

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1176
98TH GENERAL ASSEMBLY

1896H.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.304, 302.309, and 577.012 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, sections 577.001 and 577.010 as enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, and sections 302.010, 302.060, 302.525, 302.574, 478.007, 577.013, and 577.014, RSMo, and to enact in lieu thereof twelve new sections relating to intoxication-related offenses, with penalty provisions and an effective date.

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

Section A. Sections 302.304, 302.309, and 577.012 as enacted by senate bill no. 491,
2 ninety-seventh general assembly, second regular session, sections 577.001 and 577.010 as
3 enacted by house bill no. 1371, ninety-seventh general assembly, second regular session, and
4 sections 302.010, 302.060, 302.525, 302.574, 478.007, 577.013, and 577.014, RSMo, are
5 repealed and twelve new sections enacted in lieu thereof, to be known as sections 302.010,
6 302.060, 302.304, 302.309, 302.525, 302.574, 478.007, 577.001, 577.010, 577.012, 577.013, and
7 577.014 to read as follows:

302.010. Except where otherwise provided, when used in this chapter, the following
2 words and phrases mean:

- 3 (1) "Circuit court", each circuit court in the state;
- 4 (2) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying
5 freight and merchandise, or more than fifteen passengers;
- 6 (3) "Conviction", any final conviction; also a forfeiture of bail or collateral deposited to
7 secure a defendant's appearance in court, which forfeiture has not been vacated, shall be
8 equivalent to a conviction, except that when any conviction as a result of which points are
9 assessed pursuant to section 302.302 is appealed, the term "conviction" means the original

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.

10 judgment of conviction for the purpose of determining the assessment of points, and the date of
11 final judgment affirming the conviction shall be the date determining the beginning of any
12 license suspension or revocation pursuant to section 302.304;

13 (4) "Criminal history check", a search of criminal records, including criminal history
14 record information as defined in section 43.500, maintained by the Missouri state highway patrol
15 in the Missouri criminal records repository or by the Federal Bureau of Investigation as part of
16 its criminal history records, including, but not limited to, any record of conviction, plea of guilty
17 or nolo contendere, or finding of guilty in any state for any offense related to alcohol, controlled
18 substances, or drugs;

19 (5) "Director", the director of revenue acting directly or through the director's authorized
20 officers and agents;

21 (6) "Farm tractor", every motor vehicle designed and used primarily as a farm implement
22 for drawing plows, mowing machines and other implements of husbandry;

23 (7) "Highway", any public thoroughfare for vehicles, including state roads, county roads
24 and public streets, avenues, boulevards, parkways, or alleys in any municipality;

25 (8) "Incompetent to drive a motor vehicle", a person who has become physically
26 incapable of meeting the prescribed requirements of an examination for an operator's license, or
27 who has been adjudged by a probate division of the circuit court in a capacity hearing of being
28 incapacitated;

29 (9) "License", a license issued by a state to a person which authorizes a person to operate
30 a motor vehicle;

31 (10) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks
32 except motorized bicycles, as defined in section 307.180;

33 (11) "Motorcycle", a motor vehicle operated on two wheels; however, this definition
34 shall not include motorized bicycles as defined in section 301.010;

35 (12) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle
36 operated with any conveyance, temporary or otherwise, requiring the use of a third wheel;

37 (13) "Moving violation", that character of traffic violation where at the time of violation
38 the motor vehicle involved is in motion, except that the term does not include the driving of a
39 motor vehicle without a valid motor vehicle registration license, or violations of sections 304.170
40 to 304.240, inclusive, relating to sizes and weights of vehicles;

41 (14) "Municipal court", every division of the circuit court having original jurisdiction
42 to try persons for violations of city ordinances;

43 (15) "Nonresident", every person who is not a resident of this state;

44 (16) "Operator", every person who is in actual physical control of a motor vehicle upon
45 a highway;

46 (17) "Owner", a person who holds the legal title of a vehicle or in the event a vehicle is
47 the subject of an agreement for the conditional sale or lease thereof with the right of purchase
48 upon performance of the conditions stated in the agreement and with an immediate right of
49 possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle
50 is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed
51 the owner for the purpose of sections 302.010 to 302.540;

52 (18) "Record" includes, but is not limited to, papers, documents, facsimile information,
53 microphotographic process, electronically generated or electronically recorded information,
54 digitized images, deposited or filed with the department of revenue;

55 (19) "Residence address", "residence", or "resident address" shall be the location at
56 which a person has been physically present, and that the person regards as home. A residence
57 address is a person's true, fixed, principal, and permanent home, to which a person intends to
58 return and remain, even though currently residing elsewhere;

59 (20) "Restricted driving privilege", a **sixty-day** driving privilege issued by the director
60 of revenue following a suspension of driving privileges for the limited purpose of driving in
61 connection with the driver's business, occupation, employment, formal program of secondary,
62 postsecondary or higher education, or for an alcohol education or treatment program or certified
63 ignition interlock provider, **or a ninety-day 'interlock restricted privilege' issued by the**
64 **director of revenue for the limited purpose of driving in connection with the driver's**
65 **business, occupation, employment, seeking medical treatment for such driver or a**
66 **dependent family member, attending school or other institution of higher education,**
67 **attending alcohol or drug treatment programs, seeking the required services of a certified**
68 **ignition interlock provider, fulfilling court obligations, including required appearances and**
69 **probation and parole obligations, religious services, the care of a child or children,**
70 **including scheduled visitation or custodial obligations pursuant to a court order, fueling**
71 **requirements for any vehicle utilized, and seeking basic nutritional requirements;**

72 (21) "School bus", when used in sections 302.010 to 302.540, means any motor vehicle,
73 either publicly or privately owned, used to transport students to and from school, or to transport
74 pupils properly chaperoned to and from any place within the state for educational purposes. The
75 term "school bus" shall not include a bus operated by a public utility, municipal corporation or
76 common carrier authorized to conduct local or interstate transportation of passengers when such
77 bus is not traveling a specific school bus route but is:

78 (a) On a regularly scheduled route for the transportation of fare-paying passengers; or

79 (b) Furnishing charter service for the transportation of persons enrolled as students on
80 field trips or other special trips or in connection with other special events;

81 (22) "School bus operator", an operator who operates a school bus as defined in
82 subdivision (21) of this section in the transportation of any schoolchildren and who receives
83 compensation for such service. The term "school bus operator" shall not include any person who
84 transports schoolchildren as an incident to employment with a school or school district, such as
85 a teacher, coach, administrator, secretary, school nurse, or janitor unless such person is under
86 contract with or employed by a school or school district as a school bus operator;

87 (23) "Signature", any method determined by the director of revenue for the signing,
88 subscribing or verifying of a record, report, application, driver's license, or other related
89 document that shall have the same validity and consequences as the actual signing by the person
90 providing the record, report, application, driver's license or related document;

91 (24) "Substance abuse traffic offender program", a program certified by the division of
92 alcohol and drug abuse of the department of mental health to provide education or rehabilitation
93 services pursuant to a professional assessment screening to identify the individual needs of the
94 person who has been referred to the program as the result of an alcohol- or drug-related traffic
95 offense. Successful completion of such a program includes participation in any education or
96 rehabilitation program required to meet the needs identified in the assessment screening. The
97 assignment recommendations based upon such assessment shall be subject to judicial review as
98 provided in subsection 14 of section 302.304 and subsections 1 and 5 of section 302.540;

99 (25) "Vehicle", any mechanical device on wheels, designed primarily for use, or used
100 on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power,
101 or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs
102 operated by handicapped persons.

