

SECOND REGULAR SESSION

HOUSE BILL NO. 1828

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ROORDA (Sponsor), FISCHER (107), NEWMAN, MORRIS, SCHIEFFER, BIVINS, ENGLUND, McDONALD, KIRKTON, WEBB, SCHUPP, ZIMMERMAN, KELLY, ATKINS, LIESE, McCLANAHAN, LeBLANC, CALLOWAY AND OXFORD (Co-sponsors).

4174L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.304, 302.525, 478.001, 479.010, 479.080, 483.082, 568.045, 568.050, 577.012, 577.037, 577.039, 577.041, and 577.600, RSMo, and to enact in lieu thereof seventeen new sections relating to driving while intoxicated, with penalty provisions and an effective date for a certain section.

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

Section A. Sections 302.304, 302.525, 478.001, 479.010, 479.080, 483.082, 568.045, 568.050, 577.012, 577.037, 577.039, 577.041, and 577.600, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 50.568, 302.304, 302.525, 478.001, 479.010, 479.080, 483.082, 568.045, 568.050, 577.012, 577.037, 577.039, 577.041, 577.056, 577.058, 577.059, and 577.600, to read as follows:

50.568. The chief governing body in every county shall establish a "Sober Ride Fund" for the purpose of reimbursing licensed taxicab companies for providing rides to intoxicated persons under the provisions of 577.059. The fund shall consist of moneys collected under section 577.059 and shall be used solely for reimbursing taxicab drivers for providing rides to intoxicated persons. The fund shall be administered by the county treasurer and may be audited as all other county funds.

302.304. 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

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.

4 2. In an action to suspend or revoke a license or driving privilege under this section
5 points shall be accumulated on the date of conviction. No case file of any conviction for a
6 driving violation for which points may be assessed pursuant to section 302.302 may be closed
7 until such time as a copy of the record of such conviction is forwarded to the department of
8 revenue.

9 3. The director shall suspend the license and driving privileges of any person whose
10 driving record shows the driver has accumulated eight points in eighteen months.

11 4. The license and driving privilege of any person whose license and driving privilege
12 have been suspended under the provisions of sections 302.010 to 302.540 except those persons
13 whose license and driving privilege have been suspended under the provisions of subdivision (8)
14 of subsection 1 of section 302.302 or has accumulated sufficient points together with a
15 conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of
16 financial responsibility with the department of revenue, in accordance with chapter 303, RSMo,
17 and is otherwise eligible, shall be reinstated as follows:

18 (1) In the case of an initial suspension, thirty days after the effective date of the
19 suspension;

20 (2) In the case of a second suspension, sixty days after the effective date of the
21 suspension;

22 (3) In the case of the third and subsequent suspensions, ninety days after the effective
23 date of the suspension. Unless proof of financial responsibility is filed with the department of
24 revenue, a suspension shall continue in effect for two years from its effective date.

25 5. The period of suspension of the driver's license and driving privilege of any person
26 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has
27 accumulated sufficient points together with a conviction under subdivision (10) of subsection
28 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving
29 privilege as defined in section 302.010. Upon completion of such period of restricted driving
30 privilege, **upon compliance with subsection 17 of this section**, upon compliance with other
31 requirements of law, and upon filing of proof of financial responsibility with the department of
32 revenue[,] in accordance with chapter 303, RSMo, the license and driving privilege shall be
33 reinstated.

34 6. If the person fails to maintain proof of financial responsibility in accordance with
35 chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

36 7. The director shall revoke the license and driving privilege of any person when the
37 person's driving record shows such person has accumulated twelve points in twelve months or
38 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation
39 period of any person whose license and driving privilege have been revoked under the provisions

40 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the
41 department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall
42 be terminated by a notice from the director of revenue after one year from the effective date of
43 the revocation. Unless proof of financial responsibility is filed with the department of revenue,
44 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for
45 a period of two years from its effective date. If the person fails to maintain proof of financial
46 responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege
47 shall be rerevoked. Any person whose license and driving privilege have been revoked under
48 the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of
49 the revocation from the director, pass the complete driver examination and apply for a new
50 license before again operating a motor vehicle upon the highways of this state.

51 8. If, prior to conviction for an offense that would require suspension or revocation of
52 a person's license under the provisions of this section, the person's total points accumulated are
53 reduced, pursuant to the provisions of section 302.306, below the number of points required for
54 suspension or revocation pursuant to the provisions of this section, then the person's license shall
55 not be suspended or revoked until the necessary points are again obtained and accumulated.

56 9. If any person shall neglect or refuse to surrender the person's license, as provided
57 herein, the director shall direct the state highway patrol or any peace or police officer to secure
58 possession thereof and return it to the director.

