

FIRST EXTRAORDINARY SESSION

HOUSE BILL NO. 2

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), DUSENBERG, JONES, FLOOK, JETTON,
BRUNS AND PARSON (Co-sponsors).

Read 1st time September 6, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

2510L.011

AN ACT

To repeal section 311.310 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 311.310 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 311.310 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate bill no. 402 and approved by the governor on July 13, 2005, and section 565.024 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 565.024 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 568.050 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 568.050 as enacted by the first regular session of the ninety-

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.

third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 577.023 as enacted by the first regular session of the ninety-third general assembly in senate substitute no. 2 for senate committee substitute for house committee substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.023 as enacted by the first regular session of the ninety-third general assembly in house committee substitute for senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.625 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section 577.628 as enacted by the first regular session of the ninety-third general assembly in conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 353 and approved by the governor on July 13, 2005, and to enact in lieu thereof four new sections relating to crime, with penalty provisions and an emergency clause for certain sections.

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

2 Section A. Section 311.310 as enacted by the first regular session of the ninety-third
3 general assembly in senate substitute no. 2 for senate committee substitute for house committee
4 substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with
5 section 311.310 as enacted by the first regular session of the ninety-third general assembly in
6 house committee substitute for senate substitute for senate committee substitute for senate bills
7 nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 311.310
8 as enacted by the first regular session of the ninety-third general assembly in house committee
9 substitute for senate substitute for senate bill no. 402 and approved by the governor on July 13,
2005, and section 565.024 as enacted by the first regular session of the ninety-third general

10 assembly in senate substitute no. 2 for senate committee substitute for house committee
11 substitute for house bill no. 972 and approved by the governor on July 13, 2005, merged with
12 section 565.024 as enacted by the first regular session of the ninety-third general assembly in
13 house committee substitute for senate substitute for senate committee substitute for senate bills
14 nos. 37, 322, 78, 351 & 424 and approved by the governor on July 13, 2005, and section 568.050
15 as enacted by the first regular session of the ninety-third general assembly in conference
16 committee substitute for senate substitute for senate committee substitute for house committee
17 substitute for house bill no. 353 and approved by the governor on July 13, 2005, and section
18 568.050 as enacted by the first regular session of the ninety-third general assembly in senate
19 substitute no. 2 for senate committee substitute for house committee substitute for house bill no.
20 972 and approved by the governor on July 13, 2005, merged with section 568.050 as enacted by
21 the first regular session of the ninety-third general assembly in house committee substitute for
22 senate substitute for senate committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and
23 approved by the governor on July 13, 2005, and section 577.023 as enacted by the first regular
24 session of the ninety-third general assembly in senate substitute no. 2 for senate committee
25 substitute for house committee substitute for house bill no. 972 and approved by the governor
26 on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the
27 ninety-third general assembly in conference committee substitute for senate substitute for senate
28 committee substitute for house committee substitute for house bill no. 353 and approved by the
29 governor on July 13, 2005, and section 577.023 as enacted by the first regular session of the
30 ninety-third general assembly in house committee substitute for senate substitute for senate
31 committee substitute for senate bills nos. 37, 322, 78, 351 & 424 and approved by the governor
32 on July 13, 2005, merged with section 577.023 as enacted by the first regular session of the
33 ninety-third general assembly in conference committee substitute for senate substitute for senate
34 committee substitute for house committee substitute for house bill no. 353 and approved by the
35 governor on July 13, 2005, and section 577.625 as enacted by the first regular session of the
36 ninety-third general assembly in conference committee substitute for senate substitute for senate
37 committee substitute for house committee substitute for house bill no. 353 and approved by the
38 governor on July 13, 2005, and section 577.628 as enacted by the first regular session of the
39 ninety-third general assembly in conference committee substitute for senate substitute for senate
40 committee substitute for house committee substitute for house bill no. 353 and approved by the
41 governor on July 13, 2005, are repealed and four new sections enacted in lieu thereof, to be
42 known as sections 311.310, 565.024, 568.050, and 577.023, to read as follows:

2 [311.310. 1. Any licensee under this chapter, or his employee, who shall
3 sell, vend, give away or otherwise supply any intoxicating liquor in any quantity
whatsoever to any person under the age of twenty-one years, or to any person

