

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE NO. 2 FOR
HOUSE BILL NO. 1155

96TH GENERAL ASSEMBLY

4923H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.309, 302.341, 302.700, and 577.023, RSMo, and to enact in lieu thereof five new sections relating to the regulation of motor vehicles, with penalty provisions in existing language and a contingent effective date for certain sections.

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

Section A. Sections 302.309, 302.341, 302.700, and 577.023 RSMo, are repealed and
2 five new sections enacted in lieu thereof, to be known as sections 302.309, 302.341, 302.700,
3 302.768, and 577.023 to read as follows:

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309,
2 the director of revenue shall return the license to the operator immediately upon the termination
3 of the period of suspension and upon compliance with the requirements of chapter 303.

4 2. Any operator whose license is revoked pursuant to these sections, upon the
5 termination of the period of revocation, shall apply for a new license in the manner prescribed
6 by law.

7 3. (1) All circuit courts, the director of revenue, or a commissioner operating under
8 section 478.007 shall have jurisdiction to hear applications and make eligibility determinations
9 granting limited driving privileges. Any application may be made in writing to the director of
10 revenue and the person's reasons for requesting the limited driving privilege shall be made
11 therein.

12 (2) When any court of record having jurisdiction or the director of revenue finds that an
13 operator is required to operate a motor vehicle in connection with any of the following:

14 (a) [A business, occupation, or] **Driving to or from the operator's places of**
15 employment;

16 (b) [Seeking medical treatment for such operator;

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.

- 17 (c)] Attending school or other institution of higher education;
18 [(d)] (c) Attending alcohol or drug treatment programs;
19 [(e)] (d) Seeking the required services of a certified ignition interlock device provider;
20 [or
21 (f) Any other circumstance the court or director finds would create an undue hardship
22 on the operator;] The court or director may grant such limited driving privilege as the
23 circumstances of the case justify if the court or director finds undue hardship would result to the
24 individual, and while so operating a motor vehicle within the restrictions and limitations of the
25 limited driving privilege the driver shall not be guilty of operating a motor vehicle without a
26 valid license.
- 27 (3) An operator may make application to the proper court in the county in which such
28 operator resides or in the county in which is located the operator's principal place of business or
29 employment. Any application for a limited driving privilege made to a circuit court shall name
30 the director as a party defendant and shall be served upon the director prior to the grant of any
31 limited privilege, and shall be accompanied by a copy of the applicant's driving record as
32 certified by the director. Any applicant for a limited driving privilege shall have on file with the
33 department of revenue proof of financial responsibility as required by chapter 303. Any
34 application by a person who transports persons or property as classified in section 302.015 may
35 be accompanied by proof of financial responsibility as required by chapter 303, but if proof of
36 financial responsibility does not accompany the application, or if the applicant does not have on
37 file with the department of revenue proof of financial responsibility, the court or the director has
38 discretion to grant the limited driving privilege to the person solely for the purpose of operating
39 a vehicle whose owner has complied with chapter 303 for that vehicle, and the limited driving
40 privilege must state such restriction. When operating such vehicle under such restriction the
41 person shall carry proof that the owner has complied with chapter 303 for that vehicle.
- 42 (4) No limited driving privilege shall be issued to any person otherwise eligible under
43 the provisions of paragraph (a) of subdivision (6) of this subsection on a license revocation
44 resulting from a conviction under subdivision (9) of subsection 1 of section 302.302, or a license
45 denial under paragraph (a) or (b) of subdivision (8) of this subsection, until the applicant has
46 filed proof with the department of revenue that any motor vehicle operated by the person is
47 equipped with a functioning, certified ignition interlock device as a required condition of limited
48 driving privilege.
- 49 (5) The court order or the director's grant of the limited or restricted driving privilege
50 shall indicate the termination date of the privilege, which shall be not later than the end of the
51 period of suspension or revocation. A copy of any court order shall be sent by the clerk of the
52 court to the director, and a copy shall be given to the driver which shall be carried by the driver

53 whenever such driver operates a motor vehicle. The director of revenue upon granting a limited
54 driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant
55 shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction
56 which results in the assessment of points pursuant to section 302.302, other than a violation of
57 a municipal stop sign ordinance where no accident is involved, against a driver who is operating
58 a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points
59 are assessed to the person's driving record. If the date of arrest is prior to the issuance of the
60 limited driving privilege, the privilege shall not be terminated. Failure of the driver to maintain
61 proof of financial responsibility, as required by chapter 303, or to maintain proof of installation
62 of a functioning, certified ignition interlock device, as applicable, shall terminate the privilege.
63 The director shall notify by ordinary mail the driver whose privilege is so terminated.