59 10. Upon the issuance of a reinstatement or termination notice after a suspension or
60 revocation of any person's license and driving privilege under the provisions of sections 302.010
61 to 302.540, the accumulated point value shall be reduced to four points, except that the points
62 of any person serving as a member of the armed forces of the United States outside the limits of
63 the United States during a period of suspension or revocation shall be reduced to zero upon the
64 date of the reinstatement or termination of notice. It shall be the responsibility of such member
65 of the armed forces to submit copies of official orders to the director of revenue to substantiate
66 such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary
67 notwithstanding, the effective date of the four points remaining on the record upon reinstatement
68 or termination shall be the date of the reinstatement or termination notice.

69 11. No credit toward reduction of points shall be given during periods of suspension or
70 revocation or any period of driving under a limited driving privilege granted by a court or the
71 director of revenue.

72 12. Any person or nonresident whose license or privilege to operate a motor vehicle in
73 this state has been suspended or revoked under this or any other law shall, before having the
74 license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee
75 of twenty dollars which shall be in addition to all other fees provided by law.

76 13. Notwithstanding any other provision of law to the contrary, if after two years from
77 the effective date of any suspension or revocation issued under this chapter, the person or
78 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such
79 license or privilege to operate a motor vehicle in this state.

80 14. No person who has had a license to operate a motor vehicle suspended or revoked
81 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of
82 subsection 1 of section 302.302 shall have that license reinstated until such person has
83 participated in and successfully completed a substance abuse traffic offender program defined
84 in section 302.010, or a program determined to be comparable by the department of mental
85 health. Assignment recommendations, based upon the needs assessment as described in
86 subdivision (22) of section 302.010, shall be delivered in writing to the person with written
87 notice that the person is entitled to have such assignment recommendations reviewed by the court
88 if the person objects to the recommendations. The person may file a motion in the associate
89 division of the circuit court of the county in which such assignment was given, on a printed form
90 provided by the state courts administrator, to have the court hear and determine such motion
91 pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity
92 making the needs assessment as the respondent and a copy of the motion shall be served upon
93 the respondent in any manner allowed by law. Upon hearing the motion, the court may modify
94 or waive any assignment recommendation that the court determines to be unwarranted based
95 upon a review of the needs assessment, the person's driving record, the circumstances
96 surrounding the offense, and the likelihood of the person committing a like offense in the future,
97 except that the court may modify but may not waive the assignment to an education or
98 rehabilitation program of a person determined to be a prior or persistent offender as defined in
99 section 577.023, RSMo, or of a person determined to have operated a motor vehicle with
100 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with
101 the court determination of the motion shall satisfy the provisions of this section for the purpose
102 of reinstating such person's license to operate a motor vehicle. The respondent's personal
103 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
104 directed by the court.

105 15. The fees for the program authorized in subsection 14 of this section, or a portion
106 thereof to be determined by the department of mental health, shall be paid by the person enrolled
107 in the program. Any person who is enrolled in the program shall pay, in addition to any fee
108 charged for the program, a supplemental fee in an amount to be determined by the department
109 of mental health for the purposes of funding the substance abuse traffic offender program defined
110 in section 302.010 and section 577.001, RSMo, or a program determined to be comparable by
111 the department of mental health. The administrator of the program shall remit to the division of

112 alcohol and drug abuse of the department of mental health on or before the fifteenth day of each
113 month the supplemental fee for all persons enrolled in the program, less two percent for
114 administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees
115 due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not
116 to exceed the annual rate established pursuant to the provisions of section 32.065, RSMo, plus
117 three percentage points. The supplemental fees and any interest received by the department of
118 mental health pursuant to this section shall be deposited in the mental health earnings fund which
119 is created in section 630.053, RSMo.

120 16. Any administrator who fails to remit to the division of alcohol and drug abuse of the
121 department of mental health the supplemental fees and interest for all persons enrolled in the
122 program pursuant to this section shall be subject to a penalty equal to the amount of interest
123 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
124 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
125 department of mental health within six months of the due date, the attorney general of the state
126 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
127 The court shall assess attorney fees and court costs against any delinquent program.

128 17. Any person who has had a license to operate a motor vehicle suspended or revoked
129 as a result of an assessment of points for a violation under subdivision **(8) of subsection 1 of**
130 **section 302.302 when the person's blood alcohol content at the time of arrest for the offense**
131 **was fifteen hundredths of one percent or more, or under subdivision (9) of subsection 1 of**
132 **section 302.302, shall be required to file proof with the director of revenue that any motor**
133 **vehicle operated by the person is equipped with a functioning, certified ignition interlock device,**
134 **or that such person is complying with a court order for a continuous alcohol monitoring**
135 **device, as a required condition of reinstatement of the license. The ignition interlock device**
136 **shall further be required to be maintained on all motor vehicles operated by the person for a**
137 **period of not less than six months immediately following the date of reinstatement or, if so**
138 **ordered by a court, the continuous alcohol monitoring device shall be utilized by such**
139 **person for the same time period.** If the person fails to maintain such proof with the director,
140 the license shall be resuspended or revoked and the person shall be guilty of a class A
141 misdemeanor.

