

FIRST REGULAR SESSION

HOUSE BILL NO. 852

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES HINSON (Sponsor) AND WALKER (Co-sponsor).

0909L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.304 and 302.525 as enacted by conference committee substitute for house committee substitute no. 2 for senate committee substitute for senate bill no. 480, ninety-sixth general assembly, second regular session, and section 577.600, RSMo, and to enact in lieu thereof three new sections relating to ignition interlock device requirements, with penalty provisions and an effective date.

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

Section A. Sections 302.304 and 302.525 as enacted by conference committee substitute
2 for house committee substitute no. 2 for senate committee substitute for senate bill no. 480,
3 ninety-sixth general assembly, second regular session, and section 577.600, RSMo, are repealed
4 and three new sections enacted in lieu thereof, to be known as sections 302.304, 302.525, and
5 577.600, to read as follows:

302.304. 1. The director shall notify by ordinary mail any operator of the point value
2 charged against the operator's record when the record shows four or more points have been
3 accumulated in a twelve-month period.

4 2. In an action to suspend or revoke a license or driving privilege under this section
5 points shall be accumulated on the date of conviction. No case file of any conviction for a
6 driving violation for which points may be assessed pursuant to section 302.302 may be closed
7 until such time as a copy of the record of such conviction is forwarded to the department of
8 revenue.

9 3. The director shall suspend the license and driving privileges of any person whose
10 driving record shows the driver has accumulated eight points in eighteen months.

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.

11 4. The license and driving privilege of any person whose license and driving privilege
12 have been suspended under the provisions of sections 302.010 to 302.540 except those persons
13 whose license and driving privilege have been suspended under the provisions of subdivision (8)
14 of subsection 1 of section 302.302 or has accumulated sufficient points together with a
15 conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of
16 financial responsibility with the department of revenue, in accordance with chapter 303, and is
17 otherwise eligible, shall be reinstated as follows:

18 (1) In the case of an initial suspension, thirty days after the effective date of the
19 suspension;

20 (2) In the case of a second suspension, sixty days after the effective date of the
21 suspension;

22 (3) In the case of the third and subsequent suspensions, ninety days after the effective
23 date of the suspension.

24 Unless proof of financial responsibility is filed with the department of revenue, a suspension
25 shall continue in effect for two years from its effective date.

26 5. The period of suspension of the driver's license and driving privilege of any person
27 under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has
28 accumulated sufficient points together with a conviction under subdivision (10) of subsection
29 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving
30 privilege as defined in section 302.010. Upon completion of such period of restricted driving
31 privilege, upon compliance with other requirements of law and upon filing of proof of financial
32 responsibility with the department of revenue, in accordance with chapter 303, the license and
33 driving privilege shall be reinstated. If a person, otherwise subject to the provisions of this
34 subsection, files proof of installation with the department of revenue that any vehicle operated
35 by such person is equipped with a functioning, certified ignition interlock device, then the period
36 of suspension shall be fifteen days, followed by a seventy-five day period of restricted driving
37 privilege. If the person fails to maintain such proof of the device with the director of revenue
38 as required, the restricted driving privilege shall be terminated. Upon completion of such
39 seventy-five day period of restricted driving privilege, upon compliance with other requirements
40 of law, and upon filing of proof of financial responsibility with the department of revenue, in
41 accordance with chapter 303, the license and driving privilege shall be reinstated. However, if
42 the monthly monitoring reports during such seventy-five day period indicate that the ignition
43 interlock device has registered a blood alcohol concentration level above the alcohol setpoint
44 established by the department of transportation or such reports indicate that the ignition interlock
45 device has been tampered with or circumvented, then the license and driving privilege of such

46 person shall not be reinstated until the person completes an additional seventy-five day period
47 of restricted driving privilege without any such violations.

48 6. If the person fails to maintain proof of financial responsibility in accordance with
49 chapter 303, or, if applicable, if the person fails to maintain proof that any vehicle operated is
50 equipped with a functioning, certified ignition interlock device installed pursuant to subsection
51 5 of this section, the person's driving privilege and license shall be resuspended.