64 (6) Except as provided in subdivision (8) of this subsection, no person is eligible to
65 receive a limited driving privilege who at the time of application for a limited driving privilege
66 has previously been granted such a privilege within the immediately preceding five years, or
67 whose license has been suspended or revoked for the following reasons:

68 (a) A conviction of violating the provisions of section 577.010 or 577.012, or any similar
69 provision of any federal or state law, or a municipal or county law where the judge in such case
70 was an attorney and the defendant was represented by or waived the right to an attorney in
71 writing, until the person has completed the first thirty days of a suspension or **forty-five days**
72 **of a** revocation imposed pursuant to this chapter;

73 (b) A conviction of any felony in the commission of which a motor vehicle was used;

74 (c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5),
75 (6), (7), (8), (9), (10) or (11) of section 302.060;

76 (d) Because of operating a motor vehicle under the influence of narcotic drugs, a
77 controlled substance as defined in chapter 195, or having left the scene of an accident as
78 provided in section 577.060;

79 (e) Due to a revocation for the first time for failure to submit to a chemical test pursuant
80 to section 577.041 or due to a refusal to submit to a chemical test in any other state, if such
81 person has not completed the first ninety days of such revocation;

82 (f) Violation more than once of the provisions of section 577.041 or a similar implied
83 consent law of any other state; or

84 (g) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not
85 completed the first thirty days of such suspension, provided the person is not otherwise ineligible
86 for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525
87 if such person has not completed such revocation.

88 (7) No person who possesses a commercial driver's license shall receive a limited driving
89 privilege issued for the purpose of operating a commercial motor vehicle if such person's driving
90 privilege is suspended, revoked, canceled, denied, or disqualified. Nothing in this section shall
91 prohibit the issuance of a limited driving privilege for the purpose of operating a noncommercial
92 motor vehicle provided that pursuant to the provisions of this section, the applicant is not
93 otherwise ineligible for a limited driving privilege.

94 (8) (a) Provided that pursuant to the provisions of this section, the applicant is not
95 otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the
96 manner prescribed in this subsection, allow a person who has had such person's license to operate
97 a motor vehicle revoked where that person cannot obtain a new license for a period of ten years,
98 as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege
99 pursuant to this subsection if such person has served at least three years of such disqualification
100 or revocation. Such person shall present evidence satisfactory to the court or the director that
101 such person has not been convicted of any offense related to alcohol, controlled substances or
102 drugs during the preceding three years and that the person's habits and conduct show that the
103 person no longer poses a threat to the public safety of this state.

104 (b) Provided that pursuant to the provisions of this section, the applicant is not otherwise
105 ineligible for a limited driving privilege or convicted of involuntary manslaughter while
106 operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the
107 manner prescribed in this subsection, allow a person who has had such person's license to operate
108 a motor vehicle revoked where that person cannot obtain a new license for a period of five years
109 because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of
110 section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person
111 has served at least two years of such disqualification or revocation. Such person shall present
112 evidence satisfactory to the court or the director that such person has not been convicted of any
113 offense related to alcohol, controlled substances or drugs during the preceding two years and that
114 the person's habits and conduct show that the person no longer poses a threat to the public safety
115 of this state. Any person who is denied a license permanently in this state because of an
116 alcohol-related conviction subsequent to a restoration of such person's driving privileges
117 pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege
118 pursuant to the provisions of this subdivision.

119 (9) A DWI docket or court established under section 478.007 may grant a limited driving
120 privilege to a participant in or graduate of the program who would otherwise be ineligible for
121 such privilege under another provision of law. The DWI docket or court shall not grant a limited
122 driving privilege to a participant during his or her initial forty-five days of participation.

123 4. Any person who has received notice of denial of a request of limited driving privilege
124 by the director of revenue may make a request for a review of the director's determination in the
125 circuit court of the county in which the person resides or the county in which is located the
126 person's principal place of business or employment within thirty days of the date of mailing of
127 the notice of denial. Such review shall be based upon the records of the department of revenue
128 and other competent evidence and shall be limited to a review of whether the applicant was
129 statutorily entitled to the limited driving privilege.