302.060. 1. The director shall not issue any license and shall immediately deny any
2 driving privilege:

3 (1) To any person who is under the age of eighteen years, if such person operates a motor
4 vehicle in the transportation of persons or property as classified in section 302.015;

5 (2) To any person who is under the age of sixteen years, except as hereinafter provided;

6 (3) To any person whose license has been suspended, during such suspension, or to any
7 person whose license has been revoked, until the expiration of one year after such license was
8 revoked;

9 (4) To any person who is an habitual drunkard or is addicted to the use of narcotic drugs;

10 (5) To any person who has previously been adjudged to be incapacitated and who at the
11 time of application has not been restored to partial capacity;

12 (6) To any person who, when required by this law to take an examination, has failed to
13 pass such examination;

14 (7) To any person who has an unsatisfied judgment against such person, as defined in
15 chapter 303, until such judgment has been satisfied or the financial responsibility of such person,
16 as described in section 303.120, has been established;

17 (8) To any person whose application shows that the person has been convicted within
18 one year prior to such application of violating the laws of this state relating to failure to stop after
19 an accident and to disclose the person's identity or driving a motor vehicle without the owner's
20 consent;

21 (9) To any person who has been convicted more than twice of violating state law, or a
22 county or municipal ordinance where the defendant was represented by or waived the right to an
23 attorney in writing, relating to driving while intoxicated; except that, after the expiration of ten
24 years from the date of conviction of the last offense of violating such law or ordinance relating
25 to driving while intoxicated, a person who was so convicted may petition the circuit court of the
26 county in which such last conviction was rendered and the court shall review the person's habits
27 and conduct since such conviction, including the results of a criminal history check as defined
28 in section 302.010. If the court finds that the petitioner has not been found guilty of, and has no
29 pending charges for any offense related to alcohol, controlled substances or drugs and has no
30 other alcohol-related enforcement contacts as defined in section 302.525 during the preceding
31 ten years and that the petitioner's habits and conduct show such petitioner to no longer pose a
32 threat to the public safety of this state, the court shall order the director to issue a license to the
33 petitioner if the petitioner is otherwise qualified pursuant to the provisions of sections 302.010
34 to 302.540. No person may obtain a license pursuant to the provisions of this subdivision
35 through court action more than one time;

36 (10) To any person who has been found guilty of acting with criminal negligence while
37 driving while intoxicated to cause the death of another person, or to any person who has been
38 convicted twice within a five-year period of violating state law, county or municipal ordinance
39 of driving while intoxicated, or any other intoxication-related traffic offense as defined in section
40 577.001, except that, after the expiration of five years from the date of conviction of the last
41 offense of violating such law or ordinance, a person who was so convicted may petition the
42 circuit court of the county in which such last conviction was rendered and the court shall review
43 the person's habits and conduct since such conviction, including the results of a criminal history
44 check as defined in section 302.010. If the court finds that the petitioner has not been found
45 guilty of, and has no pending charges for any offense related to alcohol, controlled substances,
46 or drugs and has no other alcohol-related enforcement contacts as defined in section 302.525
47 during the preceding five years, and that the petitioner's habits and conduct show such petitioner
48 to no longer pose a threat to the public safety of this state, the court shall order the director to

49 issue a license to the petitioner if the petitioner is otherwise qualified pursuant to the provisions
50 of sections 302.010 to 302.540;

51 (11) To any person who is otherwise disqualified pursuant to the provisions of chapter
52 302, chapter 303, or section 544.046;

53 (12) To any person who is under the age of eighteen years, if such person's parents or
54 legal guardians file a certified document with the department of revenue stating that the director
55 shall not issue such person a driver's license. Each document filed by the person's parents or
56 legal guardians shall be made upon a form furnished by the director and shall include identifying
57 information of the person for whom the parents or legal guardians are denying the driver's
58 license. The document shall also contain identifying information of the person's parents or legal
59 guardians. The document shall be certified by the parents or legal guardians to be true and
60 correct. This provision shall not apply to any person who is legally emancipated. The parents
61 or legal guardians may later file an additional document with the department of revenue which
62 reinstates the person's ability to receive a driver's license.

63 2. Any person whose license is reinstated under the provisions of subdivision (9) or (10)
64 of subsection 1 of this section shall be required to file proof with the director of revenue that any
65 motor vehicle operated by the person is equipped with a functioning, certified ignition interlock
66 device as a required condition of reinstatement. The ignition interlock device required for
67 reinstatement under this subsection and for obtaining a limited driving privilege under paragraph
68 (a) or (b) of subdivision (8) of subsection 3 of section 302.309 shall have a photo identification
69 technology feature, and a court may require a global positioning system feature for such device.
70 The ignition interlock device shall further be required to be maintained on all motor vehicles
71 operated by the person for a period of not less than six months immediately following the date
72 of reinstatement. If the monthly monitoring reports show that the ignition interlock device has
73 registered any confirmed blood alcohol concentration readings above the alcohol setpoint
74 established by the department of transportation or that the person has tampered with or
75 circumvented the ignition interlock device **within the last three months of the six-month**
76 **period of required installation of the ignition interlock device**, then the period for which the
77 person must maintain the ignition interlock device following the date of reinstatement shall be
78 extended [for an additional six months] **until the person has completed three consecutive**
79 **months with no violations as described in this section**. If the person fails to maintain such
80 proof with the director, the license shall be suspended [for the remainder of the six-month period
81 or] until proof as required by this section is filed with the director. [Upon the completion of the
82 six-month period, the license shall be shown as reinstated, if the person is otherwise eligible.]

83 3. Any person who petitions the court for reinstatement of his or her license pursuant to
84 subdivision (9) or (10) of subsection 1 of this section shall make application with the Missouri

85 state highway patrol as provided in section 43.540, and shall submit two sets of fingerprints
86 collected pursuant to standards as determined by the highway patrol. One set of fingerprints
87 shall be used by the highway patrol to search the criminal history repository and the second set
88 shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal
89 history files. At the time of application, the applicant shall supply to the highway patrol the court
90 name and case number for the court where he or she has filed his or her petition for
91 reinstatement. The applicant shall pay the fee for the state criminal history check pursuant to
92 section 43.530 and pay the appropriate fee determined by the Federal Bureau of Investigation for
93 the federal criminal history record. The Missouri highway patrol, upon receipt of the results of
94 the criminal history check, shall forward a copy of the results to the circuit court designated by
95 the applicant and to the department. Notwithstanding the provisions of section 610.120, all
96 records related to any criminal history check shall be accessible and available to the director and
97 the court.

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

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, and is
17 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.

24 Unless proof of financial responsibility is filed with the department of revenue, a suspension
25 shall continue in effect for two years from its effective date.