302.525. 1. The license suspension or revocation shall become effective fifteen days
2 after the subject person has received the notice of suspension or revocation as provided in section
3 302.520, or is deemed to have received the notice of suspension or revocation by mail as
4 provided in section 302.515. If a request for a hearing is received by or postmarked to the
5 department within that fifteen-day period, the effective date of the suspension or revocation shall
6 be stayed until a final order is issued following the hearing; provided, that any delay in the

7 hearing which is caused or requested by the subject person or counsel representing that person
8 without good cause shown shall not result in a stay of the suspension or revocation during the
9 period of delay.

10 2. The period of license suspension or revocation under this section shall be as follows:

11 (1) If the person's driving record shows no prior alcohol-related enforcement contacts
12 during the immediately preceding five years, the period of suspension shall be thirty days after
13 the effective date of suspension, followed by a sixty-day period of restricted driving privilege as
14 defined in section 302.010 and issued by the director of revenue. The restricted driving privilege
15 shall not be issued until he or she has filed proof of financial responsibility with the department
16 of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible. In no case shall
17 restricted driving privileges be issued pursuant to this section or section 302.535 until the person
18 has completed the first thirty days of a suspension under this section;

19 (2) The period of revocation shall be one year if the person's driving record shows one
20 or more prior alcohol-related enforcement contacts during the immediately preceding five years;

21 (3) In no case shall restricted driving privileges be issued under this section to any person
22 whose driving record shows one or more prior alcohol-related enforcement contacts, **or to any**
23 **person whose blood alcohol level at the time of arrest for the intoxication-related offense**
24 **was fifteen hundredths of one percent or higher**, until the person has completed the first thirty
25 days of a suspension under this section and has filed proof with the department of revenue that
26 any motor vehicle operated by the person is equipped with a functioning, certified ignition
27 interlock device, **or that such person is undergoing continuous alcohol monitoring if so**
28 **ordered by the court**, as a required condition of the restricted driving privilege. If the person
29 fails to maintain such proof the restricted driving privilege shall be terminated.

30 3. For purposes of this section, "alcohol-related enforcement contacts" shall include any
31 suspension or revocation under sections 302.500 to 302.540, any suspension or revocation
32 entered in this or any other state for a refusal to submit to chemical testing under an implied
33 consent law, and any conviction in this or any other state for a violation which involves driving
34 while intoxicated, driving while under the influence of drugs or alcohol, or driving a vehicle
35 while having an unlawful alcohol concentration.

36 4. Where a license is suspended or revoked under this section and the person is also
37 convicted on charges arising out of the same occurrence for a violation of section 577.010 or
38 577.012, RSMo, or for a violation of any county or municipal ordinance prohibiting driving
39 while intoxicated or alcohol-related traffic offense, both the suspension or revocation under this
40 section and any other suspension or revocation arising from such convictions shall be imposed,
41 but the period of suspension or revocation under sections 302.500 to 302.540 shall be credited
42 against any other suspension or revocation arising from such convictions, and the total period

43 of suspension or revocation shall not exceed the longer of the two suspension or revocation
44 periods.

45 5. Any person who has had a license to operate a motor vehicle revoked under this
46 section or suspended under this section with one or more prior alcohol-related enforcement
47 contacts showing on their driver record **or whose blood alcohol content at the time of arrest**
48 **for a first or subsequent intoxication-related offense was fifteen hundredths of one percent**
49 **or more** shall be required to file proof with the director of revenue that any motor vehicle
50 operated by that person is equipped with a functioning, certified ignition interlock device as a
51 required condition of reinstatement **or that such person is undergoing continuous alcohol**
52 **monitoring if so ordered by the court.** The ignition interlock device shall further be required
53 to be maintained on all motor vehicles operated by the person for a period of not less than six
54 months immediately following the date of reinstatement **or, if ordered by a court, the**
55 **continuous alcohol monitoring device shall be utilized by such person for the same time**
56 **period.** If the person fails to maintain such proof with the director, the license shall be
57 resuspended or revoked, as applicable.

478.001. **1.** Drug courts may be established by any circuit court pursuant to sections
2 478.001 to 478.006 to provide an alternative for the judicial system to dispose of cases which
3 stem from drug use. A drug court shall combine judicial supervision, drug testing and treatment
4 of drug court participants. Except for good cause found by the court, a drug court making a
5 referral for substance abuse treatment, when such program will receive state or federal funds in
6 connection with such referral, shall refer the person only to a program which is certified by the
7 department of mental health, unless no appropriate certified treatment program is located within
8 the same county as the drug court. Upon successful completion of the treatment program, the
9 charges, petition or penalty against a drug court participant may be dismissed, reduced or
10 modified. Any fees received by a court from a defendant as payment for substance treatment
11 programs shall not be considered court costs, charges or fines.