4 intoxicated or appearing to be in a state of intoxication, or to a habitual drunkard,
5 and any person whomsoever except his parent or guardian who shall procure for,
6 sell, give away or otherwise supply intoxicating liquor to any person under the
7 age of twenty-one years, or to any intoxicated person or any person appearing to
8 be in a state of intoxication, or to a habitual drunkard, shall be deemed guilty of
9 a misdemeanor, except that this section shall not apply to the supplying of
10 intoxicating liquor to a person under the age of twenty-one years for medical
11 purposes only, or to the administering of such intoxicating liquor to any person
12 by a duly licensed physician. No person shall be denied a license or renewal of
13 a license issued under this chapter solely due to a conviction for unlawful sale or
14 supply to a minor when serving in the capacity as an employee of a licensed
15 establishment.

16 2. Any owner, occupant, or other person or legal entity with a lawful right
17 to the use and enjoyment of any property is prohibited from knowingly allowing
18 a person under the age of twenty-one to drink or possess intoxicating liquor or
19 knowingly failing to stop a person under the age of twenty-one from drinking or
20 possessing intoxicating liquor on such property, unless such person allowing the
21 person under the age of twenty-one to drink or possess intoxicating liquor is his
22 or her parent or guardian. A person who violates the provisions of this
23 subsection is guilty of a class A misdemeanor.]

311.310. 1. Any licensee under this chapter, or his employee, who shall sell, vend, give
2 away or otherwise supply any intoxicating liquor in any quantity whatsoever to any person under
3 the age of twenty-one years, or to any person intoxicated or appearing to be in a state of
4 intoxication, or to a habitual drunkard, and any person whomsoever except his parent or guardian
5 who shall procure for, sell, give away or otherwise supply intoxicating liquor to any person under
6 the age of twenty-one years, or to any intoxicated person or any person appearing to be in a state
7 of intoxication, or to a habitual drunkard, shall be deemed guilty of a misdemeanor, except that
8 this section shall not apply to the supplying of intoxicating liquor to a person under the age of
9 twenty-one years for medical purposes only, or to the administering of such intoxicating liquor
10 to any person by a duly licensed physician. No person shall be denied a license or renewal of a
11 license issued under this chapter solely due to a conviction for unlawful sale or supply to a minor
12 when serving in the capacity as an employee of a licensed establishment.

13 2. [Any owner, occupant, or other person or legal entity with a lawful right to the use and
14 enjoyment of any property, except for a parent or guardian, who knowingly allows any person
15 under the age of twenty-one years to consume intoxicating liquor on such property, or knowingly
16 fails to stop any person under the age of twenty-one years from consuming intoxicating liquor
17 on such property shall be deemed guilty of a class B misdemeanor.] **Any owner, occupant, or
18 other person or legal entity with a lawful right to the exclusive use and enjoyment of any
19 property who knowingly allows a person under the age of twenty-one to drink or possess**

20 **intoxicating liquor or knowingly fails to stop a person under the age of twenty-one from**
21 **drinking or possessing intoxicating liquor on such property, unless such person allowing**
22 **the person under the age of twenty-one to drink or possess intoxicating liquor is his or her**
23 **parent or guardian, is guilty of a class B misdemeanor. Any second or subsequent violation**
24 **of this subsection is a class A misdemeanor.**

25 3. It shall be a defense to prosecution under this section if:

26 (1) The defendant is a licensed retailer, club, drinking establishment, or caterer or holds
27 a temporary permit, or an employee thereof;

28 (2) The defendant sold the intoxicating liquor to the minor with reasonable cause to
29 believe that the minor was twenty-one or more years of age; and

30 (3) To purchase the intoxicating liquor, the person exhibited to the defendant a driver's
31 license, Missouri nondriver's identification card, or other official or apparently official document,
32 containing a photograph of the minor and purporting to establish that such minor was twenty-one
33 years of age and of the legal age for consumption of intoxicating liquor.

