

SECOND REGULAR SESSION

HOUSE BILL NO. 2350

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE CORLEW.

6091H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 303.025, 488.029, 556.061, 565.252, 577.001, 577.010, 577.013, 577.014, 579.065, 579.068, and 595.045, RSMo, and to enact in lieu thereof eleven new sections relating to criminal offenses, with penalty provisions.

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

Section A. Sections 303.025, 488.029, 556.061, 565.252, 577.001, 577.010, 577.013, 2 577.014, 579.065, 579.068, and 595.045, RSMo, are repealed and eleven new section enacted 3 in lieu thereof, to be known as sections 303.025, 488.029, 556.061, 565.252, 577.001, 577.010, 4 577.013, 577.014, 579.065, 579.068, and 595.045, to read as follows:

303.025. 1. No owner of a motor vehicle registered in this state, or required to be 2 registered in this state, shall operate, register or maintain registration of a motor vehicle, or 3 permit another person to operate such vehicle, unless the owner maintains the financial 4 responsibility which conforms to the requirements of the laws of this state. No nonresident shall 5 operate or permit another person to operate in this state a motor vehicle registered to such 6 nonresident unless the nonresident maintains the financial responsibility which conforms to the 7 requirements of the laws of the nonresident's state of residence. Furthermore, no person shall 8 operate a motor vehicle owned by another with the knowledge that the owner has not maintained 9 financial responsibility unless such person has financial responsibility which covers the person's 10 operation of the other's vehicle; however, no owner or nonresident shall be in violation of this 11 subsection if he or she fails to maintain financial responsibility on a motor vehicle which is 12 inoperable or being stored and not in operation. The director may prescribe rules and regulations 13 for the implementation of this section.

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. A motor vehicle owner shall maintain the owner's financial responsibility in a manner
15 provided for in section 303.160, or with a motor vehicle liability policy which conforms to the
16 requirements of the laws of this state. A nonresident motor vehicle owner shall maintain the
17 owner's financial responsibility which conforms to the requirements of the laws of the
18 nonresident's state of residence.

19 3. Any person who violates this section is guilty of a misdemeanor. A first violation of
20 this section shall be punishable as a class D misdemeanor. A second or subsequent violation of
21 this section shall be punishable [~~by imprisonment in the county jail for a term not to exceed~~
22 ~~fifteen days and/or a fine not to exceed five hundred dollars] **as a class C misdemeanor**. Prior
23 pleas of guilty and prior findings of guilty shall be pleaded and proven in the same manner as
24 required by section 558.021. However, no person shall be found guilty of violating this section
25 if the operator demonstrates to the court that he or she met the financial responsibility
26 requirements of this section at the time the peace officer, commercial vehicle enforcement officer
27 or commercial vehicle inspector wrote the citation. In addition to any other authorized
28 punishment, the court shall notify the director of revenue of any person convicted pursuant to this
29 section and shall do one of the following:~~

30 (1) Enter an order suspending the driving privilege as of the date of the court order. If
31 the court orders the suspension of the driving privilege, the court shall require the defendant to
32 surrender to it any driver's license then held by such person. The length of the suspension shall
33 be as prescribed in subsection 2 of section 303.042. The court shall forward to the director of
34 revenue the order of suspension of driving privilege and any license surrendered within ten days;

35 (2) Forward the record of the conviction for an assessment of four points;

36 (3) In lieu of an assessment of points, render an order of supervision as provided in
37 section 302.303. An order of supervision shall not be used in lieu of points more than one time
38 in any thirty-six-month period. Every court having jurisdiction pursuant to the provisions of this
39 section shall forward a record of conviction to the Missouri state highway patrol, or at the written
40 direction of the Missouri state highway patrol, to the department of revenue, in a manner
41 approved by the director of the department of public safety. The director shall establish
42 procedures for the record keeping and administration of this section; or

43 (4) For a nonresident, suspend the nonresident's driving privileges in this state in
44 accordance with section 303.030 and notify the official in charge of the issuance of licenses and
45 registration certificates in the state in which such nonresident resides in accordance with section
46 303.080.

47 4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220, 303.290, 303.330
48 and 303.370 shall be construed as prohibiting the department of insurance, financial institutions
49 and professional registration from approving or authorizing those exclusions and limitations

50 which are contained in automobile liability insurance policies and the uninsured motorist
51 provisions of automobile liability insurance policies.

52 5. If a court enters an order of suspension, the offender may appeal such order directly
53 pursuant to chapter 512 and the provisions of section 302.311 shall not apply.

488.029. There shall be assessed and collected a surcharge of one hundred fifty dollars
2 in all criminal cases for any violation of chapter 195 **or chapter 579** in which a crime laboratory
3 makes analysis of a controlled substance, but no such surcharge shall be assessed when the costs
4 are waived or are to be paid by the state or when a criminal proceeding or the defendant has been
5 dismissed by the court. The moneys collected by clerks of the courts pursuant to the provisions
6 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020. All
7 such moneys shall be payable to the director of revenue, who shall deposit all amounts collected
8 pursuant to this section to the credit of the state forensic laboratory account to be administered
9 by the department of public safety pursuant to section 650.105.