26 5. The period of suspension of the driver's license and driving privilege of any person
27 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has
28 accumulated sufficient points together with a conviction under subdivision (10) of subsection
29 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving
30 privilege as defined in section 302.010. Upon completion of such period of restricted driving
31 privilege, upon compliance with other requirements of law and upon filing of proof of financial
32 responsibility with the department of revenue, in accordance with chapter 303, the license and
33 driving privilege shall be reinstated. If a person, otherwise subject to the provisions of this
34 subsection, files proof of installation with the department of revenue that any vehicle operated
35 by such person is equipped with a functioning, certified ignition interlock device, there shall be
36 no period of suspension. However, in lieu of a suspension the person shall instead complete a
37 ninety-day period of restricted driving privilege. If the person fails to maintain such proof of the
38 device with the director of revenue as required, the restricted driving privilege shall be
39 terminated. Upon completion of such ninety-day period of restricted driving privilege, upon
40 compliance with other requirements of law, and upon filing of proof of financial responsibility
41 with the department of revenue, in accordance with chapter 303, the license and driving privilege
42 shall be reinstated. However, if the monthly monitoring reports during such ninety-day period
43 indicate that the ignition interlock device has registered a confirmed blood alcohol concentration
44 level above the alcohol setpoint established by the department of transportation or such reports
45 indicate that the ignition interlock device has been tampered with or circumvented, then the
46 license and driving privilege of such person shall not be reinstated until the person completes an
47 additional thirty-day period of restricted driving privilege.

48 6. If the person fails to maintain proof of financial responsibility in accordance with
49 chapter 303, or, if applicable, if the person fails to maintain proof that any vehicle operated is
50 equipped with a functioning, certified ignition interlock device installed pursuant to subsection
51 5 of this section, the person's driving privilege and license shall be resuspended.

52 7. The director shall revoke the license and driving privilege of any person when the
53 person's driving record shows such person has accumulated twelve points in twelve months or
54 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation
55 period of any person whose license and driving privilege have been revoked under the provisions
56 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the
57 department of revenue in accordance with chapter 303 and is otherwise eligible, shall be
58 terminated by a notice from the director of revenue after one year from the effective date of the
59 revocation. Unless proof of financial responsibility is filed with the department of revenue,

60 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for
61 a period of two years from its effective date. If the person fails to maintain proof of financial
62 responsibility in accordance with chapter 303, the person's license and driving privilege shall be
63 rerevoked. Any person whose license and driving privilege have been revoked under the
64 provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the
65 revocation from the director, pass the complete driver examination and apply for a new license
66 before again operating a motor vehicle upon the highways of this state.

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

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

75 10. Upon the issuance of a reinstatement or termination notice after a suspension or
76 revocation of any person's license and driving privilege under the provisions of sections 302.010
77 to 302.540, the accumulated point value shall be reduced to four points, except that the points
78 of any person serving as a member of the Armed Forces of the United States outside the limits
79 of the United States during a period of suspension or revocation shall be reduced to zero upon
80 the date of the reinstatement or termination of notice. It shall be the responsibility of such
81 member of the Armed Forces to submit copies of official orders to the director of revenue to
82 substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the
83 contrary notwithstanding, the effective date of the four points remaining on the record upon
84 reinstatement or termination shall be the date of the reinstatement or termination notice.

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

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

92 13. Notwithstanding any other provision of law to the contrary, if after two years from
93 the effective date of any suspension or revocation issued under this chapter, except any
94 suspension or revocation issued under section 302.410, 302.462, or 302.574, the person or
95 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such

96 license or privilege to operate a motor vehicle in this state. Any person who has had his or her
97 license suspended or revoked under section 302.410, 302.462, or 302.574, shall be required to
98 pay the reinstatement fee.

99 14. No person who has had a license to operate a motor vehicle suspended or revoked
100 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of
101 subsection 1 of section 302.302 shall have that license reinstated until such person has
102 participated in and successfully completed a substance abuse traffic offender program defined
103 in section 302.010, or a program determined to be comparable by the department of mental
104 health. Assignment recommendations, based upon the needs assessment as described in
105 subdivision (24) of section 302.010, shall be delivered in writing to the person with written
106 notice that the person is entitled to have such assignment recommendations reviewed by the court
107 if the person objects to the recommendations. The person may file a motion in the associate
108 division of the circuit court of the county in which such assignment was given, on a printed form
109 provided by the state courts administrator, to have the court hear and determine such motion
110 pursuant to the provisions of chapter 517. The motion shall name the person or entity making
111 the needs assessment as the respondent and a copy of the motion shall be served upon the
112 respondent in any manner allowed by law. Upon hearing the motion, the court may modify or
113 waive any assignment recommendation that the court determines to be unwarranted based upon
114 a review of the needs assessment, the person's driving record, the circumstances surrounding the
115 offense, and the likelihood of the person committing a like offense in the future, except that the
116 court may modify but may not waive the assignment to an education or rehabilitation program
117 of a person determined to be a prior or persistent offender as defined in section 577.001 or of a
118 person determined to have operated a motor vehicle with fifteen-hundredths of one percent or
119 more by weight in such person's blood. Compliance with the court determination of the motion
120 shall satisfy the provisions of this section for the purpose of reinstating such person's license to
121 operate a motor vehicle. The respondent's personal appearance at any hearing conducted
122 pursuant to this subsection shall not be necessary unless directed by the court.

123 15. The fees for the program authorized in subsection 14 of this section, or a portion
124 thereof to be determined by the department of mental health, shall be paid by the person enrolled
125 in the program. Any person who is enrolled in the program shall pay, in addition to any fee
126 charged for the program, a supplemental fee in an amount to be determined by the department
127 of mental health for the purposes of funding the substance abuse traffic offender program defined
128 in section 302.010 or a program determined to be comparable by the department of mental
129 health. The administrator of the program shall remit to the division of alcohol and drug abuse
130 of the department of mental health on or before the fifteenth day of each month the supplemental
131 fee for all persons enrolled in the program, less two percent for administrative costs. Interest

132 shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and
133 drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rate
134 established pursuant to the provisions of section 32.065, plus three percentage points. The
135 supplemental fees and any interest received by the department of mental health pursuant to this
136 section shall be deposited in the mental health earnings fund which is created in section 630.053.

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

145 17. Any person who has had a license to operate a motor vehicle suspended or revoked
146 as a result of an assessment of points for a conviction for an intoxication-related traffic offense
147 as defined under section 577.001, and who has a prior alcohol-related enforcement contact as
148 defined under section 302.525, shall be required to file proof with the director of revenue that
149 any motor vehicle operated by the person is equipped with a functioning, certified ignition
150 interlock device as a required condition of reinstatement of the license. The ignition interlock
151 device shall further be required to be maintained on all motor vehicles operated by the person
152 for a period of not less than six months immediately following the date of reinstatement. If the
153 monthly monitoring reports show that the ignition interlock device has registered any confirmed
154 blood alcohol concentration readings above the alcohol setpoint established by the department
155 of transportation or that the person has tampered with or circumvented the ignition interlock
156 device **within the last three months of the six-month period of required installation of the**
157 **ignition interlock device**, then the period for which the person must maintain the ignition
158 interlock device following the date of reinstatement shall be extended [for an additional six
159 months] **until the person has completed three consecutive months with no violations as**
160 **described in this section**. If the person fails to maintain such proof with the director, the license
161 shall be resuspended or revoked and the person shall be guilty of a class A misdemeanor.

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309,
2 the director of revenue shall return the license to the operator immediately upon the termination
3 of the period of suspension and upon compliance with the requirements of chapter 303.

4 2. Any operator whose license is revoked pursuant to these sections, upon the
5 termination of the period of revocation, shall apply for a new license in the manner prescribed
6 by law.

7 3. (1) All circuit courts, the director of revenue, or a commissioner operating under
8 section 478.007 shall have jurisdiction to hear applications and make eligibility determinations
9 granting limited driving privileges, except as provided under subdivision (8) of this subsection.
10 Any application may be made in writing to the director of revenue and the person's reasons for
11 requesting the limited driving privilege shall be made therein.