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree
2 if he:

3 (1) Recklessly causes the death of another person; or

4 (2) While in an intoxicated condition operates a motor vehicle in this state and, when so
5 operating, acts with criminal negligence to cause the death of any person; or

6 **(3) While in an intoxicated condition operates a motor vehicle in this state, and,**
7 **when so operating, acts with criminal negligence to:**

8 **(a) Cause the death of any person not a passenger in the vehicle operated by the**
9 **defendant, including the death of an individual that results from the defendant's vehicle**
10 **leaving a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or**

11 **(b) Cause the death of two or more persons; or**

12 **(c) Cause the death of any person while he or she has a blood alcohol content of at**
13 **least eighteen-hundredths of one percent by weight of alcohol in such person's blood.**

14 2. [Except as provided in subsections 3 and 4 of this section,] Involuntary manslaughter
15 in the first degree **under subdivision (1) or (2) of subsection 1 of this section** is a class C
16 felony.

17 [3. A person commits the crime of involuntary manslaughter in the first degree if he or
18 she while in an intoxicated condition operates a motor vehicle in this state, and, when so
19 operating, acts with criminal negligence to:

20 (1) Cause the death of any person not a passenger in the vehicle operated by the
21 defendant, including the death of an individual that results from the defendant's vehicle leaving
22 a highway, as defined by section 301.010, RSMo, or the highway's right-of-way; or

23 (2) Cause the death of two or more persons; or

24 (3) Cause the death of any person while he or she has a blood alcohol content of at least
25 eighteen-hundredths by weight of alcohol in such person's blood.

26 4.] Involuntary manslaughter in the first degree under subdivision [(1), (2), or] (3) of
27 subsection [3] 1 of this section is a class B felony. A second or subsequent violation of
28 subdivision (3) of subsection [3] 1 of this section is a class A felony. For any violation of
29 **subdivision (3) of subsection [3] 1 of this section**, the minimum prison term which the defendant
30 must serve shall be eighty-five percent of his or her sentence.

31 [5.] 3. A person commits the crime of involuntary manslaughter in the second degree if
32 he acts with criminal negligence to cause the death of any person.

33 [6.] 4. Involuntary manslaughter in the second degree is a class D felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the
2 second degree if:

3 (1) He or she with criminal negligence acts in a manner that creates a substantial risk to
4 the life, body or health of a child less than seventeen years old; or

5 (2) He or she knowingly encourages, aids or causes a child less than seventeen years old
6 to engage in any conduct which causes or tends to cause the child to come within the provisions
7 of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section
8 211.031, RSMo; or

9 (3) Being a parent, guardian or other person legally charged with the care or custody of
10 a child less than seventeen years old, he or she recklessly fails or refuses to exercise reasonable
11 diligence in the care or control of such child to prevent him from coming within the provisions
12 of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of
13 subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

14 (4) He or she knowingly encourages, aids or causes a child less than seventeen years of
15 age to enter into any room, building or other structure which is a public nuisance as defined in
16 section 195.130, RSMo; or

17 (5) He or she operates a vehicle in violation of [subsection 2 of] section 565.024 [or],
18 **section 565.060**, section 577.010, or **section 577.012**, RSMo, while a child less than seventeen
19 years old is present in the vehicle.

20 2. Nothing in this section shall be construed to mean the welfare of a child is endangered
21 for the sole reason that he or she is being provided nonmedical remedial treatment recognized
22 and permitted under the laws of this state.

23 3. Endangering the welfare of a child in the second degree is a class A misdemeanor
24 unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class
25 D felony.

26 [568.050. 1. A person commits the crime of endangering the welfare of
27 a child in the second degree if:

28 (1) He or she with criminal negligence acts in a manner that creates a
29 substantial risk to the life, body or health of a child less than seventeen years old;
30 or

31 (2) He or she knowingly encourages, aids or causes a child less than
32 seventeen years old to engage in any conduct which causes or tends to cause the
33 child to come within the provisions of paragraph (d) of subdivision (2) of
34 subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

35 (3) Being a parent, guardian or other person legally charged with the care
36 or custody of a child less than seventeen years old, he or she recklessly fails or
37 refuses to exercise reasonable diligence in the care or control of such child to
38 prevent him from coming within the provisions of paragraph (c) of subdivision
39 (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or
40 subdivision (3) of subsection 1 of section 211.031, RSMo; or

41 (4) He or she knowingly encourages, aids or causes a child less than
42 seventeen years of age to enter into any room, building or other structure which
43 is a public nuisance as defined in section 195.130, RSMo; or

44 (5) The person operates a vehicle in violation of section 565.024, RSMo,
45 565.060, RSMo, 577.010, RSMo, or 577.012, RSMo, while a child less than
46 seventeen years of age is present in the vehicle.