52 7. The director shall revoke the license and driving privilege of any person when the
53 person's driving record shows such person has accumulated twelve points in twelve months or
54 eighteen points in twenty-four months or twenty-four points in thirty-six months. The revocation
55 period of any person whose license and driving privilege have been revoked under the provisions
56 of sections 302.010 to 302.540 and who has filed proof of financial responsibility with the
57 department of revenue in accordance with chapter 303 and is otherwise eligible, shall be
58 terminated by a notice from the director of revenue after one year from the effective date of the
59 revocation. Unless proof of financial responsibility is filed with the department of revenue,
60 except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for
61 a period of two years from its effective date. If the person fails to maintain proof of financial
62 responsibility in accordance with chapter 303, the person's license and driving privilege shall be
63 rerevoked. Any person whose license and driving privilege have been revoked under the
64 provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the
65 revocation from the director, pass the complete driver examination and apply for a new license
66 before again operating a motor vehicle upon the highways of this state.

67 8. If, prior to conviction for an offense that would require suspension or revocation of
68 a person's license under the provisions of this section, the person's total points accumulated are
69 reduced, pursuant to the provisions of section 302.306, below the number of points required for
70 suspension or revocation pursuant to the provisions of this section, then the person's license shall
71 not be suspended or revoked until the necessary points are again obtained and accumulated.

72 9. If any person shall neglect or refuse to surrender the person's license, as provided
73 herein, the director shall direct the state highway patrol or any peace or police officer to secure
74 possession thereof and return it to the director.

75 10. Upon the issuance of a reinstatement or termination notice after a suspension or
76 revocation of any person's license and driving privilege under the provisions of sections 302.010
77 to 302.540, the accumulated point value shall be reduced to four points, except that the points
78 of any person serving as a member of the Armed Forces of the United States outside the limits
79 of the United States during a period of suspension or revocation shall be reduced to zero upon
80 the date of the reinstatement or termination of notice. It shall be the responsibility of such
81 member of the Armed Forces to submit copies of official orders to the director of revenue to

82 substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the
83 contrary notwithstanding, the effective date of the four points remaining on the record upon
84 reinstatement or termination shall be the date of the reinstatement or termination notice.

85 11. No credit toward reduction of points shall be given during periods of suspension or
86 revocation or any period of driving under a limited driving privilege granted by a court or the
87 director of revenue.

88 12. Any person or nonresident whose license or privilege to operate a motor vehicle in
89 this state has been suspended or revoked under this or any other law shall, before having the
90 license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee
91 of twenty dollars which shall be in addition to all other fees provided by law.

92 13. Notwithstanding any other provision of law to the contrary, if after two years from
93 the effective date of any suspension or revocation issued under this chapter, the person or
94 nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such
95 license or privilege to operate a motor vehicle in this state.

96 14. No person who has had a license to operate a motor vehicle suspended or revoked
97 as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of
98 subsection 1 of section 302.302 shall have that license reinstated until such person has
99 participated in and successfully completed a substance abuse traffic offender program defined
100 in section 302.010, or a program determined to be comparable by the department of mental
101 health. Assignment recommendations, based upon the needs assessment as described in
102 subdivision [(22)] **(24)** of section 302.010, shall be delivered in writing to the person with
103 written notice that the person is entitled to have such assignment recommendations reviewed by
104 the court if the person objects to the recommendations. The person may file a motion in the
105 associate division of the circuit court of the county in which such assignment was given, on a
106 printed form provided by the state courts administrator, to have the court hear and determine
107 such motion pursuant to the provisions of chapter 517. The motion shall name the person or
108 entity making the needs assessment as the respondent and a copy of the motion shall be served
109 upon the respondent in any manner allowed by law. Upon hearing the motion, the court may
110 modify or waive any assignment recommendation that the court determines to be unwarranted
111 based upon a review of the needs assessment, the person's driving record, the circumstances
112 surrounding the offense, and the likelihood of the person committing a like offense in the future,
113 except that the court may modify but may not waive the assignment to an education or
114 rehabilitation program of a person determined to be a prior or persistent offender as defined in
115 section 577.023 or of a person determined to have operated a motor vehicle with
116 fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with
117 the court determination of the motion shall satisfy the provisions of this section for the purpose

118 of reinstating such person's license to operate a motor vehicle. The respondent's personal
119 appearance at any hearing conducted pursuant to this subsection shall not be necessary unless
120 directed by the court.