12 **2. A DWI docket may be established by any circuit court under sections 478.001**
13 **to 478.006 to provide an alternative for the judicial system to dispose of cases which stem**
14 **from alcohol use.**

479.010. **1.** Violations of municipal ordinances shall be heard and determined only
2 before divisions of the circuit court as hereinafter provided in this chapter. "Heard and
3 determined", for purposes of this chapter, shall mean any process under which the court in
4 question retains the final authority to make factual determinations pertaining to allegations of a
5 municipal ordinance violation, including, but not limited to, the use of a system of administrative
6 adjudication as provided in section 479.011, preliminary to a determination by appeal to the court
7 in question.

8 **2. Notwithstanding any other provision of law, municipal court jurisdiction shall**
9 **be limited to cases involving persons with a maximum of one prior conviction for an**
10 **intoxication-related offense who have no pending cases in any court for an intoxication-**
11 **related offense.**

12 **3. Notwithstanding any other provision of law, municipal court jurisdiction for**
13 **offenses relating to driving while revoked shall be limited to those offenses failing to qualify**
14 **as felony driving while revoked under the provisions of section 302.321.**

15 **4. Notwithstanding any other law or supreme court rule to the contrary, municipal**
16 **and traffic court clerks shall retain all records pertaining to convictions for intoxication-**
17 **related offenses for a minimum of fifty years.**

18 **5. In addition to the record-keeping requirements of subsection 4 of this section,**
19 **each municipal division of every circuit court shall prepare a report every six months**
20 **captioning the number and disposition of every intoxication-related offense adjudicated,**
21 **dismissed, or pending in the municipal court division and shall submit such report to the**
22 **circuit court, en banc. The reports shall cover the six-month periods ending on June 30th**
23 **and December 31st of each year and shall be submitted to the circuit court, en banc, no**
24 **later than sixty days following the end of the reporting period. The circuit court shall**
25 **make its recommendations based on the report, or take whatever action it deems**
26 **appropriate based on the en banc review of the reports.**

479.080. 1. In the prosecution of violations of municipal ordinances before a municipal
2 judge, all fines and costs shall be paid to and deposited not less frequently than monthly into the
3 municipal treasury.

4 2. In the prosecution of violations of municipal ordinances before an associate circuit
5 judge, all fines shall be paid to and deposited not less frequently than monthly into the municipal
6 treasury and all court costs shall be accounted for and remitted to the state treasury in the same
7 manner as provided by law for costs in misdemeanor cases.

8 3. The supreme court by administrative rule may provide for uniform procedure, and
9 reporting forms for the collection and transmittal of fines and costs. Until modified or otherwise
10 provided by such administrative rule, the municipal judge, or associate circuit judge hearing and
11 determining violations of municipal ordinances, shall cause the clerk serving his division, within
12 the first ten days of every month, to make out a list of all the cases heard or tried before the judge
13 during the preceding month, giving in each case the name of the defendant, the fine imposed, if
14 any, the amount of costs, the names of defendants committed and the cases in which there was
15 an application for trial de novo, respectively. Such clerk or the judge shall verify such lists and
16 statements by affidavit, and file the same forthwith with the clerk of the municipality, who shall
17 lay the same before the governing body or the municipality at its first session thereafter. The

18 official collecting fines shall, within the ten days aforesaid, pay to the municipal treasurer the full
19 amount of all fines collected by him during the preceding month if not previously paid to the
20 municipal treasurer.

21 **4. On January 1, 2011, the maximum fine that may be issued in municipal courts**
22 **for driving while intoxicated shall be increased by one thousand dollars.**

483.082. 1. Notwithstanding the provision of any other statute to the contrary, it shall
2 be the duty of the clerks of all courts to keep such records of the courts and in such a manner as
3 may be directed by rule of the supreme court so that they shall accurately record all essential
4 matters relating to the causes and matters within the jurisdiction of the court which are and have
5 been pending before the court, including pleadings, motions and related documents, transactions,
6 orders and judgments or decrees related thereto showing the course and disposition of causes and
7 matters, the taxing and collection of court costs, and the setting of trial calendars or dockets of
8 pending cases.

9 2. Recognizing that improved methods and systems of keeping records and data have
10 been and will continue to be developed from time to time and that all court clerks should be
11 empowered to utilize improved methods, systems and techniques of keeping records of essential
12 matters, and notwithstanding the provisions of any other statute to the contrary, the methods,
13 form and systems of keeping all such files and records shall be as directed and approved by rule
14 of the supreme court.