47 2. Nothing in this section shall be construed to mean the welfare of a
48 child is endangered for the sole reason that he or she is being provided
49 nonmedical remedial treatment recognized and permitted under the laws of this
50 state.

51 3. Endangering the welfare of a child in the second degree is a class A
52 misdemeanor unless the offense is committed as part of a ritual or ceremony, in
53 which case the crime is a class D felony.]

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

2 (1) An "aggravated offender" is a person who:

3 (a) Has pleaded guilty to or has been found guilty of three or more intoxication-related
4 traffic offenses [or a person who]; or

5 (b) Has pleaded to or has been found guilty of **one or more intoxication-related traffic**
6 **offense and, in addition, any of the following:** involuntary manslaughter under subdivision (2)
7 of subsection 1 or [subsections 3 and 4] **subsection 3** of section 565.024, RSMo[.]; **murder in**
8 **the second degree under section 565.021, RSMo, where the underlying felony is an**
9 **intoxication-related offense; or** assault in the second degree under subdivision (4) of subsection
10 1 of section 565.060, RSMo[.]; **or** assault of a law enforcement officer in the second degree
11 under subdivision [(3)] **(4)** of subsection 1 of section 565.082, RSMo[, and in addition, one other
12 intoxicated-related traffic offense];

13 (2) A "chronic offender" is:

14 (a) A person who has pleaded guilty to or has been found guilty of four or more
15 intoxication-related traffic offenses; **or**

16 (b) A person who has pleaded guilty to or been found guilty of, on two or more separate
17 occasions, **any combination of the following:** involuntary manslaughter under subdivision (2)
18 of subsection 1 or [subsections 3 and 4] **subsection 3** of section 565.024, RSMo[.]; assault in
19 the second degree under subdivision (4) of subsection 1 of section 565.060, RSMo[.]; **or** assault
20 of a law enforcement officer in the second degree under subdivision [(3)] **(4)** of subsection 1 of
21 section 565.082, RSMo; **or**

22 (c) A person who has pleaded guilty to or been found guilty of **two or more**
23 **intoxication-related traffic offenses and, in addition, any of the following:** involuntary
24 manslaughter under subdivision (2) of subsection 1 or [subsections 3 and 4] **subsection 3** of
25 section 565.024, RSMo[.]; assault in the second degree under subdivision (4) of subsection 1 of
26 section 565.060, RSMo[.]; **or** assault of a law enforcement officer in the second degree under
27 subdivision [(3)] **(4)** of subsection 1 of section 565.082, RSMo[, and in addition, two or more
28 intoxication-related traffic offenses];

29 (3) An "intoxication-related traffic offense" is driving while intoxicated, driving with
30 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of
31 subsection 1 or [subsections 3 and 4] **subsection 3** of section 565.024, RSMo[.]; **murder in the**
32 **second degree under section 565.021, RSMo, where the underlying felony is an**
33 **intoxication-related offense;** assault in the second degree pursuant to subdivision (4) of
34 subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second
35 degree pursuant to subdivision [(3)] **(4)** of subsection 1 of section 565.082, RSMo, or driving
36 under the influence of alcohol or drugs in violation of state law or a county or municipal
37 ordinance, where the defendant was represented by or waived the right to an attorney in writing;

38 (4) A "persistent offender" is one of the following:

39 (a) A person who has pleaded guilty to or has been found guilty of two or more
40 intoxication-related traffic offenses;

41 (b) A person who has pleaded guilty to or has been found guilty of involuntary
42 manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree
43 pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law
44 enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section
45 565.082, RSMo; and

46 (5) A "prior offender" is a person who has pleaded guilty to or has been found guilty of
47 one intoxication-related traffic offense, where such prior offense occurred within five years of
48 the occurrence of the intoxication-related traffic offense for which the person is charged.

49 2. Any person who pleads guilty to or is found guilty of a violation of section 577.010

50 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A
51 misdemeanor.

52 3. Any person who pleads guilty to or is found guilty of a violation of section 577.010
53 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D
54 felony.