556.061. In this code, unless the context requires a different definition, the following
2 terms shall mean:

3 (1) "Access", to instruct, communicate with, store data in, retrieve or extract data from,
4 or otherwise make any use of any resources of, a computer, computer system, or computer
5 network;

6 (2) "Affirmative defense":

7 (a) The defense referred to is not submitted to the trier of fact unless supported by
8 evidence; and

9 (b) If the defense is submitted to the trier of fact the defendant has the burden of
10 persuasion that the defense is more probably true than not;

11 (3) "Burden of injecting the issue":

12 (a) The issue referred to is not submitted to the trier of fact unless supported by evidence;
13 and

14 (b) If the issue is submitted to the trier of fact any reasonable doubt on the issue requires
15 a finding for the defendant on that issue;

16 (4) "Commercial film and photographic print processor", any person who develops
17 exposed photographic film into negatives, slides or prints, or who makes prints from negatives
18 or slides, for compensation. The term commercial film and photographic print processor shall
19 include all employees of such persons but shall not include a person who develops film or makes
20 prints for a public agency;

21 (5) "Computer", the box that houses the central processing unit (CPU), along with any
22 internal storage devices, such as internal hard drives, and internal communication devices, such
23 as internal modems capable of sending or receiving electronic mail or fax cards, along with any

24 other hardware stored or housed internally. Thus, computer refers to hardware, software and data
25 contained in the main unit. Printers, external modems attached by cable to the main unit,
26 monitors, and other external attachments will be referred to collectively as peripherals and
27 discussed individually when appropriate. When the computer and all peripherals are referred to
28 as a package, the term "computer system" is used. Information refers to all the information on
29 a computer system including both software applications and data;

30 (6) "Computer equipment", computers, terminals, data storage devices, and all other
31 computer hardware associated with a computer system or network;

32 (7) "Computer hardware", all equipment which can collect, analyze, create, display,
33 convert, store, conceal or transmit electronic, magnetic, optical or similar computer impulses or
34 data. Hardware includes, but is not limited to, any data processing devices, such as central
35 processing units, memory typewriters and self-contained laptop or notebook computers; internal
36 and peripheral storage devices, transistor-like binary devices and other memory storage devices,
37 such as floppy disks, removable disks, compact disks, digital video disks, magnetic tape, hard
38 drive, optical disks and digital memory; local area networks, such as two or more computers
39 connected together to a central computer server via cable or modem; peripheral input or output
40 devices, such as keyboards, printers, scanners, plotters, video display monitors and optical
41 readers; and related communication devices, such as modems, cables and connections, recording
42 equipment, RAM or ROM units, acoustic couplers, automatic dialers, speed dialers,
43 programmable telephone dialing or signaling devices and electronic tone-generating devices; as
44 well as any devices, mechanisms or parts that can be used to restrict access to computer
45 hardware, such as physical keys and locks;

46 (8) "Computer network", two or more interconnected computers or computer systems;

47 (9) "Computer program", a set of instructions, statements, or related data that directs or
48 is intended to direct a computer to perform certain functions;

49 (10) "Computer software", digital information which can be interpreted by a computer
50 and any of its related components to direct the way they work. Software is stored in electronic,
51 magnetic, optical or other digital form. The term commonly includes programs to run operating
52 systems and applications, such as word processing, graphic, or spreadsheet programs, utilities,
53 compilers, interpreters and communications programs;

54 (11) "Computer-related documentation", written, recorded, printed or electronically
55 stored material which explains or illustrates how to configure or use computer hardware,
56 software or other related items;

57 (12) "Computer system", a set of related, connected or unconnected, computer
58 equipment, data, or software;

59 (13) "Confinement":

60 (a) A person is in confinement when such person is held in a place of confinement
61 pursuant to arrest or order of a court, and remains in confinement until:

62 a. A court orders the person's release; or

63 b. The person is released on bail, bond, or recognizance, personal or otherwise; or

64 c. A public servant having the legal power and duty to confine the person authorizes his
65 release without guard and without condition that he return to confinement;

66 (b) A person is not in confinement if:

67 a. The person is on probation or parole, temporary or otherwise; or

68 b. The person is under sentence to serve a term of confinement which is not continuous,
69 or is serving a sentence under a work-release program, and in either such case is not being held
70 in a place of confinement or is not being held under guard by a person having the legal power
71 and duty to transport the person to or from a place of confinement;

72 (14) "Consent": consent or lack of consent may be expressed or implied. Assent does
73 not constitute consent if:

74 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged
75 to constitute the offense and such mental incapacity is manifest or known to the actor; or

76 (b) It is given by a person who by reason of youth, mental disease or defect, intoxication,
77 a drug-induced state, or any other reason is manifestly unable or known by the actor to be unable
78 to make a reasonable judgment as to the nature or harmfulness of the conduct charged to
79 constitute the offense; or

80 (c) It is induced by force, duress or deception;

81 (15) "Controlled substance", a drug, substance, or immediate precursor in schedules I
82 through V as defined in chapter 195;

83 (16) "Criminal negligence", failure to be aware of a substantial and unjustifiable risk that
84 circumstances exist or a result will follow, and such failure constitutes a gross deviation from
85 the standard of care which a reasonable person would exercise in the situation;

86 (17) "Custody", a person is in custody when he or she has been arrested but has not been
87 delivered to a place of confinement;

88 (18) "Damage", when used in relation to a computer system or network, means any
89 alteration, deletion, or destruction of any part of the computer system or network;

90 (19) "Dangerous felony", the felonies of arson in the first degree, assault in the first
91 degree, attempted rape in the first degree if physical injury results, attempted forcible rape if
92 physical injury results, attempted sodomy in the first degree if physical injury results, attempted
93 forcible sodomy if physical injury results, rape in the first degree, forcible rape, sodomy in the
94 first degree, forcible sodomy, assault in the second degree if the victim of such assault is a
95 special victim as defined in subdivision (14) of section 565.002, kidnapping in the first degree,

96 kidnapping, murder in the second degree, assault of a law enforcement officer in the first degree,
97 domestic assault in the first degree, elder abuse in the first degree, robbery in the first degree,
98 statutory rape in the first degree ~~when~~ if the victim is a child less than twelve years of age at
99 the time of the commission of the act giving rise to the offense, statutory sodomy in the first
100 degree ~~when~~ if the victim is a child less than twelve years of age at the time of the commission
101 of the act giving rise to the offense, child molestation in the first or second degree, abuse of a
102 child if the child dies as a result of injuries sustained from conduct chargeable under section
103 568.060, child kidnapping, or parental kidnapping committed by detaining or concealing the
104 whereabouts of the child for not less than one hundred twenty days under section 565.153 ~~and~~
105 ~~an~~ . A "dangerous felony" shall also include any "intoxication-related traffic offense" or
106 "intoxication-related boating offense" if:

107 (a) The ~~person~~ offender is found to be a "habitual offender" or "habitual boating
108 offender" as such terms are defined in section 577.001; or

109 (b) The offender causes the death of:

110 a. Any person not a passenger in the vehicle or vessel operated by the offender;

111 b. Two or more persons; or

112 c. Any person while the offender had a blood alcohol content of at least
113 eighteen-hundredths of one percent by weight of alcohol such offender's blood;

114 (20) "Dangerous instrument", any instrument, article or substance, which, under the
115 circumstances in which it is used, is readily capable of causing death or other serious physical
116 injury;

117 (21) "Data", a representation of information, facts, knowledge, concepts, or instructions
118 prepared in a formalized or other manner and intended for use in a computer or computer
119 network. Data may be in any form including, but not limited to, printouts, microfiche, magnetic
120 storage media, punched cards and as may be stored in the memory of a computer;

121 (22) "Deadly weapon", any firearm, loaded or unloaded, or any weapon from which a
122 shot, readily capable of producing death or serious physical injury, may be discharged, or a
123 switchblade knife, dagger, billy club, blackjack or metal knuckles;

124 (23) "Digital camera", a camera that records images in a format which enables the
125 images to be downloaded into a computer;

126 (24) "Disability", a mental, physical, or developmental impairment that substantially
127 limits one or more major life activities or the ability to provide adequately for one's care or
128 protection, whether the impairment is congenital or acquired by accident, injury or disease, where
129 such impairment is verified by medical findings;

130 (25) "Elderly person", a person sixty years of age or older;

131 (26) "Felony", an offense so designated or an offense for which persons found guilty
132 thereof may be sentenced to death or imprisonment for a term of more than one year;

133 (27) "Forcible compulsion" either:

134 (a) Physical force that overcomes reasonable resistance; or

135 (b) A threat, express or implied, that places a person in reasonable fear of death, serious
136 physical injury or kidnapping of such person or another person;

137 (28) "Incapacitated", a temporary or permanent physical or mental condition in which
138 a person is unconscious, unable to appraise the nature of his or her conduct, or unable to
139 communicate unwillingness to an act;

140 (29) "Infraction", a violation defined by this code or by any other statute of this state if
141 it is so designated or if no sentence other than a fine, or fine and forfeiture or other civil penalty,
142 is authorized upon conviction;

143 (30) "Inhabitable structure", a vehicle, vessel or structure:

144 (a) Where any person lives or carries on business or other calling; or

145 (b) Where people assemble for purposes of business, government, education, religion,
146 entertainment, or public transportation; or

147 (c) Which is used for overnight accommodation of persons.

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149 Any such vehicle, vessel, or structure is inhabitable regardless of whether a person is actually
150 present. If a building or structure is divided into separately occupied units, any unit not occupied
151 by the actor is an inhabitable structure of another;

152 (31) "Knowingly", when used with respect to:

153 (a) Conduct or attendant circumstances, means a person is aware of the nature of his or
154 her conduct or that those circumstances exist; or

155 (b) A result of conduct, means a person is aware that his or her conduct is practically
156 certain to cause that result;

157 (32) "Law enforcement officer", any public servant having both the power and duty to
158 make arrests for violations of the laws of this state, and federal law enforcement officers
159 authorized to carry firearms and to make arrests for violations of the laws of the United States;

160 (33) "Misdemeanor", an offense so designated or an offense for which persons found
161 guilty thereof may be sentenced to imprisonment for a term of which the maximum is one year
162 or less;

163 (34) "Of another", property that any entity, including but not limited to any natural
164 person, corporation, limited liability company, partnership, association, governmental
165 subdivision or instrumentality, other than the actor, has a possessory or proprietary interest
166 therein, except that property shall not be deemed property of another who has only a security

167 interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or
168 other security arrangement;

169 (35) "Offense", any felony or misdemeanor;

170 (36) "Physical injury", slight impairment of any function of the body or temporary loss
171 of use of any part of the body;

172 (37) "Place of confinement", any building or facility and the grounds thereof wherein a
173 court is legally authorized to order that a person charged with or convicted of a crime be held;

174 (38) "Possess" or "possessed", having actual or constructive possession of an object with
175 knowledge of its presence. A person has actual possession if such person has the object on his
176 or her person or within easy reach and convenient control. A person has constructive possession
177 if such person has the power and the intention at a given time to exercise dominion or control
178 over the object either directly or through another person or persons. Possession may also be sole
179 or joint. If one person alone has possession of an object, possession is sole. If two or more
180 persons share possession of an object, possession is joint;

181 (39) "Property", anything of value, whether real or personal, tangible or intangible, in
182 possession or in action;

183 (40) "Public servant", any person employed in any way by a government of this state who
184 is compensated by the government by reason of such person's employment, any person appointed
185 to a position with any government of this state, or any person elected to a position with any
186 government of this state. It includes, but is not limited to, legislators, jurors, members of the
187 judiciary and law enforcement officers. It does not include witnesses;

188 (41) "Purposely", when used with respect to a person's conduct or to a result thereof,
189 means when it is his or her conscious object to engage in that conduct or to cause that result;

190 (42) "Recklessly", consciously disregarding a substantial and unjustifiable risk that
191 circumstances exist or that a result will follow, and such disregard constitutes a gross deviation
192 from the standard of care which a reasonable person would exercise in the situation;