15 **3. Notwithstanding any other law or supreme court rule to the contrary, court**
16 **clerks shall retain all records pertaining to convictions for intoxication-related offenses for**
17 **a minimum of fifty years.**

568.045. 1. A person commits the crime of endangering the welfare of a child in the first
2 degree if:

3 (1) The person knowingly acts in a manner that creates a substantial risk to the life, body,
4 or health of a child less than seventeen years old; or

5 (2) The person knowingly engages in sexual conduct with a person under the age of
6 seventeen years over whom the person is a parent, guardian, or otherwise charged with the care
7 and custody;

8 (3) The person knowingly encourages, aids or causes a child less than seventeen years
9 of age to engage in any conduct which violates the provisions of chapter 195, RSMo; **or**

10 (4) Such person enlists the aid, either through payment or coercion, of a person less than
11 seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport,
12 test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any
13 material used to manufacture, compound, produce, prepare, test or analyze amphetamine or
14 methamphetamine or any of their analogues; or

15 (5) Such person, in the presence of a person less than seventeen years of age or in a
16 residence where a person less than seventeen years of age resides, unlawfully manufactures[,]
17 or attempts to manufacture compounds, possesses, produces, prepares, sells, transports, tests or
18 analyzes amphetamine or methamphetamine or any of their analogues; or

19 **(6) Such person operates a vehicle in violation of subdivision (2) or (3) of subsection**
20 **1 of section 565.024, subdivision (4) of subsection 1 of section 565.060, section 577.010, or**
21 **section 577.012, while a child less than seventeen years old is present in the vehicle.**

22 2. Endangering the welfare of a child in the first degree is a class C felony unless the
23 offense is committed as part of a ritual or ceremony, or except on a second or subsequent
24 offense, in which case the crime is a class B felony.

25 3. This section shall be known as "Hope's Law".

568.050. 1. A person commits the crime of endangering the welfare of a child in the
2 second degree if:

3 (1) He or she with criminal negligence acts in a manner that creates a substantial risk to
4 the life, body or health of a child less than seventeen years old; or

5 (2) He or she knowingly encourages, aids or causes a child less than seventeen years old
6 to engage in any conduct which causes or tends to cause the child to come within the provisions
7 of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section
8 211.031, RSMo; or

9 (3) Being a parent, guardian or other person legally charged with the care or custody of
10 a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable
11 diligence in the care or control of such child to prevent him from coming within the provisions
12 of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of
13 subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

14 (4) He or she knowingly encourages, aids or causes a child less than seventeen years of
15 age to enter into any room, building or other structure which is a public nuisance as defined in
16 section 195.130, RSMo; or

17 (5) He or she operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of
18 section 565.024, RSMo, subdivision (4) of subsection 1 of section 565.060, RSMo, section
19 577.010, RSMo, or section 577.012, RSMo, while a child less than seventeen years old is present
20 in the vehicle].

21 2. Nothing in this section shall be construed to mean the welfare of a child is endangered
22 for the sole reason that he or she is being provided nonmedical remedial treatment recognized
23 and permitted under the laws of this state.

24 3. Endangering the welfare of a child in the second degree is a class A misdemeanor
25 unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class
26 D felony.

 577.012. 1. A person commits the crime of "driving with excessive blood alcohol
2 content" if such person operates a motor vehicle in this state with eight-hundredths of one
3 percent or more by weight of alcohol in such person's blood.

4 2. As used in this section, percent by weight of alcohol in the blood shall be based upon
5 grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may
6 be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes
7 of determining the alcoholic content of a person's blood under this section, the test shall be
8 conducted in accordance with the provisions of sections 577.020 to 577.041.

9 3. For the first offense, driving with excessive blood alcohol content is a class B
10 misdemeanor, **unless such person's blood alcohol content is fifteen hundredths of one**
11 **percent or more, in which case it is a class A misdemeanor.**

 577.037. 1. Upon the trial of any person for violation of any of the provisions of section
2 565.024, RSMo, or section 565.060, RSMo, or section 577.010 or 577.012, or upon the trial of
3 any criminal action or violations of county or municipal ordinances or in any license suspension
4 or revocation proceeding pursuant to the provisions of chapter 302, RSMo, arising out of acts
5 alleged to have been committed by any person while driving a motor vehicle while in an
6 intoxicated condition, the amount of alcohol **or controlled substance** in the person's blood at
7 the time of the act alleged as shown by any chemical analysis of the person's blood, breath, saliva
8 or urine is admissible in evidence and the provisions of subdivision (5) of section 491.060,
9 RSMo, shall not prevent the admissibility or introduction of such evidence if otherwise
10 admissible. If there was eight-hundredths of one percent or more by weight of alcohol in the
11 person's blood, this shall be prima facie evidence that the person was intoxicated at the time the
12 specimen was taken.

