 records, a notice within the time frame and in the form as described in subsection 1 of section
35 304.156, RSMo.

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