55 4. Any person who pleads guilty to or is found guilty of a violation of section 577.010
56 or section 577.012 who is alleged and proved to be an aggravated offender shall be guilty of a
57 class C felony.

58 5. Any person who pleads guilty to or is found guilty of a violation of section 577.010
59 or section 577.012 who is alleged and proved to be a chronic offender shall be guilty of a class
60 B felony.

61 6. No state, county, or municipal court shall suspend the imposition of sentence as to a
62 prior offender, persistent offender, aggravated offender, or chronic offender under this section
63 nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo,
64 to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until
65 he or she has served a minimum of five days imprisonment, unless as a condition of such parole
66 or probation such person performs at least thirty days of community service under the
67 supervision of the court in those jurisdictions which have a recognized program for community
68 service. No persistent offender shall be eligible for parole or probation until he or she has served
69 a minimum of ten days imprisonment, unless as a condition of such parole or probation such
70 person performs at least sixty days of community service under the supervision of the court. No
71 aggravated offender shall be eligible for parole or probation until he or she has served a
72 minimum of sixty days imprisonment. No chronic offender shall be eligible for parole or
73 probation until he or she has served a minimum of two years imprisonment.

74 7. The state, county, or municipal court shall find the defendant to be a prior offender,
75 persistent offender, aggravated offender, or chronic offender if:

76 (1) The indictment or information, original or amended, or the information in lieu of an
77 indictment pleads all essential facts warranting a finding that the defendant is a prior offender
78 or persistent offender; and

79 (2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding
80 beyond a reasonable doubt the defendant is a prior offender, persistent offender, aggravated
81 offender, or chronic offender; and

82 (3) The court makes findings of fact that warrant a finding beyond a reasonable doubt
83 by the court that the defendant is a prior offender, persistent offender, aggravated offender, or
84 chronic offender.

85 8. In a jury trial, the facts shall be pleaded, established and found prior to submission to

86 the jury outside of its hearing.

87 9. In a trial without a jury or upon a plea of guilty, the court may defer the proof in
88 findings of such facts to a later time, but prior to sentencing.

89 10. The defendant shall be accorded full rights of confrontation and cross-examination,
90 with the opportunity to present evidence, at such hearings.

91 11. The defendant may waive proof of the facts alleged.

92 12. Nothing in this section shall prevent the use of presentence investigations or
93 commitments.

94 13. At the sentencing hearing both the state, county, or municipality and the defendant
95 shall be permitted to present additional information bearing on the issue of sentence.

96 14. The pleas or findings of guilty shall be prior to the date of commission of the present
97 offense.

98 15. The court shall not instruct the jury as to the range of punishment or allow the jury,
99 upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of
100 prior offenders, persistent offenders, aggravated offenders, or chronic offenders.

101 16. Evidence of prior convictions shall be heard and determined by the trial court out of
102 the hearing of the jury prior to the submission of the case to the jury, and shall include but not
103 be limited to evidence of convictions received by a search of the records of the Missouri uniform
104 law enforcement system maintained by the Missouri state highway patrol. After hearing the
105 evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal
106 or county ordinance in a county or municipal court for driving while intoxicated or a conviction
107 or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence,
108 suspended execution of sentence, probation or parole or any combination thereof in a state court
109 shall be treated as a prior conviction.

[577.023. 1. For purposes of this section, unless the context clearly
2 indicates otherwise:

3 (1) An "aggravated offender" is a person who has pleaded guilty to or
4 been found guilty of three or more intoxication-related traffic offenses or a person
5 who has pleaded guilty to or has been found guilty of involuntary manslaughter
6 under section 565.024, RSMo; murder in the second degree under section
7 565.021, RSMo, where the underlying felony is an intoxication-related offense;
8 assault in the second degree under subdivision (4) of subsection 1 of section
9 565.060, RSMo; or assault of a law enforcement officer in the second degree
10 under subdivision (4) of subsection 1 of section 565.082, RSMo; and in addition,
11 one other intoxication-related traffic offense;

12 (2) A "chronic offender" is:

13 (a) A person who has pleaded guilty to or has been found guilty of four
14 or more intoxication-related traffic offenses;