13 2. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per
14 one hundred milliliters of blood or grams of alcohol per two hundred ten liters of breath.

15 3. The foregoing provisions of this section shall not be construed as limiting the
16 introduction of any other competent evidence bearing upon the question whether the person was
17 intoxicated.

18 4. A chemical analysis of a person's breath, blood, saliva or urine, in order to give rise
19 to the presumption or to have the effect provided for in subsection 1 of this section, shall have
20 been performed as provided in sections 577.020 to 577.041 and in accordance with methods and
21 standards approved by the state department of health and senior services.

22 5. Any charge alleging a violation of section 577.010 or 577.012 or any county or
23 municipal ordinance prohibiting driving while intoxicated or driving under the influence of
24 alcohol shall be dismissed with prejudice if a chemical analysis of the defendant's breath, blood,
25 saliva, or urine performed in accordance with sections 577.020 to 577.041 and rules promulgated
26 thereunder by the state department of health and senior services demonstrate that there was less
27 than eight-hundredths of one percent of alcohol in the defendant's blood unless one or more of
28 the following considerations cause the court to find a dismissal unwarranted:

29 (1) There is evidence that the chemical analysis is unreliable as evidence of the
30 defendant's intoxication at the time of the alleged violation due to the lapse of time between the
31 alleged violation and the obtaining of the specimen;

32 (2) There is evidence that the defendant was under the influence of a controlled
33 substance, or drug, or a combination of either or both with or without alcohol; or

34 (3) There is substantial evidence of intoxication from physical observations of witnesses
35 or admissions of the defendant.

 577.039. An arrest without a warrant by a law enforcement officer, including a
2 uniformed member of the state highway patrol, for a violation of section 577.010 or 577.012 is
3 lawful whenever the arresting officer has reasonable grounds to believe that the person to be
4 arrested has violated the section, whether or not the violation occurred in the presence of the
5 arresting officer and when such arrest without warrant is made within [one] **two** and one-half
6 hours after such claimed violation occurred, unless the person to be arrested has left the scene
7 of an accident or has been removed from the scene to receive medical treatment, in which case
8 such arrest without warrant may be made more than [one] **two** and one-half hours after such
9 violation occurred.

 577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision
2 (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to
3 any test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal
4 shall be admissible in a proceeding pursuant to section 565.024, 565.060, or 565.082, RSMo, or
5 section 577.010 or 577.012, **and such refusal shall create a presumption that the person is**
6 **intoxicated. The burden of proof shall be on the defendant to rebut this presumption.** The
7 request of the officer shall include the reasons of the officer for requesting the person to submit
8 to a test and also shall inform the person that evidence of refusal to take the test may be used
9 against such person and that the person's license shall be immediately revoked upon refusal to
10 take the test. If a person when requested to submit to any test allowed pursuant to section
11 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which
12 to attempt to contact an attorney. If upon the completion of the twenty-minute period the person
13 continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer

14 shall, on behalf of the director of revenue, serve the notice of license revocation personally upon
15 the person and shall take possession of any license to operate a motor vehicle issued by this state
16 which is held by that person. The officer shall issue a temporary permit, on behalf of the director
17 of revenue, which is valid for fifteen days and shall also give the person a notice of such person's
18 right to file a petition for review to contest the license revocation.

19 2. The officer shall make a certified report under penalties of perjury for making a false
20 statement to a public official. The report shall be forwarded to the director of revenue and shall
21 include the following:

22 (1) That the officer has:

23 (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle
24 while in an intoxicated or drugged condition; or

25 (b) Reasonable grounds to believe that the person stopped, being under the age of
26 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
27 of one percent or more by weight; or

28 (c) Reasonable grounds to believe that the person stopped, being under the age of
29 twenty-one years, was committing a violation of the traffic laws of the state, or political
30 subdivision of the state, and such officer has reasonable grounds to believe, after making such
31 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;

32 (2) That the person refused to submit to a chemical test;

33 (3) Whether the officer secured the license to operate a motor vehicle of the person;

34 (4) Whether the officer issued a fifteen-day temporary permit;

35 (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice
36 of the right to file a petition for review, which notices and permit may be combined in one
37 document; and

38 (6) Any license to operate a motor vehicle which the officer has taken into possession.

39 3. Upon receipt of the officer's report, the director shall revoke the license of the person
40 refusing to take the test for a period of one year; or if the person is a nonresident, such person's
41 operating permit or privilege shall be revoked for one year; or if the person is a resident without
42 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the
43 person the issuance of a license or permit for a period of one year.