12 (2) When any court of record having jurisdiction or the director of revenue finds that an
13 operator is required to operate a motor vehicle in connection with any of the following:

- 14 (a) A business, occupation, or employment;
- 15 (b) Seeking medical treatment for such operator;
- 16 (c) Attending school or other institution of higher education;
- 17 (d) Attending alcohol or drug treatment programs;
- 18 (e) Seeking the required services of a certified ignition interlock device provider; or
- 19 (f) Any other circumstance the court or director finds would create an undue hardship
20 on the operator,

21
22 the court or director may grant such limited driving privilege as the circumstances of the case
23 justify if the court or director finds undue hardship would result to the individual, and while so
24 operating a motor vehicle within the restrictions and limitations of the limited driving privilege
25 the driver shall not be guilty of operating a motor vehicle without a valid license.

26 (3) An operator may make application to the proper court in the county in which such
27 operator resides or in the county in which is located the operator's principal place of business or
28 employment. Any application for a limited driving privilege made to a circuit court shall name
29 the director as a party defendant and shall be served upon the director prior to the grant of any
30 limited privilege, and shall be accompanied by a copy of the applicant's driving record as
31 certified by the director. Any applicant for a limited driving privilege shall have on file with the
32 department of revenue proof of financial responsibility as required by chapter 303. Any
33 application by a person who transports persons or property as classified in section 302.015 may
34 be accompanied by proof of financial responsibility as required by chapter 303, but if proof of
35 financial responsibility does not accompany the application, or if the applicant does not have on
36 file with the department of revenue proof of financial responsibility, the court or the director has
37 discretion to grant the limited driving privilege to the person solely for the purpose of operating
38 a vehicle whose owner has complied with chapter 303 for that vehicle, and the limited driving
39 privilege must state such restriction. When operating such vehicle under such restriction the
40 person shall carry proof that the owner has complied with chapter 303 for that vehicle.

41 (4) No limited driving privilege shall be issued to any person otherwise eligible under
42 the provisions of [paragraph (a) of] subdivision (6) of this subsection [on a license revocation

43 resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or] **if such**
44 **person has** a license denial under paragraph (a) or (b) of subdivision (8) of this subsection[, or
45 a license revocation under paragraph (g) of subdivision (6) of this subsection,] **or under**
46 **subdivision (2) of subsection 2 of section 302.525, or sections 302.574 or 577.041**, until the
47 applicant has filed proof with the department of revenue that any motor vehicle operated by the
48 person is equipped with a functioning, certified ignition interlock device as a required condition
49 of limited driving privilege. The ignition interlock device required for obtaining a limited
50 driving privilege under paragraph (a) or (b) of subdivision (8) of this subsection shall have a
51 photo identification technology feature, and a court may require a global positioning system
52 feature for such device.

53 (5) The court order or the director's grant of the limited or restricted driving privilege
54 shall indicate the termination date of the privilege, which shall be not later than the end of the
55 period of suspension or revocation. The court order or the director's grant of the limited or
56 restricted driving privilege shall also indicate whether a functioning, certified ignition interlock
57 device is required as a condition of operating a motor vehicle with the limited driving privilege.
58 A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall
59 be given to the driver which shall be carried by the driver whenever such driver operates a motor
60 vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of
61 the limited driving privilege to the applicant. The applicant shall carry a copy of the limited
62 driving privilege while operating a motor vehicle. A conviction which results in the assessment
63 of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance
64 where no accident is involved, against a driver who is operating a vehicle pursuant to a limited
65 driving privilege terminates the privilege, as of the date the points are assessed to the person's
66 driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the
67 privilege shall not be terminated. Failure of the driver to maintain proof of financial
68 responsibility, as required by chapter 303, or to maintain proof of installation of a functioning,
69 certified ignition interlock device, as applicable, shall terminate the privilege. The director shall
70 notify by ordinary mail the driver whose privilege is so terminated.

71 (6) Except as provided in subdivision (8) of this subsection, no person is eligible to
72 receive a limited driving privilege whose license at the time of application has been suspended
73 or revoked for the following reasons:

74 (a) [A conviction of violating the provisions of section 577.010 or 577.012, or any similar
75 provision of any federal or state law, or a municipal or county law where the judge in such case
76 was an attorney and the defendant was represented by or waived the right to an attorney in
77 writing, until the person has completed the first thirty days of a suspension or revocation imposed
78 pursuant to this chapter;

79 (b)] A conviction of any felony in the commission of which a motor vehicle was used
80 **and such conviction occurred within the five year period prior to the date of application.**
81 **However, any felony conviction for leaving the scene of an accident under section 577.060**
82 **shall not render the applicant ineligible for a limited driving privilege under this section;**

83 [(c)] (b) Ineligibility for a license because of the provisions of subdivision (1), (2), (4),
84 (5), (6), (7), (8), (9), **or** (10) [or (11)] of subsection 1 of section 302.060; **or**

85 [(d)] (c) Because of operating a motor vehicle under the influence of narcotic drugs, a
86 controlled substance as defined in chapter 195[, or having left the scene of an accident as
87 provided in section 577.060];

88 [(e)] Due to a revocation for failure to submit to a chemical test pursuant to section
89 302.574 or due to a refusal to submit to a chemical test in any other state, unless such person has
90 completed the first ninety days of such revocation and files proof of installation with the
91 department of revenue that any vehicle operated by such person is equipped with a functioning,
92 certified ignition interlock device, provided the person is not otherwise ineligible for a limited
93 driving privilege;

94 [(f)] (d) Due to a suspension pursuant to **subdivision (8) or (10) of subsection 1 of**
95 **section 302.302 or** subsection 2 of section 302.525 [and who has not completed the first thirty
96 days of such suspension, provided the person is not otherwise ineligible for a limited driving
97 privilege; or

98 (g) Due to a revocation pursuant to subsection 2 of section 302.525 if such person has
99 not completed the first forty-five days of such revocation, provided the person is not otherwise
100 ineligible for a limited driving privilege].

101 (7) No person who possesses a commercial driver's license shall receive a limited driving
102 privilege issued for the purpose of operating a commercial motor vehicle if such person's driving
103 privilege is suspended, revoked, cancelled, denied, or disqualified. Nothing in this section shall
104 prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial
105 motor vehicle provided that pursuant to the provisions of this section, the applicant is not
106 otherwise ineligible for a limited driving privilege.

107 (8) (a) Provided that pursuant to the provisions of this section, the applicant is not
108 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
109 manner prescribed in this subsection, allow a person who has had such person's license to operate
110 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,
111 as prescribed in subdivision (9) of subsection 1 of section 302.060, to apply for a limited driving
112 privilege pursuant to this subsection. Such person shall present evidence satisfactory to the court
113 or the director that such person's habits and conduct show that the person no longer poses a threat
114 to the public safety of this state. A circuit court shall grant a limited driving privilege to any

115 individual who otherwise is eligible to receive a limited driving privilege, has filed proof of
116 installation of a certified ignition interlock device, and has had no alcohol-related enforcement
117 contacts since the alcohol-related enforcement contact that resulted in the person's license denial.