130 5. The director of revenue shall promulgate rules and regulations necessary to carry out
131 the provisions of this section. Any rule or portion of a rule, as that term is defined in section
132 536.010, that is created under the authority delegated in this section shall become effective only
133 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
134 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
135 general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove
136 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
137 and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

302.341. 1. If a Missouri resident charged with a moving traffic violation of this state
2 or any county or municipality of this state fails to dispose of the charges of which the resident
3 is accused through authorized prepayment of fine and court costs and fails to appear on the return
4 date or at any subsequent date to which the case has been continued, or without good cause fails
5 to pay any fine or court costs assessed against the resident for any such violation within the
6 period of time specified or in such installments as approved by the court or as otherwise provided
7 by law, any court having jurisdiction over the charges shall within ten days of the failure to
8 comply inform the defendant by ordinary mail at the last address shown on the court records that
9 the court will order the director of revenue to suspend the defendant's driving privileges if the
10 charges are not disposed of and fully paid within thirty days from the date of mailing. Thereafter,
11 if the defendant fails to timely act to dispose of the charges and fully pay any applicable fines and
12 court costs, the court shall notify the director of revenue of such failure and of the pending
13 charges against the defendant. Upon receipt of this notification, the director shall suspend the
14 license of the driver, effective immediately, and provide notice of the suspension to the driver
15 at the last address for the driver shown on the records of the department of revenue. Such
16 suspension shall remain in effect until the court with the subject pending charge requests setting
17 aside the noncompliance suspension pending final disposition, or satisfactory evidence of
18 disposition of pending charges and payment of fine and court costs, if applicable, is furnished
19 to the director by the individual. Upon proof of disposition of charges and payment of fine and
20 court costs, if applicable, and payment of the reinstatement fee as set forth in section 302.304,
21 the director shall return the license and remove the suspension from the individual's driving

22 record **if the individual was not operating a commercial motor vehicle or a commercial**
23 **driver's license holder at the time of the offense.** The filing of financial responsibility with
24 the bureau of safety responsibility, department of revenue, shall not be required as a condition
25 of reinstatement of a driver's license suspended solely under the provisions of this section.

26 2. If any city, town or village receives more than thirty-five percent of its annual general
27 operating revenue from fines and court costs for traffic violations occurring on state highways,
28 all revenues from such violations in excess of thirty-five percent of the annual general operating
29 revenue of the city, town or village shall be sent to the director of the department of revenue and
30 shall be distributed annually to the schools of the county in the same manner that proceeds of all
31 penalties, forfeitures and fines collected for any breach of the penal laws of the state are
32 distributed. For the purpose of this section the words "state highways" shall mean any state or
33 federal highway, including any such highway continuing through the boundaries of a city, town
34 or village with a designated street name other than the state highway number. The director of
35 the department of revenue shall set forth by rule a procedure whereby excess revenues as set
36 forth above shall be sent to the department of revenue. If any city, town, or village disputes a
37 determination that it has received excess revenues required to be sent to the department of
38 revenue, such city, town, or village may submit to an annual audit by the state auditor under the
39 authority of article IV, section 13 of the Missouri Constitution. Any rule or portion of a rule, as
40 that term is defined in section 536.010, that is created under the authority delegated in this
41 section shall become effective only if it complies with and is subject to all of the provisions of
42 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable
43 and if any of the powers vested with the general assembly under chapter 536 to review, to delay
44 the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then
45 the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall
46 be invalid and void.

302.700. 1. Sections 302.700 to 302.780 may be cited as the "Uniform Commercial
2 Driver's License Act".

3 2. When used in sections 302.700 to 302.780, the following words and phrases mean:

4 (1) "Alcohol", any substance containing any form of alcohol, including, but not limited
5 to, ethanol, methanol, propanol and isopropanol;

6 (2) "Alcohol concentration", the number of grams of alcohol per one hundred milliliters
7 of blood or the number of grams of alcohol per two hundred ten liters of breath or the number
8 of grams of alcohol per sixty-seven milliliters of urine;

9 (3) "**CDLIS driver record**", the electronic record of the individual commercial
10 **driver's status and history stored by the state of record as part of the Commercial Driver's**
11 **License Information System (CDLIS) established under 49 U.S.C. Section 31309, et seq.;**

12 **(4) "CDLIS motor vehicle record (CDLIS MVR)", a report generated from the**
13 **CDLIS driver record which meets the requirements for access to CDLIS information and**
14 **is provided by states to users authorized in 49 CFR Part 384, subject to the provisions of**
15 **the Driver Privacy Protection Act, 18 U.S.C. Sections 2721 to 2725, et seq.;**

16 **(5) "Commercial driver's instruction permit", a permit issued pursuant to section**
17 **302.720;**

18 **[(4)] (6) "Commercial driver's license", a license issued by this state to an individual**
19 **which authorizes the individual to operate a commercial motor vehicle;**