193 (43) "Serious emotional injury", an injury that creates a substantial risk of temporary or
194 permanent medical or psychological damage, manifested by impairment of a behavioral,
195 cognitive or physical condition. Serious emotional injury shall be established by testimony of
196 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of
197 medical or psychological certainty;

198 (44) "Serious physical injury", physical injury that creates a substantial risk of death or
199 that causes serious disfigurement or protracted loss or impairment of the function of any part of
200 the body;

201 (45) "Services", when used in relation to a computer system or network, means use of
202 a computer, computer system, or computer network and includes, but is not limited to, computer
203 time, data processing, and storage or retrieval functions;

204 (46) "Sexual orientation", male or female heterosexuality, homosexuality or bisexuality
205 by inclination, practice, identity or expression, or having a self-image or identity not traditionally
206 associated with one's gender;

207 (47) "Vehicle", a self-propelled mechanical device designed to carry a person or persons,
208 excluding vessels or aircraft;

209 (48) "Vessel", any boat or craft propelled by a motor or by machinery, whether or not
210 such motor or machinery is a principal source of propulsion used or capable of being used as a
211 means of transportation on water, or any boat or craft more than twelve feet in length which is
212 powered by sail alone or by a combination of sail and machinery, and used or capable of being
213 used as a means of transportation on water, but not any boat or craft having, as the only means
214 of propulsion, a paddle or oars;

215 (49) "Voluntary act":

216 (a) A bodily movement performed while conscious as a result of effort or determination.
217 Possession is a voluntary act if the possessor knowingly procures or receives the thing possessed,
218 or having acquired control of it was aware of his or her control for a sufficient time to have
219 enabled him or her to dispose of it or terminate his or her control; or

220 (b) An omission to perform an act of which the actor is physically capable. A person is
221 not guilty of an offense based solely upon an omission to perform an act unless the law defining
222 the offense expressly so provides, or a duty to perform the omitted act is otherwise imposed by
223 law;

224 (50) "Vulnerable person", any person in the custody, care, or control of the department
225 of mental health who is receiving services from an operated, funded, licensed, or certified
226 program.

565.252. 1. A person commits the offense of invasion of privacy if he or she knowingly:

2 (1) **Views**, photographs, films, videotapes, produces, or otherwise creates an image of
3 another person, without the person's consent, while the person is in a state of full or partial nudity
4 and is in a place where one would have a reasonable expectation of privacy; or

5 (2) **Views**, photographs, films, videotapes, produces, or otherwise creates an image of
6 another person under or through the clothing worn by that other person for the purpose of
7 viewing the body of or the undergarments worn by that other person without that person's
8 consent.

9 2. Invasion of privacy is a class A misdemeanor ~~unless~~ **except in the following**
10 **circumstances, in which case invasion of privacy is a class E felony:**

11 (1) A person who creates an image in violation of this section distributes the image to
12 another or transmits the image in a manner that allows access to that image via computer;

13 (2) A person disseminates or permits the dissemination by any means, to another person,
14 of a videotape, photograph, or film obtained in violation of this section;

15 (3) More than one person is viewed, photographed, filmed or videotaped during the same
16 course of conduct; or

17 (4) The offense was committed by a person who has previously been found guilty of
18 invasion of privacy

19

20 [~~in which case invasion of privacy is a class E felony~~].

21 3. Prior findings of guilt shall be pleaded and proven in the same manner required by the
22 provisions of section 558.021.

23 4. As used in this section, "same course of conduct" means more than one person has
24 been viewed, photographed, filmed, or videotaped under the same or similar circumstances
25 pursuant to one scheme or course of conduct, whether at the same or different times.

577.001. As used in this chapter, the following terms mean:

2 (1) "Aggravated offender", a person who has been found guilty of:

3 (a) Three or more intoxication-related traffic offenses committed on separate occasions;

4 or

5 (b) Two or more intoxication-related traffic offenses committed on separate occasions
6 where at least one of the intoxication-related traffic offenses is an offense committed in violation
7 of any state law, county or municipal ordinance, any federal offense, or any military offense in
8 which the defendant was operating a vehicle while intoxicated and another person was injured
9 or killed;

10 (2) "Aggravated boating offender", a person who has been found guilty of:

11 (a) Three or more intoxication-related boating offenses; or

12 (b) Two or more intoxication-related boating offenses committed on separate occasions
13 where at least one of the intoxication-related boating offenses is an offense committed in
14 violation of any state law, county or municipal ordinance, any federal offense, or any military
15 offense in which the defendant was operating a vessel while intoxicated and another person was
16 injured or killed;

17 (3) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for
18 off-highway use which is fifty inches or less in width, with an unladen dry weight of one
19 thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed
20 to be straddled by the operator, or with a seat designed to carry more than one person, and
21 handlebars for steering control;

22 (4) “Court”, any circuit, associate circuit, or municipal court, including traffic court, but
23 not any juvenile court or drug court;

24 (5) “Chronic offender”, a person who has been found guilty of:

25 (a) Four or more intoxication-related traffic offenses committed on separate occasions;

26 or

27 (b) Three or more intoxication-related traffic offenses committed on separate occasions
28 where at least one of the intoxication-related traffic offenses is an offense committed in violation
29 of any state law, county or municipal ordinance, any federal offense, or any military offense in
30 which the defendant was operating a vehicle while intoxicated and another person was injured
31 or killed; or

32 (c) Two or more intoxication-related traffic offenses committed on separate occasions
33 where both intoxication-related traffic offenses were offenses committed in violation of any state
34 law, county or municipal ordinance, any federal offense, or any military offense in which the
35 defendant was operating a vehicle while intoxicated and another person was injured or killed;

36 (6) “Chronic boating offender”, a person who has been found guilty of:

