

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 43, Page 58, Section 574.204, Line 9, by inserting after all of said section and line
3 the following:
4

5 "577.010. 1. A person commits the offense of driving while intoxicated if he or she operates
6 a vehicle while in an intoxicated condition.

7 2. The offense of driving while intoxicated is:

8 (1) A class B misdemeanor;

9 (2) A class A misdemeanor if:

10 (a) The defendant is a prior offender; or

11 (b) A person less than seventeen years of age is present in the vehicle;

12 (3) A class E felony if:

13 (a) The defendant is a persistent offender; or

14 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
15 physical injury to another person;

16 (4) A class D felony if:

17 (a) The defendant is an aggravated offender;

18 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
19 physical injury to a law enforcement officer or emergency personnel; or

20 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to another person;

22 (5) A class C felony if:

23 (a) The defendant is a chronic offender;

24 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
25 serious physical injury to a law enforcement officer or emergency personnel; or

26 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause the
27 death of another person;

28 (6) A class B felony if:

29 (a) The defendant is a habitual offender;

30 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause the
31 death of a law enforcement officer or emergency personnel;

32 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause the
33 death of any person not a passenger in the vehicle operated by the defendant, including the death of
34 an individual that results from the defendant's vehicle leaving a highway, as defined in section
35 301.010, or the highway's right-of-way;

36 (d) While driving while intoxicated, the defendant acts with criminal negligence to cause the

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1 death of two or more persons; or

2 (e) While driving while intoxicated, the defendant acts with criminal negligence to cause the
3 death of any person while he or she has a blood alcohol content of at least eighteen-hundredths of
4 one percent by weight of alcohol in such person's blood;

5 (7) A class A felony if the defendant has previously been found guilty of an offense under
6 paragraphs (a) to (e) of subdivision (6) of this subsection and is found guilty of a subsequent
7 violation of such paragraphs.

8 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty of
9 the offense of driving while intoxicated as a first offense shall not be granted a suspended
10 imposition of sentence:

11 (1) Unless such person shall be placed on probation for a minimum of two years; or

12 (2) In a circuit where a DWI court or docket created under section 478.007 or other court-
13 ordered treatment program is available, and where the offense was committed with fifteen-
14 hundredths of one percent or more by weight of alcohol in such person's blood, unless the individual
15 participates and successfully completes a program under such DWI court or docket or other court-
16 ordered treatment program.

17 4. If a person is found guilty of a second or subsequent offense of driving while intoxicated,
18 the court may order the person to submit to a period of continuous alcohol monitoring or verifiable
19 breath alcohol testing performed a minimum of four times per day as a condition of probation. If a
20 person is found guilty of a second or subsequent offense of driving while intoxicated within a four-
21 year time period, the court shall order such person to undergo a risk and needs assessment as defined
22 in section 478.001 to determine if the person will benefit from a community-based substance use
23 disorder treatment program as defined in section 478.001. Upon considering the result of the risk
24 and needs assessment, the court may refer the person to a community-based substance use disorder
25 program that offers one or more forms of medications that are approved for the treatment of alcohol
26 or drug dependence by the United States Food and Drug Administration.

27 5. If a person is not granted a suspended imposition of sentence for the reasons described in
28 subsection 3 of this section:

29 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths of
30 one percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
31 not less than forty-eight hours;

32 (2) If the individual operated the vehicle with greater than twenty-hundredths of one percent
33 by weight of alcohol in such person's blood, the required term of imprisonment shall be not less than
34 five days.

35 6. A person found guilty of the offense of driving while intoxicated:

36 (1) As a prior offender, persistent offender, aggravated offender, chronic offender, or
37 habitual offender shall not be granted a suspended imposition of sentence or be sentenced to pay a
38 fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding;

39 (2) As a prior offender shall not be granted parole or probation until he or she has served a
40 minimum of ten days imprisonment:

41 (a) Unless as a condition of such parole or probation such person performs at least thirty
42 days of community service under the supervision of the court in those jurisdictions which have a
43 recognized program for community service; or

44 (b) The offender participates in and successfully completes a program established under
45 section 478.007 or other court-ordered treatment program, if available, and as part of either
46 program, the offender performs at least thirty days of community service under the supervision of
47 the court;

48 (3) As a persistent offender shall not be eligible for parole or probation until he or she has
49 served a minimum of thirty days imprisonment:

1 (a) Unless as a condition of such parole or probation such person performs at least sixty
2 days of community service under the supervision of the court in those jurisdictions which have a
3 recognized program for community service; or

4 (b) The offender participates in and successfully completes a program established under
5 section 478.007 or other court-ordered treatment program, if available, and as part of either
6 program, the offender performs at least sixty days of community service under the supervision of the
7 court;

8 (4) As an aggravated offender shall not be eligible for parole or probation until he or she has
9 served a minimum of sixty days imprisonment;

10 (5) As a chronic or habitual offender shall not be eligible for parole or probation until he or
11 she has served a minimum of two years imprisonment; and

12 (6) Any probation or parole granted under this subsection may include a period of
13 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
14 times per day."; and

15
16 Further amend said bill by amending the title, enacting clause, and intersectional references
17 accordingly.