

HOUSE BILL NO. 1693

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CHIPMAN.

4726H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 577.010 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular session and section 577.010 as enacted by house bill no. 1695, et al., ninety-fifth general assembly, second regular session, and to enact in lieu thereof one new section relating to 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 as enacted by senate bill no. 254, ninety-eighth general assembly, first regular session and section 577.010 as enacted by house bill no. 1695, et al., ninety-fifth general assembly, second regular session, are repealed and one new section enacted in lieu thereof, to be known as section 577.010, to read as follows: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; **or**

(c) **The defendant is driving while intoxicated with a person under eighteen years of age present in the motor vehicle;**

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.

14 (4) A class D felony if:

15 (a) The defendant is an aggravated offender;

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

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

20 (5) A class C felony if:

21 (a) The defendant is a chronic offender;

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

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

26 (6) A class B felony if:

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

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

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

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

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

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

42 4. If a person is found guilty of a second or subsequent offense of driving while
43 intoxicated, the court may order the person to submit to a period of continuous alcohol
44 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
45 a condition of probation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

577.010. 1. A person commits the crime of "driving while intoxicated" if he operates
2 a motor vehicle while in an intoxicated or drugged condition.

3 2. Driving while intoxicated is for the first offense, a class B misdemeanor; **however,**
4 **driving while intoxicated with a person under eighteen years of age present in the motor**
5 **vehicle is a class D felony.** No person convicted of or pleading guilty to the offense of driving
6 while intoxicated shall be granted a suspended imposition of sentence for such offense, unless
7 such person shall be placed on probation for a minimum of two years.

8 3. Notwithstanding the provisions of subsection 2 of this section, in a circuit where a
9 DWI court or docket created under section 478.007 or other court-ordered treatment program is
10 available, no person who operated a motor vehicle with fifteen-hundredths of one percent or
11 more by weight of alcohol in such person's blood shall be granted a suspended imposition of
12 sentence unless the individual participates and successfully completes a program under such
13 DWI court or docket or other court-ordered treatment program.

14 4. If a person is not granted a suspended imposition of sentence for the reasons described
15 in subsection 3 of this section for such first offense:

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

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

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