118 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
119 ineligible for a limited driving privilege or convicted of acting with criminal negligence while
120 driving while intoxicated to cause the death of another person, a circuit court or the director may,
121 in the manner prescribed in this subsection, allow a person who has had such person's license to
122 operate a motor vehicle revoked where that person cannot obtain a new license for a period of
123 five years because of two convictions of driving while intoxicated, as prescribed in subdivision
124 (10) of subsection 1 of section 302.060, to apply for a limited driving privilege pursuant to this
125 subsection. Such person shall present evidence satisfactory to the court or the director that such
126 person's habits and conduct show that the person no longer poses a threat to the public safety of
127 this state. Any person who is denied a license permanently in this state because of an
128 alcohol-related conviction subsequent to a restoration of such person's driving privileges
129 pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege
130 pursuant to the provisions of this subdivision. A circuit court shall grant a limited driving
131 privilege to any individual who otherwise is eligible to receive a limited driving privilege, has
132 filed proof of installation of a certified ignition interlock device, and has had no alcohol-related
133 enforcement contacts since the alcohol-related enforcement contact that resulted in the person's
134 license denial.

135 (9) A DWI docket or court established under section 478.007 may grant a limited driving
136 privilege to a participant in or graduate of the program who would otherwise be ineligible for
137 such privilege under another provision of law. [The DWI docket or court shall not grant a limited
138 driving privilege to a participant during his or her initial forty-five days of participation.]

139 4. Any person who has received notice of denial of a request of limited driving privilege
140 by the director of revenue may make a request for a review of the director's determination in the
141 circuit court of the county in which the person resides or the county in which is located the
142 person's principal place of business or employment within thirty days of the date of mailing of
143 the notice of denial. Such review shall be based upon the records of the department of revenue
144 and other competent evidence and shall be limited to a review of whether the applicant was
145 statutorily entitled to the limited driving privilege.

146 5. The director of revenue shall promulgate rules and regulations necessary to carry out
147 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
148 536.010, that is created under the authority delegated in this section shall become effective only
149 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
150 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the

151 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
152 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
153 and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

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, and is otherwise eligible. The restricted driving
17 privilege shall indicate whether a functioning, certified ignition interlock device is required as
18 a condition of operating a motor vehicle. A copy of the restricted driving privilege shall be given
19 to the person and such person shall carry a copy of the restricted driving privilege while
20 operating a motor vehicle. In no case shall restricted driving privileges be issued pursuant to this
21 section or section 302.535 until the person has completed the first thirty days of a suspension
22 under this section. If a person otherwise subject to the provisions of this subdivision files proof
23 of installation with the department of revenue that any vehicle that he or she operates is equipped
24 with a functioning, certified ignition interlock device, there shall be no period of suspension.
25 However, in lieu of a suspension the person shall instead complete a ninety-day period of
26 restricted driving privilege. Upon completion of such ninety-day period of restricted driving
27 privilege, compliance with other requirements of law, and filing of proof of financial
28 responsibility with the department of revenue, in accordance with chapter 303, the license and
29 driving privilege shall be reinstated. However, if the monthly monitoring reports during such
30 ninety-day period indicate that the ignition interlock device has registered a confirmed blood
31 alcohol concentration level above the alcohol setpoint established by the department of
32 transportation or such reports indicate that the ignition interlock device has been tampered with
33 or circumvented, then the license and driving privilege of such person shall not be reinstated

34 until the person completes an additional thirty-day period of restricted driving privilege. If the
35 person fails to maintain such proof of the device with the director of revenue as required, the
36 restricted driving privilege shall be terminated;

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

39 (3) In no case shall restricted driving privileges be issued under this section to any person
40 whose driving record shows one or more prior alcohol-related enforcement contacts until the
41 person has [completed the first thirty days of a suspension under this section and has] filed proof
42 with the department of revenue that any motor vehicle operated by the person is equipped with
43 a functioning, certified ignition interlock device as a required condition of the restricted driving
44 privilege. If the person fails to maintain such proof the restricted driving privilege shall be
45 terminated.

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

52 4. Where a license is suspended or revoked under this section and the person is also
53 convicted on charges arising out of the same occurrence for a violation of section 577.010 or
54 577.012 or for a violation of any county or municipal ordinance prohibiting driving while
55 intoxicated or alcohol-related traffic offense, both the suspension or revocation under this section
56 and any other suspension or revocation arising from such convictions shall be imposed, but the
57 period of suspension or revocation under sections 302.500 to 302.540 shall be credited against
58 any other suspension or revocation arising from such convictions, and the total period of
59 suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

60 5. Any person who has had a license to operate a motor vehicle revoked under this
61 section or suspended under this section with one or more prior alcohol-related enforcement
62 contacts showing on their driver record shall be required to file proof with the director of revenue
63 that any motor vehicle operated by that person is equipped with a functioning, certified ignition
64 interlock device as a required condition of reinstatement. The ignition interlock device shall
65 further be required to be maintained on all motor vehicles operated by the person for a period of
66 not less than six months immediately following the date of reinstatement. If the monthly
67 monitoring reports show that the ignition interlock device has registered any confirmed blood
68 alcohol concentration readings above the alcohol setpoint established by the department of
69 transportation or that the person has tampered with or circumvented the ignition interlock device

70 **within the last three months of the six-month period of required installation of the ignition**
71 **interlock device**, then the period for which the person must maintain the ignition interlock
72 device following the date of reinstatement shall be extended [for an additional six months] **until**
73 **the person has completed three consecutive months with no violations as described in this**
74 **section**. If the person fails to maintain such proof with the director, the license shall be
75 suspended or revoked, [as applicable] **until proof as required by this section is filed with the**
76 **director, and the person shall be guilty of a class A misdemeanor.**

302.574. 1. If a person who was operating a vehicle refuses upon the request of the officer
2 to submit to any chemical test under section 577.041, the officer shall, on behalf of the director
3 of revenue, serve the notice of license revocation personally upon the person and shall take
4 possession of any license to operate a vehicle issued by this state which is held by that person.
5 The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid
6 for fifteen days and shall also give the person notice of his or her right to file a petition for
7 review to contest the license revocation.

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

11 (1) That the officer has:

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

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

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

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

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

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

24 (5) Copies of the notice of revocation, the fifteen-day temporary permit, and the notice
25 of the right to file a petition for review. The notices and permit may be combined in one
26 document; and

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

28 3. Upon receipt of the officer's report, the director shall revoke the license of the person
29 refusing to take the test for a period of one year; or if the person is a nonresident, such person's

30 operating permit or privilege shall be revoked for one year; or if the person is a resident without
31 a license or permit to operate a motor vehicle in this state, an order shall be issued denying the
32 person the issuance of a license or permit for a period of one year.

33 4. If a person's license has been revoked because of the person's refusal to submit to a
34 chemical test, such person may petition for a hearing before a circuit division or associate
35 division of the court in the county in which the arrest or stop occurred. The person may request
36 such court to issue an order staying the revocation until such time as the petition for review can
37 be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form
38 prescribed by the director of revenue and shall send a copy of such order to the director. Such
39 order shall serve as proof of the privilege to operate a motor vehicle in this state and the director
40 shall maintain possession of the person's license to operate a motor vehicle until termination of
41 any revocation under this section. Upon the person's request, the clerk of the court shall notify
42 the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf
43 of the director of revenue. At the hearing, the court shall determine only:

44 (1) Whether the person was arrested or stopped;

45 (2) Whether the officer had:

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

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

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

55 (3) Whether the person refused to submit to the test.