20 **[(5)] (7) "Commercial driver's license downgrade", occurs when:**

21 **(a) A driver changes the self-certification to interstate, but operates exclusively in**
22 **transportation or operation excepted from 49 CFR Part 391, as provided in 49 CFR Part**
23 **390.3(f), 391.2, 391.68, or 398.3;**

24 **(b) A driver changes the self-certification to intrastate only, if the driver qualifies**
25 **under the state's physical qualification requirements for intrastate only;**

26 **(c) A driver changes the self-certification to intrastate, but operating exclusively in**
27 **transportation or operations excepted from all or part of the state driver qualification**
28 **requirements; or**

29 **(d) The state removes the commercial driver's license privilege from the driver's**
30 **license;**

31 **(8) "Commercial driver's license information system (CDLIS)", the information system**
32 **established pursuant to the Commercial Motor Vehicle Safety Act of 1986 (Title XII of Pub.**
33 **Law 99-570) to serve as a clearinghouse for locating information related to the licensing and**
34 **identification of commercial motor vehicle drivers;**

35 **[(6)] (9) "Commercial motor vehicle", a motor vehicle designed or used to transport**
36 **passengers or property:**

37 **(a) If the vehicle has a gross combination weight rating of twenty-six thousand one or**
38 **more pounds inclusive of a towed unit which has a gross vehicle weight rating of ten thousand**
39 **one pounds or more;**

40 **(b) If the vehicle has a gross vehicle weight rating of twenty-six thousand one or more**
41 **pounds or such lesser rating as determined by federal regulation;**

42 **(c) If the vehicle is designed to transport sixteen or more passengers, including the**
43 **driver; or**

44 **(d) If the vehicle is transporting hazardous materials and is required to be placarded**
45 **under the Hazardous Materials Transportation Act (46 U.S.C. 1801, et seq.);**

46 [(7)] (10) "Controlled substance", any substance so classified under Section 102(6) of
47 the Controlled Substances Act (21 U.S.C. 802(6)), and includes all substances listed in schedules
48 I through V of 21 CFR part 1308, as they may be revised from time to time;

49 [(8)] (11) "Conviction", an unvacated adjudication of guilt, including pleas of guilt and
50 nolo contendere, or a determination that a person has violated or failed to comply with the law in
51 a court of original jurisdiction or an authorized administrative proceeding, an unvacated
52 forfeiture of bail or collateral deposited to secure the person's appearance in court, the payment
53 of a fine or court cost, or violation of a condition of release without bail, regardless of whether
54 the penalty is rebated, suspended or prorated, including an offense for failure to appear or pay;

55 [(9)] (12) "Director", the director of revenue or his authorized representative;

56 [(10)] (13) "Disqualification", any of the following three actions:

57 (a) The suspension, revocation, or cancellation of a commercial driver's license;

58 (b) Any withdrawal of a person's privileges to drive a commercial motor vehicle by a
59 state, **Canada, or Mexico** as the result of a violation of federal, state, county, municipal, or local
60 law relating to motor vehicle traffic control or violations committed through the operation of
61 motor vehicles, other than parking, vehicle weight, or vehicle defect violations;

62 (c) A determination by the Federal Motor Carrier Safety Administration that a person
63 is not qualified to operate a commercial motor vehicle under 49 CFR Part 383.52 or Part 391;

64 [(11)] (14) "Drive", to drive, operate or be in physical control of a commercial motor
65 vehicle;

66 [(12)] (15) "Driver", any person who drives, operates, or is in physical control of a motor
67 vehicle, or who is required to hold a commercial driver's license;

68 (16) **"Driver applicant", an individual who applies to obtain, transfer, upgrade, or
69 renew a commercial driver's license in this state;**

70 [(13)] (17) "Driving under the influence of alcohol", the commission of any one or more
71 of the following acts:

72 (a) Driving a commercial motor vehicle with the alcohol concentration of four
73 one-hundredths of a percent or more as prescribed by the secretary or such other alcohol
74 concentration as may be later determined by the secretary by regulation;

75 (b) Driving a commercial or noncommercial motor vehicle while intoxicated in violation
76 of any federal or state law, or in violation of a county or municipal ordinance;

77 (c) Driving a commercial or noncommercial motor vehicle with excessive blood alcohol
78 content in violation of any federal or state law, or in violation of a county or municipal
79 ordinance;

80 (d) Refusing to submit to a chemical test in violation of section 577.041, section
81 302.750, any federal or state law, or a county or municipal ordinance; or