44 4. If a person's license has been revoked because of the person's refusal to submit to a
45 chemical test, such person may petition for a hearing before a circuit or associate circuit court
46 in the county in which the arrest or stop occurred. The person may request such court to issue
47 an order staying the revocation until such time as the petition for review can be heard. If the
48 court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the
49 director of revenue and shall send a copy of such order to the director. Such order shall serve

50 as proof of the privilege to operate a motor vehicle in this state and the director shall maintain
51 possession of the person's license to operate a motor vehicle until termination of any revocation
52 pursuant to this section. Upon the person's request the clerk of the court shall notify the
53 prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the
54 director of revenue. At the hearing the court shall determine only:

55 (1) Whether or not the person was arrested or stopped;

56 (2) Whether or not the officer had:

57 (a) Reasonable grounds to believe that the person was driving a motor vehicle while in
58 an intoxicated or drugged condition; or

59 (b) Reasonable grounds to believe that the person stopped, being under the age of
60 twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths
61 of one percent or more by weight; or

62 (c) Reasonable grounds to believe that the person stopped, being under the age of
63 twenty-one years, was committing a violation of the traffic laws of the state, or political
64 subdivision of the state, and such officer had reasonable grounds to believe, after making such
65 stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

66 (3) Whether or not the person refused to submit to the test.

67 5. If the court determines any issue not to be in the affirmative, the court shall order the
68 director to reinstate the license or permit to drive.

69 6. Requests for review as provided in this section shall go to the head of the docket of
70 the court wherein filed.

71 7. No person who has had a license to operate a motor vehicle suspended or revoked
72 pursuant to the provisions of this section shall have that license reinstated until such person has
73 participated in and successfully completed a substance abuse traffic offender program defined
74 in section 577.001, or a program determined to be comparable by the department of mental
75 health or the court. Assignment recommendations, based upon the needs assessment as
76 described in subdivision [(22)] **(23)** of section 302.010, RSMo, shall be delivered in writing to
77 the person with written notice that the person is entitled to have such assignment
78 recommendations reviewed by the court if the person objects to the recommendations. The
79 person may file a motion in the associate division of the circuit court of the county in which such
80 assignment was given, on a printed form provided by the state courts administrator, to have the
81 court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The
82 motion shall name the person or entity making the needs assessment as the respondent and a
83 copy of the motion shall be served upon the respondent in any manner allowed by law. Upon
84 hearing the motion, the court may modify or waive any assignment recommendation that the
85 court determines to be unwarranted based upon a review of the needs assessment, the person's

86 driving record, the circumstances surrounding the offense, and the likelihood of the person
87 committing a like offense in the future, except that the court may modify but may not waive the
88 assignment to an education or rehabilitation program of a person determined to be a prior or
89 persistent offender as defined in section 577.023, or of a person determined to have operated a
90 motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood.
91 Compliance with the court determination of the motion shall satisfy the provisions of this section
92 for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's
93 personal appearance at any hearing conducted pursuant to this subsection shall not be necessary
94 unless directed by the court.

95 8. The fees for the substance abuse traffic offender program, or a portion thereof to be
96 determined by the division of alcohol and drug abuse of the department of mental health, shall
97 be paid by the person enrolled in the program. Any person who is enrolled in the program shall
98 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
99 department of mental health for the purposes of funding the substance abuse traffic offender
100 program defined in section 302.010, RSMo, and section 577.001. The administrator of the
101 program shall remit to the division of alcohol and drug abuse of the department of mental health
102 on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the
103 program, less two percent for administrative costs. Interest shall be charged on any unpaid
104 balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this
105 section and shall accrue at a rate not to exceed the annual rates established pursuant to the
106 provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and
107 any interest received by the department of mental health pursuant to this section shall be
108 deposited in the mental health earnings fund which is created in section 630.053, RSMo.

109 9. Any administrator who fails to remit to the division of alcohol and drug abuse of the
110 department of mental health the supplemental fees and interest for all persons enrolled in the
111 program pursuant to this section shall be subject to a penalty equal to the amount of interest
112 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
113 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
114 department of mental health within six months of the due date, the attorney general of the state
115 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
116 The court shall assess attorney fees and court costs against any delinquent program.

117 10. Any person who has had a license to operate a motor vehicle revoked more than once
118 for violation of the provisions of this section shall be required to file proof with the director of
119 revenue that any motor vehicle operated by the person is equipped with a functioning, certified
120 ignition interlock device as a required condition of license reinstatement, **or that such person**
121 **is complying with a court order for a continuous alcohol monitoring device.** Such ignition

122 interlock device shall further be required to be maintained on all motor vehicles operated by the
123 person for a period of not less than six months immediately following the date of reinstatement
124 **or, if so ordered by a court, the continuous alcohol monitoring device shall be utilized by**
125 **such person for the same time period.** If the person fails to maintain such proof with the
126 director as required by this section, the license shall be rerevoked and the person shall be guilty
127 of a class A misdemeanor.