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

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

60 7. No person who has had a license to operate a motor vehicle suspended or revoked
61 under the provisions of this section shall have that license reinstated until such person has
62 participated in and successfully completed a substance abuse traffic offender program defined
63 in section 302.010, or a program determined to be comparable by the department of mental
64 health. Assignment recommendations, based upon the needs assessment as described in
65 subdivision (24) of section 302.010, shall be delivered in writing to the person with written

66 notice that the person is entitled to have such assignment recommendations reviewed by the court
67 if the person objects to the recommendations. The person may file a motion in the associate
68 division of the circuit court of the county in which such assignment was given, on a printed form
69 provided by the state courts administrator, to have the court hear and determine such motion
70 under the provisions of chapter 517. The motion shall name the person or entity making the
71 needs assessment as the respondent and a copy of the motion shall be served upon the respondent
72 in any manner allowed by law. Upon hearing the motion, the court may modify or waive any
73 assignment recommendation that the court determines to be unwarranted based upon a review
74 of the needs assessment, the person's driving record, the circumstances surrounding the offense,
75 and the likelihood of the person committing a similar offense in the future, except that the court
76 may modify but may not waive the assignment to an education or rehabilitation program of a
77 person determined to be a prior or persistent offender as defined in section 577.001, or of a
78 person determined to have operated a motor vehicle with a blood alcohol content of fifteen-
79 hundredths of one percent or more by weight. Compliance with the court determination of the
80 motion shall satisfy the provisions of this section for the purpose of reinstating such person's
81 license to operate a motor vehicle. The respondent's personal appearance at any hearing
82 conducted under this subsection shall not be necessary unless directed by the court.

83 8. The fees for the substance abuse traffic offender program, or a portion thereof, to be
84 determined by the division of alcohol and drug abuse of the department of mental health, shall
85 be paid by the person enrolled in the program. Any person who is enrolled in the program shall
86 pay, in addition to any fee charged for the program, a supplemental fee to be determined by the
87 department of mental health for the purposes of funding the substance abuse traffic offender
88 program defined in section 302.010. The administrator of the program shall remit to the division
89 of alcohol and drug abuse of the department of mental health on or before the fifteenth day of
90 each month the supplemental fee for all persons enrolled in the program, less two percent for
91 administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees
92 due to the division of alcohol and drug abuse under this section, and shall accrue at a rate not to
93 exceed the annual rates established under the provisions of section 32.065, plus three percentage
94 points. The supplemental fees and any interest received by the department of mental health under
95 this section shall be deposited in the mental health earnings fund, which is created in section
96 630.053.

97 9. Any administrator who fails to remit to the division of alcohol and drug abuse of the
98 department of mental health the supplemental fees and interest for all persons enrolled in the
99 program under this section shall be subject to a penalty equal to the amount of interest accrued
100 on the supplemental fees due to the division under this section. If the supplemental fees, interest,
101 and penalties are not remitted to the division of alcohol and drug abuse of the department of

102 mental health within six months of the due date, the attorney general of the state of Missouri
103 shall initiate appropriate action for the collection of said fees and accrued interest. The court
104 shall assess attorneys' fees and court costs against any delinquent program.

105 10. Any person who has had a license to operate a motor vehicle revoked under this
106 section and who has a prior alcohol-related enforcement contact, as defined in section 302.525,
107 shall be required to file proof with the director of revenue that any motor vehicle operated by the
108 person is equipped with a functioning, certified ignition interlock device as a required condition
109 of license reinstatement. Such ignition interlock device shall further be required to be maintained
110 on all motor vehicles operated by the person for a period of not less than six months immediately
111 following the date of reinstatement. If the monthly monitoring reports show that the ignition
112 interlock device has registered any confirmed blood alcohol concentration readings above the
113 alcohol setpoint established by the department of transportation or that the person has tampered
114 with or circumvented the ignition interlock device **within the last three months of the six-**
115 **month period of required installation of the ignition interlock device**, then the period for
116 which the person must maintain the ignition interlock device following the date of reinstatement
117 shall be extended [for an additional six months] **until the person has completed three**
118 **consecutive months with no violations as described in this section**. If the person fails to
119 maintain such proof with the director as required by this section, the license shall be rerevoked
120 **until proof as required by this section is filed with the director**, and the person shall be guilty
121 of a class A misdemeanor.

122 11. The revocation period of any person whose license and driving privilege has been
123 revoked under this section and who has filed proof of financial responsibility with the
124 department of revenue in accordance with chapter 303 and is otherwise eligible shall be
125 terminated by a notice from the director of revenue after one year from the effective date of the
126 revocation. Unless proof of financial responsibility is filed with the department of revenue, the
127 revocation shall remain in effect for a period of two years from its effective date. If the person
128 fails to maintain proof of financial responsibility in accordance with chapter 303, the person's
129 license and driving privilege shall be rerevoked.

130 12. A person commits the offense of failure to maintain proof with the Missouri
131 department of revenue if, when required to do so, he or she fails to file proof with the director
132 of revenue that any vehicle operated by the person is equipped with a functioning, certified
133 ignition interlock device or fails to file proof of financial responsibility with the department of
134 revenue in accordance with chapter 303. The offense of failure to maintain proof with the
135 Missouri department of revenue is a class A misdemeanor.

478.007. 1. Any circuit court, or any county with a charter form of government and with
2 more than six hundred thousand but fewer than seven hundred thousand inhabitants with a

3 county municipal court established under section 66.010, may establish a docket or court to
4 provide an alternative for the judicial system to dispose of cases in which a person has pleaded
5 guilty to driving while intoxicated or driving with excessive blood alcohol content and:

6 (1) The person was operating a motor vehicle with at least fifteen-hundredths of one
7 percent or more by weight of alcohol in such person's blood; or

8 (2) The person has previously pleaded guilty to or has been found guilty of one or more
9 intoxication-related traffic offenses as defined by section 577.023; or

10 (3) The person has two or more previous alcohol-related enforcement contacts as defined
11 in section 302.525.

12 2. This docket or court shall combine judicial supervision, drug testing, continuous
13 alcohol monitoring, **as defined in section 577.001**, substance abuse traffic offender program
14 compliance, and treatment of DWI court participants. The court may assess any and all necessary
15 costs for participation in DWI court against the participant. Any money received from such
16 assessed costs by a court from a defendant shall not be considered court costs, charges, or fines.
17 This docket or court may operate in conjunction with a drug court established pursuant to
18 sections 478.001 to 478.006.

19 3. If the division of probation and parole is otherwise unavailable to assist in the judicial
20 supervision of any person who wishes to enter a DWI court, a court-approved private probation
21 service may be utilized by the DWI court to fill the division's role. In such case, any and all
22 necessary additional costs may be assessed against the participant. No person shall be rejected
23 from participating in DWI court solely for the reason that the person does not reside in the city
24 or county where the applicable DWI court is located but the DWI court can base acceptance into
25 a treatment court program on its ability to adequately provide services for the person or handle
26 the additional caseload.