82 (e) Having any state, county or municipal alcohol-related enforcement contact, as defined
83 in subsection 3 of section 302.525; provided that any suspension or revocation pursuant to
84 section 302.505, committed in a noncommercial motor vehicle by an individual twenty-one years
85 of age or older shall have been committed by the person with an alcohol concentration of at least
86 eight-hundredths of one percent or more, or in the case of an individual who is less than
87 twenty-one years of age, shall have been committed by the person with an alcohol concentration
88 of at least two-hundredths of one percent or more, and if committed in a commercial motor
89 vehicle, a concentration of four-hundredths of one percent or more;

90 [(14)] **(18)** "Driving under the influence of a controlled substance", the commission of
91 any one or more of the following acts in a commercial or noncommercial motor vehicle:

92 (a) Driving a commercial or noncommercial motor vehicle while under the influence of
93 any substance so classified under Section 102(6) of the Controlled Substances Act (21 U.S.C.
94 802(6)), including any substance listed in schedules I through V of 21 CFR Part 1308, as they
95 may be revised from time to time;

96 (b) Driving a commercial or noncommercial motor vehicle while in a drugged condition
97 in violation of any federal or state law or in violation of a county or municipal ordinance; or

98 (c) Refusing to submit to a chemical test in violation of section 577.041, section
99 302.750, any federal or state law, or a county or municipal ordinance;

100 [(15)] **(19)** "Employer", any person, including the United States, a state, or a political
101 subdivision of a state, who owns or leases a commercial motor vehicle or assigns a driver to
102 operate such a vehicle;

103 **(20) "Endorsement", an authorization on an individual's commercial driver's**
104 **license permitting the individual to operate certain types of commercial motor vehicles;**

105 [(16)] **(21)** "Farm vehicle", a commercial motor vehicle controlled and operated by a
106 farmer used exclusively for the transportation of agricultural products, farm machinery, farm
107 supplies, or a combination of these, within one hundred fifty miles of the farm, other than one
108 which requires placarding for hazardous materials as defined in this section, or used in the
109 operation of a common or contract motor carrier, except that a farm vehicle shall not be a
110 commercial motor vehicle when the total combined gross weight rating does not exceed
111 twenty-six thousand one pounds when transporting fertilizers as defined in subdivision [(21)]
112 **(27)** of this subsection;

113 [(17)] **(22)** "Fatality", the death of a person as a result of a motor vehicle accident;

114 [(18)] **(23)** "Felony", any offense under state or federal law that is punishable by death
115 or imprisonment for a term exceeding one year;

116 **(24) "Foreign", outside the fifty states of the United States and the District of**
117 **Columbia;**

118 [(19)] **(25)** "Gross combination weight rating" or "GCWR", the value specified by the
119 manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a
120 value specified by the manufacturer, GCWR will be determined by adding the GVWR of the
121 power unit and the total weight of the towed unit and any load thereon;

122 [(20)] **(26)** "Gross vehicle weight rating" or "GVWR", the value specified by the
123 manufacturer as the loaded weight of a single vehicle;

124 [(21)] **(27)** "Hazardous materials", any material that has been designated as hazardous
125 under 49 U.S.C. 5103 and is required to be placarded under subpart F of CFR Part 172 or any
126 quantity of a material listed as a select agent or toxin in 42 CFR Part 73. Fertilizers, including
127 but not limited to ammonium nitrate, phosphate, nitrogen, anhydrous ammonia, lime, potash,
128 motor fuel or special fuel, shall not be considered hazardous materials when transported by a
129 farm vehicle provided all other provisions of this definition are followed;

130 [(22)] **(28)** "Imminent hazard", the existence of a condition that presents a substantial
131 likelihood that death, serious illness, severe personal injury, or a substantial endangerment to
132 health, property, or the environment may occur before the reasonably foreseeable completion
133 date of a formal proceeding begins to lessen the risk of that death, illness, injury, or
134 endangerment;

135 [(23)] **(29)** "Issuance", the initial licensure, license transfers, license renewals, and
136 license upgrades;

137 **(30)** "Medical examiner", a person who is licensed, certified, or registered, in
138 accordance with applicable state laws and regulations, to perform physical examinations.
139 The term includes, but is not limited to, doctors of medicine, doctors of osteopathy,
140 physician assistants, advanced practice nurses, and doctors of chiropractic;

141 **(31)** "Medical variance", when a driver has received one of the following that
142 allows the driver to be issued a medical certificate:

143 **(a)** An exemption letter permitting operation of a commercial motor vehicle under
144 49 CFR Part 381, Subpart C or 49 CFR Part 391.64;