121 15. The fees for the program authorized in subsection 14 of this section, or a portion
122 thereof to be determined by the department of mental health, shall be paid by the person enrolled
123 in the program. Any person who is enrolled in the program shall pay, in addition to any fee
124 charged for the program, a supplemental fee in an amount to be determined by the department
125 of mental health for the purposes of funding the substance abuse traffic offender program defined
126 in section 302.010 and section 577.001 or a program determined to be comparable by the
127 department of mental health. The administrator of the program shall remit to the division of
128 alcohol and drug abuse of the department of mental health on or before the fifteenth day of each
129 month the supplemental fee for all persons enrolled in the program, less two percent for
130 administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees
131 due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not
132 to exceed the annual rate established pursuant to the provisions of section 32.065, plus three
133 percentage points. The supplemental fees and any interest received by the department of mental
134 health pursuant to this section shall be deposited in the mental health earnings fund which is
135 created in section 630.053.

136 16. Any administrator who fails to remit to the division of alcohol and drug abuse of the
137 department of mental health the supplemental fees and interest for all persons enrolled in the
138 program pursuant to this section shall be subject to a penalty equal to the amount of interest
139 accrued on the supplemental fees due the division pursuant to this section. If the supplemental
140 fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the
141 department of mental health within six months of the due date, the attorney general of the state
142 of Missouri shall initiate appropriate action of the collection of said fees and interest accrued.
143 The court shall assess attorney fees and court costs against any delinquent program.

144 17. **Notwithstanding any other provision of law**, any person who has had a license to
145 operate a motor vehicle suspended or revoked as a result of an assessment of points for a
146 violation under subdivision **(8), (9), or (10)** of subsection 1 of section 302.302 shall be required
147 to file proof with the director of revenue that any motor vehicle operated by the person is
148 equipped with a functioning, certified ignition interlock device as a required condition of
149 reinstatement of the license. The ignition interlock device shall further be required to be
150 maintained on all motor vehicles operated by the person for a period of not less than six months
151 immediately following the date of reinstatement. If the monthly monitoring reports show that
152 the ignition interlock device has registered any confirmed blood alcohol concentration readings
153 above the alcohol setpoint established by the department of transportation or that the person has

154 tampered with or circumvented the ignition interlock device, then the period for which the person
155 must maintain the ignition interlock device following the date of reinstatement shall be extended
156 for an additional six months. If the person fails to maintain such proof with the director, the
157 license shall be resuspended or revoked and the person shall be guilty of a class A misdemeanor.

302.525. 1. The license suspension or revocation shall become effective fifteen days
2 after the subject person has received the notice of suspension or revocation as provided in section
3 302.520, or is deemed to have received the notice of suspension or revocation by mail as
4 provided in section 302.515. If a request for a hearing is received by or postmarked to the
5 department within that fifteen-day period, the effective date of the suspension or revocation shall
6 be stayed until a final order is issued following the hearing; provided, that any delay in the
7 hearing which is caused or requested by the subject person or counsel representing that person
8 without good cause shown shall not result in a stay of the suspension or revocation during the
9 period of delay.

10 2. The period of license suspension or revocation under this section shall be as follows:

11 (1) If the person's driving record shows no prior alcohol-related enforcement contacts
12 during the immediately preceding five years, the period of suspension shall be thirty days after
13 the effective date of suspension, followed by a sixty-day period of restricted driving privilege as
14 defined in section 302.010 and issued by the director of revenue. The restricted driving privilege
15 shall not be issued until he or she has filed proof of financial responsibility with the department
16 of revenue, in accordance with chapter 303, and is otherwise eligible. The restricted driving
17 privilege shall indicate [whether] **that** a functioning, certified ignition interlock device is
18 required as a condition of operating a motor vehicle. A copy of the restricted driving privilege
19 shall be given to the person and such person shall carry a copy of the restricted driving privilege
20 while operating a motor vehicle. In no case shall restricted driving privileges be issued pursuant
21 to this section or section 302.535 until the person has completed the first thirty days of a
22 suspension under this section. If a person otherwise subject to the provisions of this subdivision
23 files proof of installation with the department of revenue that any vehicle operated is equipped
24 with a functioning, certified ignition interlock device, then the period of suspension shall be
25 fifteen days, followed by a seventy-five day period of restricted driving privilege. Upon
26 completion of such seventy-five day period of restricted driving privilege, upon compliance with
27 other requirements of law, and upon filing of proof of financial responsibility with the
28 department of revenue, in accordance with chapter 303, the license and driving privilege shall
29 be reinstated. However, if the monthly monitoring reports during such seventy-five day period
30 indicate that the ignition interlock device has registered a blood alcohol concentration level
31 above the alcohol setpoint established by the department of transportation or such reports
32 indicate that the ignition interlock device has been tampered with or circumvented, then the