15 (b) A person who has pleaded guilty to or been found guilty of, on two
16 or more separate occasions, involuntary manslaughter under section 565.024,
17 RSMo, assault in the second degree under subdivision (4) of subsection 1 of
18 section 565.060, RSMo, or assault of a law enforcement officer in the second
19 degree under subdivision (4) of subsection 1 of section 565.082, RSMo;

20 (c) A person who has pleaded guilty to or been found guilty of
21 involuntary manslaughter under section 565.024, RSMo, assault in the second
22 degree under subdivision (4) of subsection 1 of section 565.060, RSMo, or
23 assault of a law enforcement officer in the second degree under subdivision (4)
24 of subsection 1 of section 565.082, RSMo, and in addition, two or more
25 intoxication-related traffic offenses;

26 (3) An "intoxication-related traffic offense" is driving while intoxicated,
27 driving with excessive blood alcohol content, involuntary manslaughter pursuant
28 to section 565.024, RSMo, murder in the second degree pursuant to section
29 565.021, RSMo, where the underlying felony is an intoxication-related offense,
30 assault in the second degree pursuant to subdivision (4) of subsection 1 of section
31 565.060, RSMo, assault of a law enforcement officer in the second degree
32 pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving
33 under the influence of alcohol or drugs in violation of state law or a county or
34 municipal ordinance, where the defendant was represented by or waived the right
35 to an attorney in writing;

36 (4) A "persistent offender" is one of the following:

37 (a) A person who has pleaded guilty to or has been found guilty of two
38 or more intoxication-related traffic offenses;

39 (b) A person who has pleaded guilty to or has been found guilty of
40 involuntary manslaughter pursuant to section 565.024, RSMo, assault in the
41 second degree pursuant to subdivision (4) of subsection 1 of section 565.060,
42 RSMo, assault of a law enforcement officer in the second degree pursuant to
43 subdivision (3) of subsection 1 of section 565.082, RSMo; and

44 (5) A "prior offender" is a person who has pleaded guilty to or has been
45 found guilty of one intoxication-related traffic offense, where such prior offense
46 occurred within five years of the occurrence of the intoxication-related traffic
47 offense for which the person is charged.

48 2. Any person who pleads guilty to or is found guilty of a violation of
49 section 577.010 or 577.012 who is alleged and proved to be a prior offender shall
50 be guilty of a class A misdemeanor.

51 3. Any person who pleads guilty to or is found guilty of a violation of
52 section 577.010 or 577.012 who is alleged and proved to be a persistent offender
53 shall be guilty of a class D felony.

54 4. Any person who pleads guilty to or is found guilty of a violation of
55 section 577.010 or section 577.012 who is alleged and proved to be an aggravated
56 offender shall be guilty of a class C felony.

57 5. Any person who pleads guilty to or is found guilty of a violation of

58 section 577.010 or section 577.012 who is alleged and proved to be a chronic
59 offender shall be guilty of a class B felony.

60 6. No state, county, or municipal court shall suspend the imposition of
61 sentence as to a prior offender, persistent offender, aggravated offender, or
62 chronic offender under this section nor sentence such person to pay a fine in lieu
63 of a term of imprisonment, section 557.011, RSMo, to the contrary
64 notwithstanding. No prior offender shall be eligible for parole or probation until
65 he or she has served a minimum of five days imprisonment, unless as a condition
66 of such parole or probation such person performs at least thirty days of
67 community service under the supervision of the court in those jurisdictions which
68 have a recognized program for community service. No persistent offender shall
69 be eligible for parole or probation until he or she has served a minimum of ten
70 days imprisonment, unless as a condition of such parole or probation such person
71 performs at least sixty days of community service under the supervision of the
72 court. No aggravated offender shall be eligible for parole or probation until he
73 or she has served a minimum of sixty days imprisonment. No chronic offender
74 shall be eligible for parole or probation until he or she has served a minimum of
75 two years imprisonment.

76 7. The state, county, or municipal court shall find the defendant to be a
77 prior offender, persistent offender, aggravated offender, or chronic offender if:

78 (1) The indictment or information, original or amended, or the
79 information in lieu of an indictment pleads all essential facts warranting a finding
80 that the defendant is a prior offender or persistent offender; and

81 (2) Evidence is introduced that establishes sufficient facts pleaded to
82 warrant a finding beyond a reasonable doubt the defendant is a prior offender,
83 persistent offender, aggravated offender, or chronic offender; and

84 (3) The court makes findings of fact that warrant a finding beyond a
85 reasonable doubt by the court that the defendant is a prior offender, persistent
86 offender, aggravated offender, or chronic offender.