37 (a) Four or more intoxication-related boating offenses; or

38 (b) Three or more intoxication-related boating offenses committed on separate occasions
39 where at least one of the intoxication-related boating offenses is an offense committed in
40 violation of any state law, county or municipal ordinance, any federal offense, or any military
41 offense in which the defendant was operating a vessel while intoxicated and another person was
42 injured or killed; or

43 (c) Two or more intoxication-related boating offenses committed on separate occasions
44 where both intoxication-related boating offenses were offenses committed in violation of any
45 state law, county or municipal ordinance, any federal offense, or any military offense in which
46 the defendant was operating a vessel while intoxicated and another person was injured or killed;

47 (7) “Continuous alcohol monitoring”, automatically testing breath, blood, or transdermal
48 alcohol concentration levels and tampering attempts at least once every hour, regardless of the
49 location of the person who is being monitored, and regularly transmitting the data. Continuous
50 alcohol monitoring shall be considered an electronic monitoring service under subsection 3 of
51 section 217.690;

52 (8) “Controlled substance”, a drug, substance, or immediate precursor in schedules I to
53 V listed in section 195.017;

54 (9) “Drive”, “driving”, “operates” or “operating”, physically driving or operating a
55 vehicle or vessel;

56 (10) “Flight crew member”, the pilot in command, copilots, flight engineers, and flight
57 navigators;

58 (11) “Habitual offender”, a person who has been found guilty of:

59 (a) Five or more intoxication-related traffic offenses committed on separate occasions;

60 or

61 (b) Four or more intoxication-related traffic offenses committed on separate occasions
62 where at least one of the intoxication-related traffic offenses is an offense committed in violation
63 of any state law, county or municipal ordinance, any federal offense, or any military offense in
64 which the defendant was operating a vehicle while intoxicated and another person was injured
65 or killed; or

66 (c) Three or more intoxication-related traffic offenses committed on separate occasions
67 where at least two of the intoxication-related traffic offenses were offenses committed in
68 violation of any state law, county or municipal ordinance, any federal offense, or any military
69 offense in which the defendant was operating a vehicle while intoxicated and another person was
70 injured or killed;

71 (12) “Habitual boating offender”, a person who has been found guilty of:

72 (a) Five or more intoxication-related boating offenses; ~~[or]~~

73 (b) Four or more intoxication-related boating offenses committed on separate occasions
74 where at least one of the intoxication-related boating offenses is an offense committed in
75 violation of any state law, county or municipal ordinance, any federal offense, or any military
76 offense in which the defendant was operating a vessel while intoxicated and another person was
77 injured or killed; or

78 (c) Three or more intoxication-related boating offenses committed on separate occasions
79 where at least two of the intoxication-related boating offenses were offenses committed in
80 violation of any state law, county or municipal ordinance, any federal offense, or any military
81 offense in which the defendant was operating a vessel while intoxicated and another person was
82 injured or killed; ~~[or~~

83 ~~—— (d) While boating while intoxicated, the defendant acted with criminal negligence to:~~

84 ~~—— a. Cause the death of any person not a passenger in the vessel operated by the defendant,~~
85 ~~including the death of an individual that results from the defendant’s vessel leaving the water;~~

86 ~~or~~

87 ~~—— b. Cause the death of two or more persons; or~~

88 ~~—— c. Cause the death of any person while he or she has a blood alcohol content of at least~~
89 ~~eighteen hundredths of one percent by weight of alcohol in such person’s blood;]~~

90 (13) “Intoxicated” or “intoxicated condition”, when a person is under the influence of
91 alcohol, a controlled substance, or drug, or any combination thereof;

92 (14) “Intoxication-related boating offense”, operating a vessel while intoxicated; boating
93 while intoxicated; operating a vessel with excessive blood alcohol content or an offense in which

94 the defendant was operating a vessel while intoxicated and another person was injured or killed
95 in violation of any state law, county or municipal ordinance, any federal offense, or any military
96 offense;

97 (15) “Intoxication-related traffic offense”, driving while intoxicated, driving with
98 excessive blood alcohol content, driving under the influence of alcohol or drugs in violation of
99 a state law, county or municipal ordinance, any federal offense, or any military offense, or an
100 offense in which the defendant was operating a vehicle while intoxicated and another person was
101 injured or killed in violation of any state law, county or municipal ordinance, any federal offense,
102 or any military offense;

103 (16) “Law enforcement officer” or “arresting officer”, includes the definition of law
104 enforcement officer in section 556.061 and military policemen conducting traffic enforcement
105 operations on a federal military installation under military jurisdiction in the state of Missouri;

106 (17) “Operate a vessel”, to physically control the movement of a vessel in motion under
107 mechanical or sail power in water;

108 (18) “Persistent offender”, a person who has been found guilty of:

109 (a) Two or more intoxication-related traffic offenses committed on separate occasions;

110 or

111 (b) One intoxication-related traffic offense committed in violation of any state law,
112 county or municipal ordinance, federal offense, or military offense in which the defendant was
113 operating a vehicle while intoxicated and another person was injured or killed;

114 (19) “Persistent boating offender”, a person who has been found guilty of:

115 (a) Two or more intoxication-related boating offenses committed on separate occasions;

116 or

117 (b) One intoxication-related boating offense committed in violation of any state law,
118 county or municipal ordinance, federal offense, or military offense in which the defendant was
119 operating a vessel while intoxicated and another person was injured or killed;

120 (20) “Prior offender”, a person who has been found guilty of one intoxication-related
121 traffic offense, where such prior offense occurred within five years of the occurrence of the
122 intoxication-related traffic offense for which the person is charged;

123 (21) “Prior boating offender”, a person who has been found guilty of one
124 intoxication-related boating offense, where such prior offense occurred within five years of the
125 occurrence of the intoxication-related boating offense for which the person is charged.

577.010. 1. A person commits the offense of driving while intoxicated if he or she
2 operates a vehicle while in an intoxicated condition.

