

FIRST REGULAR SESSION

HOUSE BILL NO. 291

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WELLS (Sponsor), McGHEE, DOUGHERTY, FUNDERBURK, RUESTMAN, FAITH, BRANDOM, NANCE, POLLOCK, GATSCHENBERGER, CUNNINGHAM, SCHLOTTACH, GUEST, DENISON AND DUGGER (Co-sponsors).

0711L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 577.020, RSMo, and to enact in lieu thereof one new section relating to pedestrian injury accidents.

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

Section A. Section 577.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.020, to read as follows:

577.020. 1. Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to, subject to the provisions of sections 577.019 to 577.041, a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:

(1) If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(2) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(3) If the person is under the age of twenty-one, has been stopped by a law enforcement officer, and the law enforcement officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the state, or any political subdivision of the state, and

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.

16 such officer has reasonable grounds to believe, after making such stop, that such person has a
17 blood alcohol content of two-hundredths of one percent or greater;

18 (4) If the person is under the age of twenty-one, has been stopped at a sobriety
19 checkpoint or roadblock and the law enforcement officer has reasonable grounds to believe that
20 such person has a blood alcohol content of two-hundredths of one percent or greater;

21 (5) If the person, while operating a motor vehicle, has been involved in a motor vehicle
22 collision which resulted in a fatality or a readily apparent serious physical injury as defined in
23 section 565.002, RSMo, or has been arrested as evidenced by the issuance of a uniform traffic
24 ticket for the violation of any state law or county or municipal ordinance with the exception of
25 equipment violations contained in chapter 306, RSMo, or similar provisions contained in county
26 or municipal ordinances; [or]

27 (6) If the person, while operating a motor vehicle, has been involved in a motor vehicle
28 collision which resulted in a fatality or serious physical injury as defined in section 565.002,
29 RSMo; or

30 **(7) If the person, while operating a motor vehicle, has been involved in a motor**
31 **vehicle collision with a pedestrian during daylight hours.** The test shall be administered at
32 the direction of the law enforcement officer whenever the person has been arrested or stopped
33 for any reason.

34 2. The implied consent to submit to the chemical tests listed in subsection 1 of this
35 section shall be limited to not more than two such tests arising from the same arrest, incident or
36 charge.

37 3. Chemical analysis of the person's breath, blood, saliva, or urine to be considered valid
38 pursuant to the provisions of sections 577.019 to 577.041 shall be performed according to
39 methods approved by the state department of health and senior services by licensed medical
40 personnel or by a person possessing a valid permit issued by the state department of health and
41 senior services for this purpose.

42 4. The state department of health and senior services shall approve satisfactory
43 techniques, devices, equipment, or methods to be considered valid pursuant to the provisions of
44 sections 577.019 to 577.041 and shall establish standards to ascertain the qualifications and
45 competence of individuals to conduct analyses and to issue permits which shall be subject to
46 termination or revocation by the state department of health and senior services.

47 5. The person tested may have a physician, or a qualified technician, chemist, registered
48 nurse, or other qualified person at the choosing and expense of the person to be tested, administer
49 a test in addition to any administered at the direction of a law enforcement officer. The failure
50 or inability to obtain an additional test by a person shall not preclude the admission of evidence
51 relating to the test taken at the direction of a law enforcement officer.

52 6. Upon the request of the person who is tested, full information concerning the test shall
53 be made available to such person. Full information is limited to the following:

54 (1) The type of test administered and the procedures followed;

55 (2) The time of the collection of the blood or breath sample or urine analyzed;

56 (3) The numerical results of the test indicating the alcohol content of the blood and
57 breath and urine;

58 (4) The type and status of any permit which was held by the person who performed the
59 test;

60 (5) If the test was administered by means of a breath-testing instrument, the date of
61 performance of the most recent required maintenance of such instrument. Full information does
62 not include manuals, schematics, or software of the instrument used to test the person or any
63 other material that is not in the actual possession of the state. Additionally, full information does
64 not include information in the possession of the manufacturer of the test instrument.

65 7. Any person given a chemical test of the person's breath pursuant to subsection 1 of
66 this section or a field sobriety test may be videotaped during any such test at the direction of the
67 law enforcement officer. Any such video recording made during the chemical test pursuant to
68 this subsection or a field sobriety test shall be admissible as evidence at either any trial of such
69 person for either a violation of any state law or county or municipal ordinance, or any license
70 revocation or suspension proceeding pursuant to the provisions of chapter 302, RSMo.

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