

**HOUSE** \_\_\_\_\_ **AMENDMENT NO.** \_\_\_\_\_

**Offered By**

1 AMEND House Committee Substitute for House Bill No. 353, Page 33, Section 540.031, Line 3  
2 of said Section, by deleting said Line and by inserting in lieu thereof the following:

3 “direct. The grand jury [shall] may examine public buildings and report on their  
4 conditions.”; and

5  
6 FURTHER AMEND said Bill, Section 542.276, Page 34, Line 44, by deleting said Line and by  
7 inserting in lieu thereof the following:

8 “[circuit clerk] issuing court”; and

9  
10 FURTHER AMEND said Bill, Section 577.023, Page 52, Line 66 of said Page, by inserting  
11 immediately after said Line the following:

12 “577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision (2)  
13 or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any  
14 test allowed pursuant to section 577.020, then none shall be given and evidence of the refusal  
15 shall be admissible in a proceeding pursuant to [section] sections 565.024, [or] 565.060[,] or  
16 565.082, RSMo, or section 577.010 or 577.012. The request of the officer shall include the  
17 reasons of the officer for requesting the person to submit to a test and also shall inform the person  
18 that evidence of refusal to take the test may be used against such person and that the person's  
19 license shall be immediately revoked upon refusal to take the test. If a person when requested to

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Action Taken \_\_\_\_\_

Date \_\_\_\_\_

1 submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person  
2 shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion  
3 of the twenty-minute period the person continues to refuse to submit to any test, it shall be  
4 deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the  
5 notice of license revocation personally upon the person and shall take possession of any license to  
6 operate a motor vehicle issued by this state which is held by that person. The officer shall issue a  
7 temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall  
8 also give the person a notice of such person's right to file a petition for review to contest the  
9 license revocation.

10 2. The officer shall make a sworn report to the director of revenue, which shall include the  
11 following:

12 (1) That the officer has:

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

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

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

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

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

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

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

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

29 3. Upon receipt of the officer's report, the director shall revoke the license of the person

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Action Taken \_\_\_\_\_

Date \_\_\_\_\_

1 refusing to take the test for a period of one year; or if the person is a nonresident, such person's  
2 operating permit or privilege shall be revoked for one year; or if the person is a resident without a  
3 license or permit to operate a motor vehicle in this state, an order shall be issued denying the  
4 person the issuance of a license or permit for a period of one year.

5 4. If a person's license has been revoked because of the person's refusal to submit to a  
6 chemical test, such person may petition for a hearing before a circuit or associate circuit court in  
7 the county in which the arrest or stop occurred. The person may request such court to issue an  
8 order staying the revocation until such time as the petition for review can be heard. If the court, in  
9 its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of  
10 revenue and shall send a copy of such order to the director. Such order shall serve as proof of the  
11 privilege to operate a motor vehicle in this state and the director shall maintain possession of the  
12 person's license to operate a motor vehicle until termination of any revocation pursuant to this  
13 section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of  
14 the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At  
15 the hearing the court shall determine only:

16 (1) Whether or not the person was arrested or stopped;

17 (2) Whether or not the officer had:

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

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

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

27 (3) Whether or not the person refused to submit to the test.

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

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Action Taken \_\_\_\_\_

Date \_\_\_\_\_

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

3       7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant  
4 to the provisions of this section shall have that license reinstated until such person has participated  
5 in and successfully completed a substance abuse traffic offender program defined in section  
6 577.001, or a program determined to be comparable by the department of mental health or the  
7 court. Assignment recommendations, based upon the needs assessment as described in  
8 subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the person with  
9 written notice that the person is entitled to have such assignment recommendations reviewed by  
10 the court if the person objects to the recommendations. The person may file a motion in the  
11 associate division of the circuit court of the county in which such assignment was given, on a  
12 printed form provided by the state courts administrator, to have the court hear and determine such  
13 motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or  
14 entity making the needs assessment as the respondent and a copy of the motion shall be served  
15 upon the respondent in any manner allowed by law. Upon hearing the motion, the court may  
16 modify or waive any assignment recommendation that the court determines to be unwarranted  
17 based upon a review of the needs assessment, the person's driving record, the circumstances  
18 surrounding the offense, and the likelihood of the person committing a like offense in the future,  
19 except that the court may modify but may not waive the assignment to an education or  
20 rehabilitation program of a person determined to be a prior or persistent offender as defined in  
21 section 577.023, or of a person determined to have operated a motor vehicle with  
22 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the  
23 court determination of the motion shall satisfy the provisions of this section for the purpose of  
24 reinstating such person's license to operate a motor vehicle. The respondent's personal appearance  
25 at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the  
26 court.

27       8. The fees for the substance abuse traffic offender program, or a portion thereof to be  
28 determined by the division of alcohol and drug abuse of the department of mental health, shall be  
29 paid by the person enrolled in the program. Any person who is enrolled in the program shall pay,

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Action Taken \_\_\_\_\_

Date \_\_\_\_\_

1 in addition to any fee charged for the program, a supplemental fee to be determined by the  
2 department of mental health for the purposes of funding the substance abuse traffic offender  
3 program defined in section 302.010, RSMo, and section 577.001. The administrator of the  
4 program shall remit to the division of alcohol and drug abuse of the department of mental health  
5 on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the  
6 program, less two percent for administrative costs. Interest shall be charged on any unpaid balance  
7 of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and  
8 shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of  
9 section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest  
10 received by the department of mental health pursuant to this section shall be deposited in the  
11 mental health earnings fund which is created in section 630.053, RSMo.

12 9. Any administrator who fails to remit to the division of alcohol and drug abuse of the  
13 department of mental health the supplemental fees and interest for all persons enrolled in the  
14 program pursuant to this section shall be subject to a penalty equal to the amount of interest  
15 accrued on the supplemental fees due the division pursuant to this section. If the supplemental  
16 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the  
17 department of mental health within six months of the due date, the attorney general of the state of  
18 Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The  
19 court shall assess attorney fees and court costs against any delinquent program.”; and

20  
21 Further amend said bill by amending the title, enacting clause, and intersectional references  
22 accordingly.

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Action Taken \_\_\_\_\_

Date \_\_\_\_\_