3 2. The offense of driving while intoxicated is:

4 (1) A class B misdemeanor;

- 5 (2) A class A misdemeanor if:
- 6 (a) The defendant is a prior offender; or
- 7 (b) A person less than seventeen years of age is present in the vehicle;
- 8 (3) A class E felony if:
- 9 (a) The defendant is a persistent offender; or
- 10 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 11 physical injury to another person;
- 12 (4) A class D felony if:
- 13 (a) The defendant is an aggravated offender;
- 14 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 15 physical injury to a law enforcement officer or emergency personnel; or
- 16 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 17 serious physical injury to another person;
- 18 (5) A class C felony if:
- 19 (a) The defendant is a chronic offender;
- 20 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 21 serious physical injury to a law enforcement officer or emergency personnel; or
- 22 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 23 the death of another person;
- 24 (6) A class B felony if:
- 25 (a) The defendant is a habitual offender;
- 26 (b) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 27 the death of a law enforcement officer or emergency personnel;
- 28 (c) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 29 the death of any person not a passenger in the vehicle operated by the defendant, including the
- 30 death of an individual that results from the defendant's vehicle leaving a highway, as defined in
- 31 section 301.010, or the highway's right-of-way;
- 32 (d) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 33 the death of two or more persons; or
- 34 (e) While driving while intoxicated, the defendant acts with criminal negligence to cause
- 35 the death of any person while he or she has a blood alcohol content of at least
- 36 eighteen-hundredths of one percent by weight of alcohol in such person's blood;
- 37 (7) A class A felony if the defendant has previously been found guilty of an offense
- 38 under paragraphs (a) to (e) of subdivision (6) of this subsection and is found guilty of a
- 39 subsequent violation of such paragraphs.

40 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
41 of the offense of driving while intoxicated as a first offense shall not be granted a suspended
42 imposition of sentence:

43 (1) Unless such person shall be placed on probation for a minimum of two years; or

44 (2) In a circuit where a DWI court or docket created under section 478.007 or other
45 court-ordered treatment program is available, and where the offense was committed with
46 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
47 the individual participates and successfully completes a program under such DWI court or docket
48 or other court-ordered treatment program.

49 4. If a person is found guilty of a second or subsequent offense of driving while
50 intoxicated, the court may order the person to submit to a period of continuous alcohol
51 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
52 a condition of probation.

53 5. If a person is not granted a suspended imposition of sentence for the reasons described
54 in subsection 3 of this section:

55 (1) If the individual operated the vehicle with fifteen-hundredths to twenty-hundredths
56 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
57 shall be not less than forty-eight hours;

58 (2) If the individual operated the vehicle with greater than twenty-hundredths of one
59 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
60 not less than five days.

61 6. A person found guilty of the offense of driving while intoxicated:

62 (1) ~~[As a prior offender, persistent offender, aggravated offender, chronic offender, or~~
63 ~~habitual offender]~~ Shall not be granted a suspended imposition of sentence or be sentenced to
64 pay a fine in lieu of a term of imprisonment, section 557.011 to the contrary notwithstanding, **if:**

65 **(a) The offender is a prior offender, persistent offender, aggravated offender,**
66 **chronic offender, or habitual offender; or**

67 **(b) The offense causes the death of:**

68 **a. Any person not a passenger in the vehicle operated by the defendant;**

69 **b. Two or more persons; or**

70 **c. Any person while the offender has a blood alcohol content of at least**
71 **eighteen-hundredths of one percent by weight of alcohol in such offender's blood;**

72 (2) As a prior offender shall not be granted parole or probation until he or she has served
73 a minimum of ten days imprisonment:

74 (a) Unless as a condition of such parole or probation such person performs at least thirty
75 days of community service under the supervision of the court in those jurisdictions which have
76 a recognized program for community service; or

77 (b) The offender participates in and successfully completes a program established under
78 section 478.007 or other court-ordered treatment program, if available, and as part of either
79 program, the offender performs at least thirty days of community service under the supervision
80 of the court;

81 (3) As a persistent offender shall not be eligible for parole or probation until he or she
82 has served a minimum of thirty days imprisonment;

83 (a) Unless as a condition of such parole or probation such person performs at least sixty
84 days of community service under the supervision of the court in those jurisdictions which have
85 a recognized program for community service; or

86 (b) The offender participates in and successfully completes a program established under
87 section 478.007 or other court-ordered treatment program, if available, and as part of either
88 program, the offender performs at least sixty days of community service under the supervision
89 of the court;

90 (4) As an aggravated offender shall not be eligible for parole or probation until he or she
91 has served a minimum of sixty days imprisonment;

92 (5) As a chronic or habitual offender shall not be eligible for parole or probation until
93 he or she has served a minimum of two years imprisonment; and

94 (6) Any probation or parole granted under this subsection may include a period of
95 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
96 times per day.

577.013. 1. A person commits the offense of boating while intoxicated if he or she
2 operates a vessel while in an intoxicated condition.

3 2. The offense of boating while intoxicated is:

4 (1) A class B misdemeanor;

5 (2) A class A misdemeanor if:

6 (a) The defendant is a prior boating offender; or

7 (b) A person less than seventeen years of age is present in the vessel;

8 (3) A class E felony if:

9 (a) The defendant is a persistent boating offender; or

10 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
11 physical injury to another person;

12 (4) A class D felony if:

13 (a) The defendant is an aggravated boating offender;

14 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
15 physical injury to a law enforcement officer or emergency personnel; or

16 (c) While boating while intoxicated, the defendant acts with criminal negligence to cause
17 serious physical injury to another person;

18 (5) A class C felony if:

19 (a) The defendant is a chronic boating offender;

20 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
21 serious physical injury to a law enforcement officer or emergency personnel; or

22 (c) While boating while intoxicated, the defendant acts with criminal negligence to cause
23 the death of another person;

24 (6) A class B felony if:

25 (a) The defendant is a habitual boating offender; or

26 (b) While boating while intoxicated, the defendant acts with criminal negligence to cause
27 the death of:

28 a. A law enforcement officer or emergency personnel; or

29 b. **Any person not a passenger in the vessel operated by the defendant;**

30 c. **Two or more persons; or**

31 d. **Any person while the defendant has a blood alcohol content of at least
32 eighteen-hundredths of one percent by weight of alcohol in such defendant's blood;**

33 (7) A class A felony if the defendant is a habitual offender as a result of being found
34 guilty of an act described under paragraph (d) of subdivision (12) of section 577.001 and is found
35 guilty of a subsequent violation of such paragraph.