577.001. As used in this chapter, the following terms mean:

2 (1) "Aggravated offender", a person who has been found guilty of:

3 (a) Three or more intoxication-related traffic offenses committed on separate occasions;
4 or

5 (b) Two or more intoxication-related traffic offenses committed on separate occasions
6 where at least one of the intoxication-related traffic offenses is an offense committed in violation
7 of any state law, county or municipal ordinance, any federal offense, or any military offense in
8 which the defendant was operating a vehicle while intoxicated and another person was injured
9 or killed;

10 (2) "Aggravated boating offender", a person who has been found guilty of:

11 (a) Three or more intoxication-related boating offenses; or

12 (b) Has been found guilty of one or more intoxication-related boating offenses committed
13 on separate occasions where at least one of the intoxication-related traffic offenses is an offense
14 committed in violation of any state law, county or municipal ordinance, any federal offense, or
15 any military offense in which the defendant was operating a vessel while intoxicated and another
16 person was injured or killed;

17 (3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for
18 off-highway use which is fifty inches or less in width, with an unladen dry weight of one
19 thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed
20 to be straddled by the operator, or with a seat designed to carry more than one person, and
21 handlebars for steering control;

22 (4) "Court", any circuit, associate circuit, or municipal court, including traffic court, but
23 not any juvenile court or drug court;

24 (5) "Chronic offender", a person who has been found guilty of:

25 (a) Four or more intoxication-related traffic offenses committed on separate occasions;

26 or

27 (b) Three or more intoxication-related traffic offenses committed on separate occasions
28 where at least one of the intoxication-related traffic offenses is an offense committed in violation
29 of any state law, county or municipal ordinance, any federal offense, or any military offense in
30 which the defendant was operating a vehicle while intoxicated and another person was injured
31 or killed; or

32 (c) Two or more intoxication-related traffic offenses committed on separate occasions
33 where both intoxication-related traffic offenses were offenses committed in violation of any state
34 law, county or municipal ordinance, any federal offense, or any military offense in which the
35 defendant was operating a vehicle while intoxicated and another person was injured or killed;

36 (6) "Chronic boating offender", a person who has been found guilty of:

37 (a) Four or more intoxication-related boating offenses; or

38 (b) Three or more intoxication-related boating offenses committed on separate occasions
39 where at least one of the intoxication-related boating offenses is an offense committed in
40 violation of any state law, county or municipal ordinance, any federal offense, or any military
41 offense in which the defendant was operating a vessel while intoxicated and another person was
42 injured or killed; or

43 (c) Two or more intoxication-related boating offenses committed on separate occasions
44 where both intoxication-related boating offenses were offenses committed in violation of any
45 state law, county or municipal ordinance, any federal offense, or any military offense in which
46 the defendant was operating a vessel while intoxicated and another person was injured or killed;

47 (7) **"Continuous alcohol monitoring", automatically testing breath, blood, or**
48 **transdermal alcohol concentration levels and tampering attempts at least once every hour,**
49 **regardless of the location of the person who is being monitored, and regularly transmitting**
50 **the data. Continuous alcohol monitoring shall be considered an electronic monitoring**
51 **service under subsection 3 of section 217.690;**

52 (8) "Controlled substance", a drug, substance, or immediate precursor in schedules I to
53 V listed in section 195.017;

54 [(8)] (9) "Drive", "driving", "operates" or "operating", means physically driving or
55 operating a vehicle or vessel;

56 [(9)] (10) "Flight crew member", the pilot in command, copilots, flight engineers, and
57 flight navigators;

58 [(10)] (11) "Habitual offender", a person who has been found guilty of:

59 (a) Five or more intoxication-related traffic offenses committed on separate occasions;
60 or

61 (b) Four or more intoxication-related traffic offenses committed on separate occasions
62 where at least one of the intoxication-related traffic offenses is an offense committed in violation
63 of any state law, county or municipal ordinance, any federal offense, or any military offense in
64 which the defendant was operating a vehicle while intoxicated and another person was injured
65 or killed; or

66 (c) Three or more intoxication-related traffic offenses committed on separate occasions
67 where at least two of the intoxication-related traffic offenses were offenses committed in
68 violation of any state law, county or municipal ordinance, any federal offense, or any military
69 offense in which the defendant was operating a vehicle while intoxicated and another person was
70 injured or killed; or

71 (d) While driving while intoxicated, the defendant acted with criminal negligence to:

72 a. Cause the death of any person not a passenger in the vehicle operated by the defendant,
73 including the death of an individual that results from the defendant's vehicle leaving a highway,
74 as defined by section 301.010, or the highway's right-of-way; or

75 b. Cause the death of two or more persons; or

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

78 [(11)] (12) "Habitual boating offender", a person who has been found guilty of:

79 (a) Five or more intoxication-related boating offenses; or

80 (b) Four or more intoxication-related boating offenses committed on separate occasions
81 where at least one of the intoxication-related boating offenses is an offense committed in
82 violation of any state law, county or municipal ordinance, any federal offense, or any military

83 offense in which the defendant was operating a vessel while intoxicated and another person was
84 injured or killed; or

85 (c) Three or more intoxication-related boating offenses committed on separate occasions
86 where at least two of the intoxication-related boating offenses were offenses committed in
87 violation of any state law, county or municipal ordinance, any federal offense, or any military
88 offense in which the defendant was operating a vessel while intoxicated and another person was
89 injured or killed; or

90 (d) While boating while intoxicated, the defendant acted with criminal negligence to:

91 a. Cause the death of any person not a passenger in the vessel operated by the defendant,
92 including the death of an individual that results from the defendant's vessel leaving the water;
93 or

94 b. Cause the death of two or more persons; or

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

97 [(12)] (13) "Intoxicated" or "intoxicated condition", when a person is under the influence
98 of alcohol, a controlled substance, or drug, or any combination thereof;

99 [(13)] (14) "Intoxication-related boating offense", operating a vessel while intoxicated;
100 boating while intoxicated; operating a vessel with excessive blood alcohol content or an offense
101 in which the defendant was operating a vessel while intoxicated and another person was injured
102 or killed in violation of any state law, county or municipal ordinance, any federal offense, or any
103 military offense;

104 [(14)] (15) "Intoxication-related traffic offense", driving while intoxicated, driving with
105 excessive blood alcohol content or an offense in which the defendant was operating a vehicle
106 while intoxicated and another person was injured or killed in violation of any state law, county
107 or municipal ordinance, any federal offense, or any military offense;

108 [(15)] (16) "Law enforcement officer" or "arresting officer", includes the definition of law
109 enforcement officer in section 556.061 and military policemen conducting traffic enforcement
110 operations on a federal military installation under military jurisdiction in the state of Missouri;

111 [(16)] (17) "Operate a vessel", to physically control the movement of a vessel in motion
112 under mechanical or sail power in water;

113 [(17)] (18) "Persistent offender", a person who has been found guilty of two or more
114 intoxication-related traffic offenses committed on separate occasions;

115 [(18)] (19) "Persistent boating offender", a person who has been found guilty of two or
116 more intoxication-related boating offenses committed on separate occasions;

117 [(19)] **(20)** "Prior offender", a person who has been found guilty of one intoxication-
118 related traffic offense, where such prior offense occurred within five years of the occurrence of
119 the intoxication-related traffic offense for which the person is charged;

120 [(20)] **(21)** "Prior boating offender", a person who has been found guilty of one
121 intoxication-related boating offense, where such prior offense occurred within five years of the
122 occurrence of the intoxication-related boating offense for which the person is charged.

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

3 2. The offense of driving while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

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

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

8 (3) A class E felony if:

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

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

12 (4) A class D felony if:

13 (a) The defendant is an aggravated offender;

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

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

18 (5) A class C felony if:

19 (a) The defendant is a chronic offender;

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

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

24 (6) A class B felony if:

25 (a) The defendant is a habitual offender; or

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

28 (7) A class A felony if the defendant is a habitual offender as a result of being found
29 guilty of an act described under paragraph (d) of subdivision [(10)] **(11)** of section 577.001 and
30 is found guilty of a subsequent violation of such paragraph.

