

HOUSE BILL NO. 1510

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

3074H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 577.010, RSMo, and to enact in lieu thereof one new section relating to the offense of driving while intoxicated, with penalty provisions.

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

Section A. Section 577.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 577.010, to read as follows:

- 577.010. 1. A person commits the offense of driving while intoxicated if he or she operates a vehicle while in an intoxicated condition.
2. The offense of driving while intoxicated is:
- (1) A class B misdemeanor;
 - (2) A class A misdemeanor if:
 - (a) The defendant is a prior offender; or
 - (b) A person less than seventeen years of age is present in the vehicle;
 - (3) A class E felony if:
 - (a) The defendant is a persistent offender; or
 - (b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to another person;
 - (4) A class D felony if:
 - (a) The defendant is an aggravated offender;
 - (b) While driving while intoxicated, the defendant acts with criminal negligence to cause physical injury to a law enforcement officer or emergency personnel; or
 - (c) While driving while intoxicated, the defendant acts with criminal negligence to cause serious physical injury to another person;

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.

- 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
- 21 cause 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
- 23 cause the death of another person;
- 24 (6) A class B felony if:
- 25 (a) The defendant is a habitual offender;
- 26 (b) While driving while intoxicated, the defendant acts with criminal negligence to
- 27 cause the death of a law enforcement officer or emergency personnel;
- 28 (c) While driving while intoxicated, the defendant acts with criminal negligence to
- 29 cause the death of any person not a passenger in the vehicle operated by the defendant,
- 30 including the death of an individual that results from the defendant's vehicle leaving a
- 31 highway, as defined in section 301.010, or the highway's right-of-way;
- 32 (d) While driving while intoxicated, the defendant acts with criminal negligence to
- 33 cause the death of two or more persons; or
- 34 (e) While driving while intoxicated, the defendant acts with criminal negligence to
- 35 cause the death of any person while he or she has a blood alcohol content of at least eighteen-
- 36 hundredths of one percent by weight of alcohol in such person's blood;
- 37 (7) A class A felony if the defendant has previously been found guilty of an offense
- 38 under paragraphs (a) to (e) of subdivision (6) of this subsection and is found guilty of a
- 39 subsequent violation of such paragraphs.
- 40 3. Notwithstanding the provisions of subsection 2 of this section, a person found
- 41 guilty of the offense of driving while intoxicated as a first offense shall not be granted a
- 42 suspended imposition of sentence:
- 43 (1) Unless such person shall be placed on probation for a minimum of two years; or
- 44 (2) In a circuit where a DWI court or docket created under section 478.007 or other
- 45 court-ordered treatment program is available, and where the offense was committed with
- 46 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
- 47 the individual participates and successfully completes a program under such DWI court or
- 48 docket or other court-ordered treatment program.
- 49 4. If a person is found guilty of a second or subsequent offense of driving while
- 50 intoxicated, the court may order the person to submit to a period of continuous alcohol
- 51 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
- 52 a condition of probation.
- 53 5. If a person is not granted a suspended imposition of sentence for the reasons
- 54 described in subsection 3 of this section:

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

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

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

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

65 (2) As a prior offender shall not be granted parole or probation ~~[until he or she has~~
66 ~~served a minimum of ten days imprisonment]~~ **unless as a condition of such parole or**
67 **probation the offender:**

68 (a) ~~[Unless as a condition of such parole or probation such person performs]~~ **Is**
69 **required to serve a minimum of ten days' imprisonment;**

70 (b) **Is required to perform** at least thirty days of community service under the
71 supervision of the court in those jurisdictions which have a recognized program for
72 community service; or

73 ~~[(b) The offender]~~ (c) Participates in and successfully completes a program
74 established under section 478.007 or other court-ordered treatment program, if available, and
75 as part of either program, the offender performs at least thirty days of community service
76 under the supervision of the court;

77 (3) As a persistent offender shall not be ~~[eligible for]~~ **granted** parole or probation
78 ~~[until he or she has served a minimum of thirty days imprisonment]~~ **unless as a condition of**
79 **such parole or probation the offender:**

80 (a) ~~[Unless as a condition of such parole or probation such person performs]~~ **Is**
81 **required to serve a minimum of thirty days' imprisonment;**

82 (b) **Is required to perform** at least sixty days of community service under the
83 supervision of the court in those jurisdictions which have a recognized program for
84 community service; or

85 ~~[(b) The offender]~~ (c) Participates in and successfully completes a program
86 established under section 478.007 or other court-ordered treatment program, if available, and
87 as part of either program, the offender performs at least sixty days of community service
88 under the supervision of the court;

89 (4) As an aggravated offender shall not be ~~[eligible for]~~ **granted** parole or probation
90 ~~[until he or she has served]~~ **unless as a condition of such parole or probation the offender**
91 **is required to serve** a minimum of sixty days' imprisonment;

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

94 (6) Any probation or parole granted under this subsection may include a period of
95 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of
96 four times per day.

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