87 8. In a jury trial, the facts shall be pleaded, established and found prior
88 to submission to the jury outside of its hearing.

89 9. In a trial without a jury or upon a plea of guilty, the court may defer the
90 proof in findings of such facts to a later time, but prior to sentencing.

91 10. The defendant shall be accorded full rights of confrontation and
92 cross-examination, with the opportunity to present evidence, at such hearings.

93 11. The defendant may waive proof of the facts alleged.

94 12. Nothing in this section shall prevent the use of presentence
95 investigations or commitments.

96 13. At the sentencing hearing both the state, county, or municipality and
97 the defendant shall be permitted to present additional information bearing on the
98 issue of sentence.

99 14. The pleas or findings of guilty shall be prior to the date of
100 commission of the present offense.

101 15. The court shall not instruct the jury as to the range of punishment or
 102 allow the jury, upon a finding of guilty, to assess and declare the punishment as
 103 part of its verdict in cases of prior offenders, persistent offenders, aggravated
 104 offenders, or chronic offenders.

105 16. Evidence of prior convictions shall be heard and determined by the
 106 trial court out of the hearing of the jury prior to the submission of the case to the
 107 jury, and shall include but not be limited to evidence of convictions received by
 108 a search of the records of the Missouri uniform law enforcement system
 109 maintained by the Missouri state highway patrol. After hearing the evidence, the
 110 court shall enter its findings thereon. A conviction of a violation of a municipal
 111 or county ordinance in a county or municipal court for driving while intoxicated
 112 or a conviction or a plea of guilty or a finding of guilty followed by a suspended
 113 imposition of sentence, suspended execution of sentence, probation or parole or
 114 any combination thereof in a state court shall be treated as a prior conviction.]
 115

2 [577.625. 1. No person less than eighteen years of age shall distribute
 3 upon the real property comprising a public or private elementary or secondary
 4 school or school bus a prescription medication to any individual who does not
 5 have a valid prescription for such medication. For purposes of this section,
 6 prescription medication shall not include medication containing a controlled
 7 substance, as defined in section 195.010, RSMo.

8 2. The provisions of this section shall not apply to any person less than
 9 eighteen years of age authorized to distribute a prescription medication by any
 10 school personnel who are responsible for storing, maintaining, or dispensing any
 11 prescription medication under chapter 338, RSMo. This section shall not limit
 12 the use of any prescription medication by emergency personnel, as defined in
 13 section 565.081, RSMo, during an emergency situation.

14 3. Any person less than eighteen years of age who violates this section
 15 is guilty of a class B misdemeanor for a first offense and a class A misdemeanor
 16 for any second or subsequent offense.]

2 [577.628. 1. No person less than eighteen years of age shall possess upon
 3 the real property comprising a public or private elementary or secondary school
 4 or school bus prescription medication without a valid prescription for such
 5 medication. For purposes of this section, prescription medication shall not
 6 include medication containing a controlled substance, as defined in section
 7 195.010, RSMo.

8 2. The provisions of this section shall not apply to any person less than
 9 eighteen years of age authorized to possess a prescription medication by any
 10 school personnel who are responsible for storing, maintaining, or dispensing any
 11 prescription medication under chapter 338, RSMo. This section shall not limit
 12 the use of any prescription medication by emergency personnel, as defined in
 section 565.081, RSMo, during an emergency situation.

13 3. Any person less than eighteen years of age who violates the provisions
14 of this section is guilty of a class C misdemeanor for a first offense and a class
15 B misdemeanor for any second or subsequent offense.]

 Section B. Because immediate action is necessary to correct statutory inconsistencies
2 regarding criminal liability for certain offenses section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be
5 in full force and effect upon its passage and approval.

 Section C. The repeal and reenactment of sections 311.310, 565.024, 568.050, and
2 577.023 and the repeal of sections 311.310, 568.050, 577.023, 577.625 and 577.628 of section
3 A of this act or the application thereof to anyone or to any circumstances is held invalid, the
4 remainder of those sections and the application of such provisions to others or other
5 circumstances shall not be affected thereby.