36 3. Notwithstanding the provisions of subsection 2 of this section, a person found guilty
37 of the offense of boating while intoxicated as a first offense shall not be granted a suspended
38 imposition of sentence:

39 (1) Unless such person shall be placed on probation for a minimum of two years; or

40 (2) In a circuit where a DWI court or docket created under section 478.007 or other
41 court-ordered treatment program is available, and where the offense was committed with
42 fifteen-hundredths of one percent or more by weight of alcohol in such person's blood, unless
43 the individual participates in and successfully completes a program under such DWI court or
44 docket or other court-ordered treatment program.

45 4. If a person is found guilty of a second or subsequent offense of boating while
46 intoxicated, the court may order the person to submit to a period of continuous alcohol
47 monitoring or verifiable breath alcohol testing performed a minimum of four times per day as
48 a condition of probation.

49 5. If a person is not granted a suspended imposition of sentence for the reasons described
50 in subsection 3 of this section:

51 (1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths
52 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
53 shall be not less than forty-eight hours;

54 (2) If the individual operated the vessel with greater than twenty-hundredths of one
55 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
56 not less than five days.

57 6. A person found guilty of the offense of boating while intoxicated:

58 (1) As a prior boating offender, persistent boating offender, aggravated boating offender,
59 chronic boating offender or habitual boating offender shall not be granted a suspended
60 imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
61 557.011 to the contrary notwithstanding;

62 (2) As a prior boating offender shall not be granted parole or probation until he or she
63 has served a minimum of ten days imprisonment:

64 (a) Unless as a condition of such parole or probation such person performs at least two
65 hundred forty hours of community service under the supervision of the court in those
66 jurisdictions which have a recognized program for community service; or

67 (b) The offender participates in and successfully completes a program established under
68 section 478.007 or other court-ordered treatment program, if available;

69 (3) As a persistent offender shall not be eligible for parole or probation until he or she
70 has served a minimum of thirty days imprisonment:

71 (a) Unless as a condition of such parole or probation such person performs at least four
72 hundred eighty hours of community service under the supervision of the court in those
73 jurisdictions which have a recognized program for community service; or

74 (b) The offender participates in and successfully completes a program established under
75 section 478.007 or other court-ordered treatment program, if available;

76 (4) As an aggravated boating offender shall not be eligible for parole or probation until
77 he or she has served a minimum of sixty days imprisonment;

78 (5) As a chronic or habitual boating offender shall not be eligible for parole or probation
79 until he or she has served a minimum of two years imprisonment; and

80 (6) Any probation or parole granted under this subsection may include a period of
81 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
82 times per day.

577.014. 1. A person commits the offense of boating with excessive blood alcohol content if he or she operates a vessel while having eight-hundredths of one percent or more by weight of alcohol in his or her blood.

2. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood or two hundred ten liters of breath and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcoholic content of a person's blood under this section, the test shall be conducted in accordance with the provisions of sections 577.020 to 577.041.

3. The offense of boating with excessive blood alcohol content is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if the defendant is alleged and proved to be a prior boating offender;

(3) A class E felony if the defendant is alleged and proved to be a persistent boating offender;

(4) A class D felony if the defendant is alleged and proved to be an aggravated boating offender;

(5) A class C felony if the defendant is alleged and proved to be a chronic boating offender;

(6) A class B felony if the defendant is alleged and proved to be a habitual boating offender **or, at the time of the offense, the defendant acted with criminal negligence to cause the death of:**

(a) Any person not a passenger in the vessel operated by the defendant;

(b) Two or more persons; or

(c) Any person while the defendant has a blood alcohol content of at least eighteen-hundredths of one percent by weight of alcohol in the defendant's blood.

4. A person found guilty of the offense of boating with excessive blood alcohol content as a first offense shall not be granted a suspended imposition of sentence:

(1) Unless such person shall be placed on probation for a minimum of two years; or

(2) In a circuit where a DWI court or docket created under section 478.007 or other court-ordered treatment program is available, and where the offense was committed with fifteen-hundredths of one percent or more by weight of alcohol in such person's blood unless the individual participates in and successfully completes a program under such DWI court or docket or other court-ordered treatment program.

5. When a person is not granted a suspended imposition of sentence for the reasons described in subsection 4 of this section:

36 (1) If the individual operated the vessel with fifteen-hundredths to twenty-hundredths
37 of one percent by weight of alcohol in such person's blood, the required term of imprisonment
38 shall be not less than forty-eight hours;

39 (2) If the individual operated the vessel with greater than twenty-hundredths of one
40 percent by weight of alcohol in such person's blood, the required term of imprisonment shall be
41 not less than five days.

42 6. If a person is found guilty of a second or subsequent offense of boating with an
43 excessive blood alcohol content, the court may order the person to submit to a period of
44 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
45 times per day as a condition of probation.