145 **(b)** A skill performance evaluation certificate permitting operation of a commercial
146 motor vehicle under 49 CFR Part 391.49;

147 [(24)] **(32)** "Motor vehicle", any self-propelled vehicle not operated exclusively upon
148 tracks;

149 [(25)] **(33)** "Noncommercial motor vehicle", a motor vehicle or combination of motor
150 vehicles not defined by the term "commercial motor vehicle" in this section;

151 [(26)] **(34)** "Out of service", a temporary prohibition against the operation of a
152 commercial motor vehicle by a particular driver, or the operation of a particular commercial
153 motor vehicle, or the operation of a particular motor carrier;

154 [(27)] (35) "Out-of-service order", a declaration by [the Federal Highway
155 Administration, or any] **an** authorized enforcement officer of a federal, state, [Commonwealth
156 of Puerto Rico,] Canadian, Mexican or any local jurisdiction, that a driver, or a commercial
157 motor vehicle, or a motor carrier operation, is out of service **under 49 CFR Part 386.72, 392.5,**
158 **392.9a, 395.13, or 396.9, or comparable laws, or the North American Standard Out-of-**
159 **Service Criteria;**

160 [(28)] (36) "School bus", a commercial motor vehicle used to transport preprimary,
161 primary, or secondary school students from home to school, from school to home, or to and from
162 school-sponsored events. School bus does not include a bus used as a common carrier as defined
163 by the Secretary;

164 [(29)] (37) "Secretary", the Secretary of Transportation of the United States;

165 [(30)] (38) "Serious traffic violation", driving a commercial motor vehicle in such a
166 manner that the driver receives a conviction for the following offenses or driving a
167 noncommercial motor vehicle when the driver receives a conviction for the following offenses
168 and the conviction results in the suspension or revocation of the driver's license or
169 noncommercial motor vehicle driving privilege:

170 (a) Excessive speeding, as defined by the Secretary by regulation;

171 (b) Careless, reckless or imprudent driving which includes, but shall not be limited to,
172 any violation of section 304.016, any violation of section 304.010, or any other violation of
173 federal or state law, or any county or municipal ordinance while driving a commercial motor
174 vehicle in a willful or wanton disregard for the safety of persons or property, or improper or
175 erratic traffic lane changes, or following the vehicle ahead too closely, but shall not include
176 careless and imprudent driving by excessive speed;

177 (c) A violation of any federal or state law or county or municipal ordinance regulating
178 the operation of motor vehicles arising out of an accident or collision which resulted in death to
179 any person, other than a parking violation;

180 (d) Driving a commercial motor vehicle without obtaining a commercial driver's license
181 in violation of any federal or state or county or municipal ordinance;

182 (e) Driving a commercial motor vehicle without a commercial driver's license in the
183 driver's possession in violation of any federal or state or county or municipal ordinance. Any
184 individual who provides proof to the court which has jurisdiction over the issued citation that the
185 individual held a valid commercial driver's license on the date that the citation was issued shall
186 not be guilty of this offense;

187 (f) Driving a commercial motor vehicle without the proper commercial driver's license
188 class or endorsement for the specific vehicle group being operated or for the passengers or type

189 of cargo being transported in violation of any federal or state law or county or municipal
190 ordinance; or

191 (g) Any other violation of a federal or state law or county or municipal ordinance
192 regulating the operation of motor vehicles, other than a parking violation, as prescribed by the
193 secretary by regulation;

194 [(31)] (39) "State", a state[, territory or possession] of the United States[, the District of
195 Columbia, the Commonwealth of Puerto Rico, Mexico, and any province of Canada];

196 [(32)] (40) "United States", the fifty states and the District of Columbia.

**302.768. 1. Any applicant for a commercial driver's license or commercial driver's
2 instruction permit shall comply with the Federal Motor Carrier Safety Administration
3 application requirements of 49 CFR Part 383.71 by certifying to one of the following
4 applicable statements relating to federal and state driver qualification rules:**

5 (1) **Nonexcepted interstate: Certifies the applicant is a driver operating or
6 expecting to operate in interstate or foreign commerce, or is otherwise subject to and meets
7 requirements of 49 CFR Part 391 and is required to obtain a medical examiner's certificate
8 as defined in 49 CFR Part 391.45;**

9 (2) **Excepted interstate: Certifies the applicant is a driver operating or expecting
10 to operate entirely in interstate commerce that is not subject to Part 391 and is subject to
11 Missouri driver qualifications and not required to obtain a medical examiner's certificate;**

12 (3) **Nonexcepted intrastate: Certifies the applicant is a driver operating only in
13 intrastate commerce and is subject to Missouri driver qualifications;**