33 license and driving privilege of such person shall not be reinstated until the person completes an
34 additional seventy-five day period of restricted driving privilege without any such violations.
35 If the person fails to maintain such proof of the device with the director of revenue as required,
36 the restricted driving privilege shall be terminated;

37 (2) The period of revocation shall be one year if the person's driving record shows one
38 or more prior alcohol-related enforcement contacts during the immediately preceding five years;

39 (3) In no case shall restricted driving privileges be issued under this section to any person
40 [whose driving record shows one or more prior alcohol-related enforcement contacts] until the
41 person has completed the first thirty days of a suspension under this section and has filed proof
42 with the department of revenue that any motor vehicle operated by the person is equipped with
43 a functioning, certified ignition interlock device as a required condition of the restricted driving
44 privilege. If the person fails to maintain such proof the restricted driving privilege shall be
45 terminated.

46 3. For purposes of this section, "alcohol-related enforcement contacts" shall include any
47 suspension or revocation under sections 302.500 to 302.540, any suspension or revocation
48 entered in this or any other state for a refusal to submit to chemical testing under an implied
49 consent law, and any conviction in this or any other state for a violation which involves driving
50 while intoxicated, driving while under the influence of drugs or alcohol, or driving a vehicle
51 while having an unlawful alcohol concentration.

52 4. Where a license is suspended or revoked under this section and the person is also
53 convicted on charges arising out of the same occurrence for a violation of section 577.010 or
54 577.012 or for a violation of any county or municipal ordinance prohibiting driving while
55 intoxicated or alcohol-related traffic offense, both the suspension or revocation under this section
56 and any other suspension or revocation arising from such convictions shall be imposed, but the
57 period of suspension or revocation under sections 302.500 to 302.540 shall be credited against
58 any other suspension or revocation arising from such convictions, and the total period of
59 suspension or revocation shall not exceed the longer of the two suspension or revocation periods.

60 5. Any person who has had a license to operate a motor vehicle revoked under this
61 section or suspended under this section [with one or more prior alcohol-related enforcement
62 contacts showing on their driver record] shall be required to file proof with the director of
63 revenue that any motor vehicle operated by that person is equipped with a functioning, certified
64 ignition interlock device as a required condition of reinstatement. The ignition interlock device
65 shall further be required to be maintained on all motor vehicles operated by the person for a
66 period of not less than six months immediately following the date of reinstatement. If the
67 monthly monitoring reports show that the ignition interlock device has registered any confirmed
68 blood alcohol concentration readings above the alcohol setpoint established by the department

69 of transportation or that the person has tampered with or circumvented the ignition interlock
70 device, then the period for which the person must maintain the ignition interlock device
71 following the date of reinstatement shall be extended for an additional six months. If the person
72 fails to maintain such proof with the director, the license shall be resuspended or revoked, as
73 applicable.

577.600. 1. In addition to any other provisions of law, [a court may require that any
2 person who is found guilty of or pleads guilty to a first intoxication-related traffic offense, as
3 defined in section 577.023, and] a court shall require that any person who is found guilty of or
4 pleads guilty to a [second] **first** or subsequent intoxication-related traffic offense, as defined in
5 section 577.023, shall not operate any motor vehicle unless that vehicle is equipped with a
6 functioning, certified ignition interlock device for a period of not less than six months from the
7 date of reinstatement of the person's driver's license. In addition, any court authorized to grant
8 a limited driving privilege under section 302.309 to any person who is found guilty of or pleads
9 guilty to a [second] **first** or subsequent intoxication-related traffic offense shall require the use
10 of an ignition interlock device on all vehicles operated by the person as a required condition of
11 the limited driving privilege. These requirements shall be in addition to any other provisions of
12 this chapter or chapter 302 requiring installation and maintenance of an ignition interlock device.
13 Any person required to use an ignition interlock device, either under the provisions of this
14 chapter or chapter 302, shall comply with such requirement subject to the penalties provided by
15 this section.

16 2. No person shall knowingly rent, lease or lend a motor vehicle to a person known to
17 have had that person's driving privilege restricted as provided in subsection 1 of this section,
18 unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person
19 whose driving privilege is restricted as provided in subsection 1 of this section shall notify any
20 other person who rents, leases or loans a motor vehicle to that person of the driving restriction
21 imposed pursuant to this section.

22 3. Any person convicted of a violation of this section shall be guilty of a class A
23 misdemeanor.

Section B. This act shall become effective October 1, 2013.

✓