128 11. The revocation period of any person whose license and driving privilege has been
129 revoked under this section and who has filed proof of financial responsibility with the
130 department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall
131 be terminated by a notice from the director of revenue after one year from the effective date of
132 the revocation. Unless proof of financial responsibility is filed with the department of revenue,
133 the revocation shall remain in effect for a period of two years from its effective date. If the
134 person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo,
135 the person's license and driving privilege shall be rerevoked and the person shall be guilty of a
136 class A misdemeanor.

577.056. 1. The provisions of this section shall be known as and referred to as
2 **"Cary's Law".**

3 **2. Notwithstanding any other law, state and local law enforcement agencies shall**
4 **enter all intoxication-related traffic arrests, as defined in section 577.023, into the Missouri**
5 **state highway patrol's DWI tracking system (DWITS) within thirty days of the date of**
6 **arrest.**

7 **3. Any action taken by the prosecutor subsequent to an arrest for an intoxication-**
8 **related traffic offense, as defined in section 577.023, shall be entered into DWITS within**
9 **thirty days of any such action.**

10 **4. The Missouri state highway patrol shall report, to the department of public**
11 **safety and the governor, any agency that it determines has failed to submit information**
12 **required under this section.**

13 **5. The governor may withhold state funds to any agency, prosecuting or circuit**
14 **attorney's office, or municipality that prosecutes municipal ordinance violations that fails**
15 **to comply with this section.**

577.058. Notwithstanding any other law, a court may order carpooling or require
2 **use of public transit as a condition of probation following an intoxication-related traffic**
3 **conviction. If so ordered, the court shall require the person to provide a weekly affidavit**
4 **asserting that he or she traveled to and from work either by carpool or by public transit.**

577.059. 1. In addition to all court fees and costs prescribed by law, a surcharge
2 **of twenty dollars shall be assessed as costs in each court proceeding filed in any court in**

3 **all cases resulting in a conviction of an intoxication-related traffic offense. Such**
4 **surcharges shall be collected and disbursed by the clerk of the court in the manner**
5 **provided by sections 488.010 to 488.020, and shall be payable to the sober ride fund created**
6 **under section 50.568 in the county in which the surcharge was assessed as costs.**

7 **2. In order to receive fare reimbursement under the fund created in section 50.568,**
8 **a taxicab driver shall provide an affidavit indicating his or her belief that the person**
9 **receiving the ride was intoxicated.**

577.600. 1. In addition to any other provisions of law, a court may require that any
2 person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as
3 defined in section 577.023, and a court shall require that any person who is found guilty of or
4 pleads guilty to a second or subsequent intoxication-related traffic offense, as defined in section
5 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a functioning,
6 certified ignition interlock device, **or unless such person undergoes continuous alcohol**
7 **monitoring**, for a period of not less than six months from the date of reinstatement of the
8 person's driver's license. **In addition, a court shall require that any person who is found**
9 **guilty of or pleads guilty to a first or subsequent intoxication-related offense when such**
10 **person's blood alcohol content was fifteen hundredths of one percent or more at the time**
11 **of arrest shall not operate any motor vehicle unless that vehicle is equipped with a**
12 **functioning, certified ignition interlock device, or unless such person undergoes continuous**
13 **alcohol monitoring, for a period of not less than six months from the date of reinstatement**
14 **of the person's driver's license.** In addition, any court authorized to grant a limited driving
15 privilege under section 302.309, RSMo, to any person who is found guilty of or pleads guilty to
16 a second or subsequent intoxication-related traffic offense shall require the use of an ignition
17 interlock device on all vehicles operated by the person, **or continuous alcohol monitoring**, as
18 a required condition of the limited driving privilege. These requirements shall be in addition to
19 any other provisions of this chapter or chapter 302, RSMo, requiring installation and
20 maintenance of an ignition interlock device, **or continuous alcohol monitoring.** Any person
21 required to use an ignition interlock device **or a continuous alcohol monitoring device**, either
22 under the provisions of this chapter or chapter 302, RSMo, shall comply with such requirement
23 subject to the penalties provided by this section.

24 **2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to**
25 **have had that person's driving privilege restricted as provided in subsection 1 of this section,**
26 **unless the vehicle is equipped with a functioning, certified ignition interlock device, if the use**
27 **of such device has been ordered by a court.** Any person whose driving privilege is restricted
28 as provided in subsection 1 of this section shall notify any other person who rents, leases or loans
29 a motor vehicle to that person of the driving restriction imposed pursuant to this section.

30 3. Any person convicted of a violation of this section shall be guilty of a class A
31 misdemeanor.

 Section B. The enactment of section 577.056 of section A of this act shall be effective
2 January 1, 2011.

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