

SECOND REGULAR SESSION

HOUSE BILL NO. 1194

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CAUTHORN (Sponsor), REIBOLDT, LOEHNER,
ASBURY AND GUERNSEY (Co-sponsors).

4533L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.286, 537.345, 537.346, 569.140, and 575.120, RSMo, and to enact in lieu thereof seven new sections relating to agricultural crimes, with penalty provisions.

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

Section A. Sections 302.286, 537.345, 537.346, 569.140, and 575.120, RSMo, are
2 repealed and seven new sections enacted in lieu thereof, to be known as sections 302.286,
3 537.345, 537.346, 537.351, 569.140, 575.120, and 575.124, to read as follows:

302.286. 1. No person shall:

2 **(1)** Drive a motor vehicle so as to cause it to leave the premises of an establishment at
3 which motor fuel offered for retail sale was dispensed into the fuel tank of such motor vehicle
4 unless payment or authorized charge for motor fuel dispensed has been made; **or**

5 **(2) Dispense or otherwise remove any motor fuel from a storage container at any**
6 **residence, farm, or agricultural property without the express permission of the owner of**
7 **such residence, farm, or agricultural property. Any such unauthorized dispensing or**
8 **removal of motor fuel is theft of motor fuel and is punishable as the crime of stealing under**
9 **section 570.030.**

10

11 A person found guilty or pleading guilty to stealing pursuant to section 570.030 for the theft of
12 motor fuel as described in this section shall have his or her driver's license suspended by the
13 court, beginning on the date of the court's order of conviction.

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.

14 2. The person shall submit all of his or her operator's and chauffeur's licenses to the court
15 upon conviction and the court shall forward all such driver's licenses and the order of suspension
16 of driving privileges to the department of revenue for administration of such order.

17 3. Suspension of a driver's license pursuant to this section shall be made as follows:

18 (1) For the first offense, suspension shall be for sixty days, provided that persons may
19 apply for hardship licenses pursuant to section 302.309 at any time following the first thirty days
20 of such suspension;

21 (2) For the second offense, suspension shall be for ninety days, provided that persons
22 may apply for hardship licenses pursuant to section 302.309 at any time following the first sixty
23 days of such suspension; and

24 (3) For the third or any subsequent offense, suspension shall be for one hundred eighty
25 days, provided that persons may apply for hardship licenses pursuant to section 302.309 at any
26 time following the first ninety days of such suspension.

27 4. At the expiration of the suspension period, and upon payment of a reinstatement fee
28 of twenty-five dollars, the director shall terminate the suspension and shall return the person's
29 driver's license. The reinstatement fee shall be in addition to any other fees required by law, and
30 shall be deposited in the state treasury to the credit of the state highway department fund,
31 pursuant to section 302.228.

 537.345. As used in sections 537.345 to 537.347, **and section 537.351**, the following
2 terms mean:

3 (1) "Charge", the admission price or fee asked by an owner of land or an invitation or
4 permission without price or fee to use land for recreational purposes when such invitation or
5 permission is given for the purpose of sales promotion, advertising or public goodwill in
6 fostering business purposes;

7 (2) "Land", all real property, land and water, and all structures, fixtures, equipment and
8 machinery thereon;

9 (3) "Owner", any individual, legal entity or governmental agency that has any ownership
10 or security interest whatever or lease or right of possession in land;

11 (4) "Recreational use", hunting, fishing, camping, picnicking, biking, nature study,
12 winter sports, viewing or enjoying archaeological or scenic sites, or other similar activities
13 undertaken for recreation, exercise, education, relaxation, or pleasure on land owned by another;

14 (5) "**Trespasser**", **any person who enters on the property of another without**
15 **permission and without an invitation, express or implied regardless of whether actual**
16 **notice of trespass was given or the land was posted in accordance with the provisions of**
17 **sections 569.140 and 569.145.**

537.346. Except as provided in sections 537.345 to 537.348, **and section 537.351**, an owner of land owes no duty of care to any person who enters on the land without charge to keep his land safe for recreational use or to give any general or specific warning with respect to any natural or artificial condition, structure, or personal property thereon.

537.351. 1. Except as provided in subsection 2 of this section, a possessor of real property, including an owner, lessee, or other occupant, or an agent of such owner, lessee, or other occupant, owes no duty of care to a trespasser except to refrain from harming the trespasser by an intentional, willful, or wanton act. A possessor of real property may use justifiable force to repel a criminal trespasser as provided by section 563.074.