14 (4) **Excepted intrastate: Certifies the applicant operates or expects to operate only
15 in intrastate commerce, and engaging only in operations excepted from all parts of the
16 Missouri driver qualification requirements.**

17 **2. Any applicant who cannot meet certification requirements under one of the
18 categories defined in subsection 1 of this section shall be denied issuance of a commercial
19 driver's license or commercial driver's instruction permit.**

20 **3. An applicant certifying to operation in nonexcepted interstate or nonexcepted
21 intrastate commerce shall provide the state with an original or copy of a current medical
22 examiners certificate or a medical examiners certificate accompanied by a medical variance
23 or waiver. The state shall retain the original or copy of the documentation of physical
24 qualification for a minimum of three years beyond the date the certificate was issued.**

25 **4. Applicants certifying to operation in nonexcepted interstate commerce or
26 nonexcepted intrastate commerce shall provide an updated medical certificate or variance
27 documents to maintain a certified status during the term of the commercial driver's license
28 or commercial driver's instruction permit in order to retain commercial privileges.**

29 **5. The director shall post the medical examiners certificate of information, medical**
30 **variance if applicable, the applicant's self-certification and certification status to the**
31 **Missouri driver record within ten calendar days and such information will become part**
32 **of the CDLIS driver record.**

33 **6. Applicants certifying to operation in nonexcepted interstate commerce or**
34 **nonexcepted intrastate commerce who fail to provide or maintain a current medical**
35 **examiners certificate, or if the state has received notice of a medical variance or waiver**
36 **expiring or being rescinded, the state shall, within ten calendar days, update the driver's**
37 **medical certification status to "not certified". The state shall notify the driver of the**
38 **change in certification status and require the driver to annually comply with requirements**
39 **for a commercial driver's license downgrade within sixty days of the expiration of the**
40 **applicant certification.**

41 **7. The department of revenue may, by rule, establish the cost and criteria for**
42 **submission of updated medical certification status information as required under this**
43 **section.**

44 **8. Any person who falsifies any information in an application for or update of**
45 **medical certification status information for a commercial driver's license shall not be**
46 **licensed to operate a commercial motor vehicle, or the person's commercial driver's license**
47 **shall be canceled for a period of one year after the director discovers such falsification.**

48 **9. The director may promulgate rules and regulations necessary to administer and**
49 **enforce this section. Any rule or portion of a rule, as that term is defined in section**
50 **536.010, that is created under the authority delegated in this section shall become effective**
51 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
52 **applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**
53 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
54 **the effective date, or to disapprove and annul a rule are subsequently held**
55 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
56 **after August 28, 2012, shall be invalid and void.**

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

5 (b) Has pleaded guilty to or has been found guilty of one or more intoxication-related
6 traffic offense and, in addition, any of the following: involuntary manslaughter under
7 subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under
8 section 565.021, where the underlying felony is an intoxication-related traffic offense; or assault

9 in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law
10 enforcement officer in the second degree under subdivision (4) of subsection 1 of section
11 565.082;

12 (2) A "chronic offender" is:

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

15 (b) A person who has pleaded guilty to or has been found guilty of, on two or more
16 separate occasions, any combination of the following: involuntary manslaughter under
17 subdivision (2) or (3) of subsection 1 of section 565.024; murder in the second degree under
18 section 565.021, where the underlying felony is an intoxication-related traffic offense; assault
19 in the second degree under subdivision (4) of subsection 1 of section 565.060; or assault of a law
20 enforcement officer in the second degree under subdivision (4) of subsection 1 of section
21 565.082; or

22 (c) A person who has pleaded guilty to or has 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) or (3) of subsection 1 of section 565.024; murder in the
25 second degree under section 565.021, where the underlying felony is an intoxication-related
26 traffic offense; assault in the second degree under subdivision (4) of subsection 1 of section
27 565.060; or assault of a law enforcement officer in the second degree under subdivision (4) of
28 subsection 1 of section 565.082;

29 (3) "Continuous alcohol monitoring", automatically testing breath, blood, or transdermal
30 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
31 location of the person who is being monitored, and regularly transmitting the data. Continuous
32 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
33 section 217.690;

34 (4) An "intoxication-related traffic offense" is driving while intoxicated, driving with
35 excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) or (3) of
36 subsection 1 of section 565.024, murder in the second degree under section 565.021, where the
37 underlying felony is an intoxication-related traffic offense, assault in the second degree pursuant
38 to subdivision (4) of subsection 1 of section 565.060, assault of a law enforcement officer in the
39 second degree pursuant to subdivision (4) of subsection 1 of section 565.082, or driving under
40 the influence of alcohol or drugs in violation of state law or a county or municipal ordinance;

