

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 841

92ND GENERAL ASSEMBLY

3404S.04T

2004

AN ACT

To amend chapter 306, RSMo, by adding thereto two new sections relating to containers on watercraft, with a penalty provision.

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

Section A. Chapter 306, RSMo, is amended by adding thereto two new sections, to be known as sections 306.114 and 306.325, to read as follows:

306.114. 1. No person convicted of or pleading guilty to a violation of section 306.111 or 306.112 shall be granted a suspended imposition of sentence, unless such person is placed on probation for a minimum of two years and a record of the conviction or plea of guilty is entered into the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol.

2. Chemical tests of a person's blood, breath, or saliva to be considered valid under the provisions of sections 306.111 to 306.119 shall be performed according to methods and devices approved by the department of health and senior services by licensed medical personnel or by a person possessing a valid permit issued by the department of health and senior services for this purpose. **In addition, any state, county, or municipal law enforcement officer who is certified pursuant to chapter 590, RSMo, may, prior to arrest, administer a portable chemical test to any person suspected of operating any vessel in violation of section 306.111 or 306.112. A portable chemical test shall be admissible as evidence of probable cause to arrest and as exculpatory evidence, but shall not be admissible as evidence of blood alcohol content. The provisions of section 306.116 shall not apply to a test administered prior to arrest pursuant to this section.**

3. The department of health and senior services shall approve satisfactory techniques, devices, equipment, or methods to conduct tests required by sections 306.111 to 306.119, and shall establish standards as to the qualifications and competence of individuals to conduct

20 analyses and to issue permits which shall be subject to termination, suspension or revocation by
21 the department of health and senior services.

22 4. A licensed physicia

23 n, registered nurse, or trained medical technician, acting at the request and direction of a law
24 enforcement officer, shall withdraw blood for the purpose of determining the alcohol content of
25 the blood, unless the medical personnel, in the exercise of good faith medical judgment, believes
26 such procedure would endanger the life or health of the person in custody. Blood may be
27 withdrawn only by such medical personnel, but such restriction shall not apply to the taking of
28 a breath test or a saliva specimen. In withdrawing blood for the purpose of determining the
29 alcohol content in the blood, only a previously unused and sterile needle and sterile vessel shall
30 be used and the withdrawal shall otherwise be in strict accord with accepted medical practices.
31 A nonalcoholic antiseptic shall be used for cleansing the skin prior to a venapuncture. Upon the
32 request of the person who is tested, full information concerning the test taken at the direction of
33 the law enforcement officer shall be made available to him.

34 5. No person who administers any test pursuant to the provisions of sections 306.111 to
35 306.119 upon the request of a law enforcement officer, no hospital in or with which such person
36 is employed or is otherwise associated or in which such test is administered, and no other person,
37 firm, or corporation by whom or with which such person is employed or is in any way associated,
38 shall be civilly liable for damages to the person tested, except for negligence in administering
39 of the test or for willful and wanton acts or omissions.

40 6. Any person who is dead, unconscious or who is otherwise in a condition rendering
41 him incapable of refusing to take a test as provided in sections 306.111 to 306.119 shall be
42 deemed not to have withdrawn the consent provided by section 306.116 and the test or tests may
43 be administered.

306.325. 1. As used in this section, the following terms mean:

2 (1) "Navigable waterway", any navigable river, lake, or other body of water located
3 wholly or partly within this state and used by any vessel;

4 (2) "Vessel", any canoe, kayak, or other watercraft which is easily susceptible to
5 swamping, tipping, or rolling, but does not include any houseboat, party barge, runabout,
6 ski boat, bass boat, excursion gambling boat as defined in section 313.800, RSMo, or
7 similar watercraft not easily susceptible to swamping, tipping, or rolling.

8 2. Any person entering, traveling upon, or otherwise using navigable or non-
9 navigable waterways by vessel or innertube and transporting foodstuffs or beverages shall:

10 (1) Use a cooler, icebox, or similar nonglass container, and shall not use, other than
11 containers for substances prescribed by a licensed physician, any glass container for
12 beverages on a vessel within the banks of navigable waterways;

13 **(2) Use a cooler, icebox, or similar nonglass container sealed in a way which**
14 **prevents the contents from spilling into the water;**

15 **(3) Carry and affix to the vessel a container or bag suitable for containing refuse,**
16 **waste, and trash materials and which is capable of being securely closed;**

17 **(4) Transport all refuse, waste, and trash materials to a place in which such**
18 **materials may be safely and lawfully disposed; and**

19 **(5) Shall safely secure any glass containers to protect them from breakage or**
20 **discharge into any stream.**

21 **3. Any person who violates the provisions of this section is guilty of a class C**
22 **misdemeanor.**