2. A possessor of real property may be subject to liability for physical injury or death to a trespasser in the following situations:

(1) If the trespasser is a child who is harmed by a dangerous artificial condition on the land; and

(a) The possessor knew or should have known that children were likely to trespass at the location of the condition;

(b) The condition is one which the possessor knew or reasonably should have known involved an unreasonable risk of death or serious physical injury to such children;

(c) The injured child because of the child's youth did not discover the condition or realize the risk involved in the intermeddling with the condition or in coming within the area made dangerous by the condition;

(d) The utility to the possessor of maintaining the condition and the burden of eliminating the danger were slight as compared with the risk to the child involved; and

(e) The possessor failed to exercise reasonable care to eliminate the danger or otherwise protect the injured child; or

(2) The possessor knew or should have known that trespassers consistently intrude upon a limited area of the possessor's land where the trespasser was harmed, the harm resulted from a dangerous artificial condition on the land; and

(a) The possessor created or maintained the artificial condition that caused the injury;

(b) The possessor knew that the condition was likely to cause death or serious bodily harm to trespassers;

(c) The possessor knew or should have known that the condition was of such a nature that trespassers would not discover it; and

(d) The possessor failed to exercise reasonable care to warn trespassers of the condition and the risk involved; or

32 **(3) If the possessor knew of the trespasser's presence on the land and failed to**
33 **exercise ordinary care as to active operations carried out on the land.**

34 **3. This section does not create or increase the liability of any possessor of real**
35 **property and does not affect any immunities from or defenses to liability established under**
36 **state law or available under common law to which a possessor of real property may be**
37 **entitled under circumstances not covered by this section.**

 569.140. 1. A person commits the crime of trespass in the first degree if he knowingly
2 enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon
3 real property.

4 2. A person does not commit the crime of trespass in the first degree by entering or
5 remaining upon real property unless the real property is fenced or otherwise enclosed in a manner
6 designed to exclude intruders or as to which notice against trespass is given by:

7 (1) Actual communication to the actor; or

8 (2) Posting in a manner reasonably likely to come to the attention of intruders.

9 3. Trespass in the first degree is a class [B] A misdemeanor.

 575.120. 1. A person commits the crime of false impersonation if such person:

2 (1) Falsely represents himself or herself to be a public servant with purpose to induce
3 another to submit to his or her pretended official authority or to rely upon his or her pretended
4 official acts, and

5 (a) Performs an act in that pretended capacity; or

6 (b) Causes another to act in reliance upon his or her pretended official authority;

7 (2) Falsely represents himself or herself to be a person licensed to practice or engage in
8 any profession for which a license is required by the laws of this state with purpose to induce
9 another to rely upon such representation, and

10 (a) Performs an act in that pretended capacity; or

11 (b) Causes another to act in reliance upon such representation; or

12 (3) Upon being arrested, falsely represents himself or herself, to a law enforcement
13 officer, with the first and last name, date of birth, or Social Security number, or a substantial
14 number of identifying factors or characteristics as that of another person that results in the filing
15 of a report or record of arrest or conviction for an infraction, misdemeanor, or felony that
16 contains the first and last name, date of birth, and Social Security number, or a substantial
17 number of identifying factors or characteristics to that of such other person as to cause such other
18 person to be identified as the actual person arrested or convicted.

19 2. If a violation of subdivision (3) of subsection 1 of this section is discovered prior to
20 any conviction of the person actually arrested for an underlying charge, then the prosecuting
21 attorney, bringing any action on the underlying charge, shall notify the court thereof, and the

22 court shall order the false-identifying factors ascribed to the person actually arrested as are
23 contained in the arrest and court records amended to correctly and accurately identify the
24 defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and
25 court records.

26 3. If a violation of subdivision (3) of subsection 1 of this section is discovered after any
27 conviction of the person actually arrested for an underlying charge, then the prosecuting attorney
28 of the county in which the conviction occurred shall file a motion in the underlying case with the
29 court to correct the arrest and court records after discovery of the fraud upon the court. The court
30 shall order the false identifying factors ascribed to the person actually arrested as are contained
31 in the arrest and court records amended to correctly and accurately identify the defendant and
32 shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

33 4. Any person who is the victim of a false impersonation and whose identity has been
34 falsely reported in arrest or conviction records may move for expungement and correction of said
35 records under the procedures set forth in section 610.123. Upon a showing that a substantial
36 number of identifying factors of the victim was falsely ascribed to the person actually arrested
37 or convicted, the court shall order the false identifying factors ascribed to the person actually
38 arrested as are contained in the arrest and court records amended to correctly and accurately
39 identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and
40 court records.

41 5. False impersonation is a class [B] A misdemeanor unless the person represents himself
42 to be a law enforcement officer in which case false impersonation is a class [A misdemeanor]
43 C felony.

**575.124. 1. No person shall attempt by means of any threat or violence to deter or
2 prevent an inspector, agent, or other employee of the department of agriculture from
3 performing any duties imposed by law upon such inspector, agent, or employee or the
4 department.**

**5 2. No person shall impersonate an inspector, agent, or employee of the department
6 of agriculture.**

**7 3. Any person who violates the provisions of this section is guilty of a class B
8 misdemeanor. Any second or subsequent violation of this section is a class A misdemeanor.**

✓