41 (5) A "persistent offender" is one of the following:

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

44 (b) A person who has pleaded guilty to or has been found guilty of involuntary
45 manslaughter pursuant to subdivision (2) or (3) of subsection 1 of section 565.024, assault in the
46 second degree pursuant to subdivision (4) of subsection 1 of section 565.060, assault of a law
47 enforcement officer in the second degree pursuant to subdivision (4) of subsection 1 of section
48 565.082; and

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

52 2. 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 prior offender shall be guilty of a class A
54 misdemeanor.

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

58 4. 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 an aggravated offender shall be guilty of a
60 class C felony.

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

64 6. No state, county, or municipal court shall suspend the imposition of sentence as to a
65 prior offender, persistent offender, aggravated offender, or chronic offender under this section
66 nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011 to the
67 contrary notwithstanding.

68 (1) No prior offender shall be eligible for parole or probation until he or she has served
69 a minimum of ten days imprisonment:

70 (a) Unless as a condition of such parole or probation such person performs at least thirty
71 days involving at least two hundred forty hours of community service under the supervision of
72 the court in those jurisdictions which have a recognized program for community service; or

73 (b) The offender participates in and successfully completes a program established
74 pursuant to section 478.007 or other court-ordered treatment program, if available, **and as part**
75 **of either program, the offender performs at least thirty days of community service under**
76 **the supervision of the court.**

77 (2) No persistent offender shall be eligible for parole or probation until he or she has
78 served a minimum of thirty days imprisonment:

79 (a) Unless as a condition of such parole or probation such person performs at least sixty
80 days involving at least four hundred eighty hours of community service under the supervision
81 of the court; or

82 (b) The offender participates in and successfully completes a program established
83 pursuant to section 478.007 or other court-ordered treatment program, if available, **and as part**
84 **of either program, the offender performs at least sixty days of community service under**
85 **the supervision of the court.**

86 (3) No aggravated offender shall be eligible for parole or probation until he or she has
87 served a minimum of sixty days imprisonment.

88 (4) No chronic offender shall be eligible for parole or probation until he or she has
89 served a minimum of two years imprisonment. In addition to any other terms or conditions of
90 probation, the court shall consider, as a condition of probation for any person who pleads guilty
91 to or is found guilty of an intoxication-related traffic offense, requiring the offender to abstain
92 from consuming or using alcohol or any products containing alcohol as demonstrated by
93 continuous alcohol monitoring or by verifiable breath alcohol testing performed a minimum of
94 four times per day as scheduled by the court for such duration as determined by the court, but not
95 less than ninety days. The court may, in addition to imposing any other fine, costs, or
96 assessments provided by law, require the offender to bear any costs associated with continuous
97 alcohol monitoring or verifiable breath alcohol testing.

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

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

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

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

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

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

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

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

116 12. Nothing in this section shall prevent the use of presentence investigations or
117 commitments.

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

120 14. The pleas or findings of guilt shall be prior to the date of commission of the present
121 offense.

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

125 16. Evidence of a prior conviction, plea of guilty, or finding of guilt in an
126 intoxication-related traffic offense shall be heard and determined by the trial court out of the
127 hearing of the jury prior to the submission of the case to the jury, and shall include but not be
128 limited to evidence received by a search of the records of the Missouri uniform law enforcement
129 system, including criminal history records from the central repository or records from the driving
130 while intoxicated tracking system (DWITS) maintained by the Missouri state highway patrol, or
131 the certified driving record maintained by the Missouri department of revenue. After hearing the
132 evidence, the court shall enter its findings thereon. A plea of guilty or a finding of guilt followed
133 by incarceration, a fine, a suspended imposition of sentence, suspended execution of sentence,
134 probation or parole or any combination thereof in any intoxication-related traffic offense in a
135 state, county or municipal court or any combination thereof, shall be treated as a prior plea of
136 guilty or finding of guilt for purposes of this section.

Section B. The repeal and reenactment of section 302.700 and the enactment of section
2 302.768 of this act shall become effective on the date the director of the department of revenue
3 begins accepting commercial driver license medical certifications under sections 302.700 and
4 302.768, or on May 1, 2013, whichever occurs first. If the director of revenue begins accepting
5 commercial driver license medical certifications under sections 302.700 and 302.768 prior to
6 May 1, 2013, the director of the department of revenue shall notify the revisor of statutes of such
7 fact.

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