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

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

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

40 **4. If a person is found guilty of a second or subsequent offense of driving while**
41 **intoxicated, the court may order the person to submit to a period of continuous alcohol**
42 **monitoring as a condition of probation.**

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

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

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

51 [5.] **6.** A person found guilty of the offense of driving while intoxicated:

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

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

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

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

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

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

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

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

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

77 **(6) Any probation or parole granted under this subsection may include a period of**
78 **continuous alcohol monitoring.**

577.012. 1. A person commits the offense of driving with excessive blood alcohol content
2 if such person operates:

3 (1) A vehicle while having eight-hundredths of one percent or more by weight of alcohol
4 in his or her blood; or

5 (2) A commercial motor vehicle while having four one-hundredths of one percent or
6 more by weight of alcohol in his or her blood.

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

12 3. The offense of driving with excessive blood alcohol content is:

13 (1) A class B misdemeanor;

14 (2) A class A misdemeanor if the defendant is alleged and proved to be a prior offender;

15 (3) A class E felony if the defendant is alleged and proved to be a persistent offender;

16 (4) A class D felony if the defendant is alleged and proved to be an aggravated offender;

17 (5) A class C felony if the defendant is alleged and proved to be a chronic offender;

18 (6) A class B felony if the defendant is alleged and proved to be a habitual offender.

19 4. A person found guilty of the offense of driving with an excessive blood alcohol content
20 as a first offense shall not be granted a suspended imposition of sentence:

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

22 (2) In a circuit where a DWI court or docket created under section 478.007 or other court-
23 ordered treatment program is available, and where the offense was committed with fifteen-

24 hundredths of one percent or more by weight of alcohol in such person's blood, unless the
25 individual participates in and successfully completes a program under such DWI court or docket
26 or other court-ordered treatment program.

27 5. If a person is not granted a suspended imposition of sentence for the reasons described
28 in subsection 4 of this section:

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

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

35 **6. If a person is found guilty of a second or subsequent offense of driving with an**
36 **excessive blood alcohol content, the court may order the person to submit to a period of**
37 **continuous alcohol monitoring as a condition of probation.**

38 7. A person found guilty of driving with excessive blood alcohol content:

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

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

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

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

51 (3) As a persistent offender shall not be granted parole or probation until he or she has
52 served a minimum of thirty days imprisonment:

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

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

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

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

64 **(6) Any probation or parole granted under this subsection may include a period of**
65 **continuous alcohol monitoring.**

577.013. 1. A person commits the offense of boating while intoxicated if he or she
2 operates a vessel while in an intoxicated condition.

3 2. The offense of boating while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior boating offender; or

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

8 (3) A class E felony if:

9 (a) The defendant is a persistent boating offender; or

10 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
11 physical injury to another person;

12 (4) A class D felony if:

13 (a) The defendant is an aggravated boating offender;

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

16 (c) While boating while intoxicated, the defendant acts with criminal negligence to cause
17 serious physical injury to another person;

18 (5) A class C felony if:

19 (a) The defendant is a chronic boating offender;

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

22 (c) While boating while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;

24 (6) A class B felony if:

25 (a) The defendant is a habitual boating offender; or

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

28 (7) A class A felony if the defendant is a habitual offender as a result of being found
29 guilty of an act described under paragraph (d) of subdivision [(11)] **(12)** of section 577.001 and
30 is found guilty of a subsequent violation of such paragraph.

31 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
32 of the offense of boating while intoxicated as a first offense shall not be granted a suspended
33 imposition of sentence:

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

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

40 **4. If a person is found guilty of a second or subsequent offense of boating while**
41 **intoxicated, the court may order the person to submit to a period of continuous alcohol**
42 **monitoring as a condition of probation.**

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

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

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

51 [5.] **6.** A person found guilty of the offense of boating while intoxicated:

52 (1) As a prior boating offender, persistent boating offender, aggravated boating offender,
53 chronic boating offender or habitual boating offender shall not be granted a suspended
54 imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
55 557.011 to the contrary notwithstanding;

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

58 (a) Unless as a condition of such parole or probation such person performs at least two
59 hundred forty hours of community service under the supervision of the court in those
60 jurisdictions which have a recognized program for community service; or

61 (b) The offender participates in and successfully completes a program established under
62 section 478.007 or other court-ordered treatment program, if available;

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

65 (a) Unless as a condition of such parole or probation such person performs at least four
66 hundred eighty hours of community service under the supervision of the court in those
67 jurisdictions which have a recognized program for community service; or

68 (b) The offender participates in and successfully completes a program established under
69 section 478.007 or other court-ordered treatment program, if available;

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

72 (5) As a chronic boating offender shall not be eligible for parole or probation until he or
73 she has served a minimum of two years imprisonment; **and**

74 **(6) Any probation or parole granted under this subsection may include a period of**
75 **continuous alcohol monitoring.**

577.014. 1. A person commits the offense of boating with excessive blood alcohol
2 content if he or she operates a vessel while having eight-hundredths of one percent or more by
3 weight of alcohol in his or her 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 of
7 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. The offense of boating with excessive blood alcohol content is:

10 (1) A class B misdemeanor;

11 (2) A class A misdemeanor if the defendant is alleged and proved to be a prior boating
12 offender;

13 (3) A class E felony if the defendant is alleged and proved to be a persistent boating
14 offender;

15 (4) A class D felony if the defendant is alleged and proved to be an aggravated boating
16 offender;

17 (5) A class C felony if the defendant is alleged and proved to be a chronic boating
18 offender;

19 (6) A class B felony if the defendant is alleged and proved to be a habitual boating
20 offender.

21 4. A person found guilty of the offense of boating with excessive blood alcohol content
22 as a first offense shall not be granted a suspended imposition of sentence:

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

24 (2) In a circuit where a DWI court or docket created under section 478.007 or other court-
25 ordered treatment program is available, and where the offense was committed with fifteen-

26 hundredths of one percent or more by weight of alcohol in such person's blood unless the
27 individual participates in and successfully completes a program under such DWI court or docket
28 or other court-ordered treatment program.

29 5. When a person is not granted a suspended imposition of sentence for the reasons
30 described in subsection 4 of this section:

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

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

37 **6. If a person is found guilty of a second or subsequent offense of boating with an**
38 **excessive blood alcohol content, the court may order the person to submit to a period of**
39 **continuous alcohol monitoring as a condition of probation.**

40 7. A person found guilty of the offense of boating with excessive blood alcohol content:

41 (1) As a prior boating offender, persistent boating offender, aggravated boating offender,
42 chronic boating offender or habitual boating offender shall not be granted a suspended
43 imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
44 557.011 to the contrary notwithstanding;

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

47 (a) Unless as a condition of such parole or probation such person performs at least two
48 hundred forty hours of community service under the supervision of the court in those
49 jurisdictions which have a recognized program for community service; or

50 (b) The offender participates in and successfully completes a program established under
51 section 478.007 or other court-ordered treatment program, if available;

52 (3) As a persistent boating offender, shall not be granted parole or probation until he or
53 she has served a minimum of thirty days imprisonment:

54 (a) Unless as a condition of such parole or probation such person performs at least four
55 hundred eighty hours of community service under the supervision of the court in those
56 jurisdictions which have a recognized program for community service; or

57 (b) The offender participates in and successfully completes a program established under
58 section 478.007 or other court-ordered treatment program, if available;

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

61 (5) As a chronic boating offender, shall not be eligible for parole or probation until he or
62 she has served a minimum of two years imprisonment; **and**

63 (6) **Any probation or parole granted under this subsection may include a period of**
64 **continuous alcohol monitoring.**

Section B. Section A of this act shall become effective on January 1, 2017.

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