

FIRST REGULAR SESSION

HOUSE BILL NO. 891

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIESHEIMER.

1827H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 304.585, RSMo, and to enact in lieu thereof one new section relating to the offense of aggravated endangerment of a highway worker.

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

Section A. Section 304.585, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.585, to read as follows:

304.585. 1. A person shall be deemed to commit the offense of "endangerment of a highway worker" upon conviction for any of the following when the offense occurs within a construction zone or work zone, as defined in section 304.580:

- (1) Exceeding the posted speed limit by fifteen miles per hour or more;
- (2) Passing in violation of subsection 4 of section 304.582;
- (3) Failure to stop for a work zone flagman or failure to obey traffic control devices erected in the construction zone or work zone for purposes of controlling the flow of motor vehicles through the zone;
- (4) Driving through or around a work zone by any lane not clearly designated to motorists for the flow of traffic through or around the work zone;
- (5) Physically assaulting, or attempting to assault, or threatening to assault a highway worker in a construction zone or work zone, with a motor vehicle or other instrument;
- (6) Intentionally striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect workers and motorists in the work zone for a reason other than avoidance of an obstacle, an emergency, or to protect the health and safety of an occupant of the motor vehicle or of another person; or

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.

17 (7) Committing any of the following offenses for which points may be assessed under
18 section 302.302:

19 (a) Leaving the scene of an accident in violation of section 577.060;

20 (b) Careless and imprudent driving in violation of subsection 4 of section 304.016;

21 (c) Operating without a valid license in violation of subdivision (1) or (2) of subsection
22 1 of section 302.020;

23 (d) Operating with a suspended or revoked license;

24 (e) Driving while in an intoxicated condition or under the influence of controlled
25 substances or drugs or driving with an excessive blood alcohol content;

26 (f) Any felony involving the use of a motor vehicle.

27 2. Upon conviction or a plea of guilty for committing the offense of endangerment of a
28 highway worker under subsection 1 of this section if no injury or death to a highway worker
29 resulted from the offense, in addition to any other penalty authorized by law, the person shall be
30 subject to a fine of not more than one thousand dollars and shall have four points assessed to his
31 or her driver's license under section 302.302.

32 3. A person shall be deemed to commit the offense of "aggravated endangerment of a
33 highway worker" upon conviction or a plea of guilty for any offense under subsection 1 of this
34 section when such offense occurs in a construction zone or work zone as defined in section
35 304.580 and results in the injury or death of a highway worker. Upon conviction or a plea of
36 guilty for committing the offense of aggravated endangerment of a highway worker, in addition
37 to any other penalty authorized by law, the person shall be subject to a fine of not more than five
38 thousand dollars if the offense resulted in injury to a highway worker and ten thousand dollars
39 if the offense resulted in death to a highway worker. **If the offense resulted in death to a**
40 **highway worker, the proceeds from the fine shall be distributed to the family of the**
41 **deceased highway worker.** In addition, such person shall have twelve points assessed to their
42 driver's license under section 302.302 and shall be subject to the provisions of section 302.304
43 regarding the revocation of the person's license and driving privileges.

44 4. Except for the offense established under subdivision (6) of subsection 1 of this
45 section, no person shall be deemed to commit the offense of endangerment of a highway worker
46 except when the act or omission constituting the offense occurred when one or more highway
47 workers were in the construction zone or work zone.

48 5. No person shall be cited or convicted for endangerment of a highway worker or
49 aggravated endangerment of a highway worker, for any act or omission otherwise constituting
50 an offense under subsection 1 of this section, if such act or omission resulted in whole or in part
51 from mechanical failure of the person's vehicle or from the negligence of another person or a
52 highway worker.

53 6. (1) Notwithstanding any provision of this section or any other law to the contrary, the
54 director of the department of revenue or his or her agent shall order the revocation of a driver's
55 license upon its determination that an individual holding such license was involved in a physical
56 accident where his or her negligent acts or omissions contributed to his or her vehicle striking
57 a highway worker within a designated construction zone or work zone where department of
58 transportation guidelines involving notice and signage were properly implemented. The
59 department shall make its determination of these facts on the basis of the report of a law
60 enforcement officer investigating the incident and this determination shall be final unless a
61 hearing is requested and held as provided under subdivision (2) of this subsection. Upon its
62 determination that the facts support a license revocation, the department shall issue a notice of
63 revocation which shall be mailed to the person at the last known address shown on the
64 department's records. The notice is deemed received three days after mailing unless returned by
65 postal authorities. The notice of revocation shall clearly specify the reason and statutory grounds
66 for the revocation, the effective date of the revocation which shall be at least fifteen days from
67 the date the department issued its order, the right of the person to request a hearing, and the date
68 by which the request for a hearing must be made.

69 (2) An individual who received notice of revocation from the department under this
70 section may seek reinstatement by either:

71 (a) Taking and passing the written and driving portions of the driver's license
72 examination, in which case the individual's driver's license shall be immediately reinstated; or

73 (b) Petitioning for a hearing before a circuit division or associate division of the court
74 in the county in which the work zone accident occurred. The individual may request such court
75 to issue an order staying the revocation until such time as the petition for review can be heard.
76 If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by
77 the director of revenue and shall send a copy of such order to the director. Such order shall serve
78 as proof of the privilege to operate a motor vehicle in this state, and the director shall maintain
79 possession of the person's license to operate a motor vehicle until the termination of any
80 suspension under this subsection. The clerk of the court shall notify the prosecuting attorney of
81 the county, and the prosecutor shall appear at the hearing on behalf of the director of revenue.
82 At the hearing, the court shall determine only:

83 a. Whether the person was involved in a physical accident where his or her vehicle struck
84 a highway worker within a designated construction or work zone;

85 b. Whether the department of transportation guidelines involving notice and signage
86 were properly implemented in such work zone; and

87 c. Whether the investigating officer had probable cause to believe the person's negligent
88 acts or omissions contributed to his or her vehicle striking a highway worker.

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90 If the court determines subparagraph a., b., or c. of this paragraph not to be in the affirmative,
91 the court shall order the director to reinstate the license or permit to drive.

92 (3) The department of revenue administrative adjudication to reinstate a driver's license
93 that was revoked under this subsection, and any evidence provided to the department related to
94 such adjudication, shall not be produced by subpoena or any other means and made available as
95 evidence in any other administrative action, civil case, or criminal prosecution. The court's
96 determinations issued under this section, and the evidence provided to the court relating to such
97 determinations, shall not be produced by subpoena or any other means and made available in any
98 other administrative action, civil case, or criminal prosecution. Nothing in this subdivision shall
99 be construed to prevent the department from providing information to the system authorized
100 under 49 U.S.C. Section 31309, or any successor federal law, pertaining to the licensing,
101 identification, and disqualification of operators of commercial motor vehicles.

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