46 7. A person found guilty of the offense of boating with excessive blood alcohol content:

47 (1) As a prior boating offender, persistent boating offender, aggravated boating offender,
48 chronic boating offender or habitual boating offender shall not be granted a suspended
49 imposition of sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
50 557.011 to the contrary notwithstanding;

51 (2) As a prior boating offender, shall not be granted parole or probation until he or she
52 has served a minimum of ten days imprisonment:

53 (a) Unless as a condition of such parole or probation such person performs at least two
54 hundred forty hours of community service under the supervision of the court in those
55 jurisdictions which have a recognized program for community service; or

56 (b) The offender participates in and successfully completes a program established under
57 section 478.007 or other court-ordered treatment program, if available;

58 (3) As a persistent boating offender, shall not be granted parole or probation until he or
59 she has served a minimum of thirty days imprisonment:

60 (a) Unless as a condition of such parole or probation such person performs at least four
61 hundred eighty hours of community service under the supervision of the court in those
62 jurisdictions which have a recognized program for community service; or

63 (b) The offender participates in and successfully completes a program established under
64 section 478.007 or other court-ordered treatment program, if available;

65 (4) As an aggravated boating offender, shall not be eligible for parole or probation until
66 he or she has served a minimum of sixty days imprisonment;

67 (5) As a chronic or habitual boating offender, shall not be eligible for parole or probation
68 until he or she has served a minimum of two years imprisonment; and

69 (6) Any probation or parole granted under this subsection may include a period of
70 continuous alcohol monitoring or verifiable breath alcohol testing performed a minimum of four
71 times per day.

579.065. 1. A person commits the offense of trafficking drugs in the first degree if, except as authorized by this chapter or chapter 195, such person knowingly distributes, delivers, manufactures, produces or attempts to distribute, deliver, manufacture or produce:

(1) More than thirty grams [~~but less than ninety grams~~] of a mixture or substance containing a detectable amount of heroin;

(2) More than one hundred fifty grams [~~but less than four hundred fifty grams~~] of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the foregoing substances;

(3) More than eight grams [~~but less than twenty-four grams~~] of a mixture or substance described in subdivision (2) of this subsection which contains cocaine base;

(4) More than five hundred milligrams [~~but less than one gram~~] of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(5) More than thirty grams [~~but less than ninety grams~~] of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(6) More than four grams [~~but less than twelve grams~~] of phencyclidine;

(7) More than thirty kilograms [~~but less than one hundred kilograms~~] of a mixture or substance containing marijuana;

(8) More than thirty grams [~~but less than ninety grams~~] of any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or methylphenidate; or

(9) More than thirty grams [~~but less than ninety grams~~] of any material, compound, mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine.

2. The offense of trafficking drugs in the first degree is a class B felony.

3. The offense of trafficking drugs in the first degree is a class A felony if the quantity involved is:

(1) Ninety grams or more of a mixture or substance containing a detectable amount of heroin; or

(2) Four hundred fifty grams or more of a mixture or substance containing a detectable amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers,

37 and salts of isomers; or any compound, mixture, or preparation which contains any quantity of
38 any of the foregoing substances; or

39 (3) Twenty-four grams or more of a mixture or substance described in subdivision (2)
40 of this subsection which contains cocaine base; or

41 (4) One gram or more of a mixture or substance containing a detectable amount of
42 lysergic acid diethylamide (LSD); or

43 (5) Ninety grams or more of a mixture or substance containing a detectable amount of
44 phencyclidine (PCP); or

45 (6) Twelve grams or more of phencyclidine; or

46 (7) One hundred kilograms or more of a mixture or substance containing marijuana; or

47 (8) Ninety grams or more of any material, compound, mixture, or preparation containing
48 any quantity of the following substances having a stimulant effect on the central nervous system:
49 amphetamine, its salts, optical isomers and salts of its optical isomers; methamphetamine, its
50 salts, optical isomers and salts of its optical isomers; phenmetrazine and its salts; or
51 methylphenidate; or

52 (9) More than thirty grams of any material, compound, mixture, or preparation
53 containing any quantity of the following substances having a stimulant effect on the central
54 nervous system: amphetamine, its salts, optical isomers, and salts of its optical isomers;
55 methamphetamine, its salts, optical isomers, and salts of its optical isomers; phenmetrazine and
56 its salts; or methylphenidate, and the location of the offense was within two thousand feet of real
57 property comprising a public or private elementary, vocational, or secondary school, college,
58 community college, university, or any school bus, in or on the real property comprising public
59 housing or any other governmental assisted housing, or within a motor vehicle, or in any
60 structure or building which contains rooms furnished for the accommodation or lodging of
61 guests, and kept, used, maintained, advertised, or held out to the public as a place where sleeping
62 accommodations are sought for pay or compensation to transient guests or permanent guests; or

63 (10) Ninety grams or more of any material, compound, mixture or preparation which
64 contains any quantity of 3,4-methylenedioxymethamphetamine; or

65 (11) More than thirty grams of any material, compound, mixture, or preparation which
66 contains any quantity of 3,4-methylenedioxymethamphetamine and the location of the offense
67 was within two thousand feet of real property comprising a public or private elementary,
68 vocational, or secondary school, college, community college, university, or any school bus, in
69 or on the real property comprising public housing or any other governmental assisted housing,
70 within a motor vehicle, or in any structure or building which contains rooms furnished for the
71 accommodation or lodging of guests, and kept, used, maintained, advertised, or held out to the

72 public as a place where sleeping accommodations are sought for pay or compensation to transient
73 guests or permanent guests.

579.068. 1. A person commits the offense of trafficking drugs in the second degree if,
2 except as authorized by this chapter or chapter 195, such person knowingly possesses or has
3 under his or her control, purchases or attempts to purchase, or brings into this state:

4 (1) More than thirty grams [~~but less than ninety grams~~] of a mixture or substance
5 containing a detectable amount of heroin;

6 (2) More than one hundred fifty grams [~~but less than four hundred fifty grams~~] of a
7 mixture or substance containing a detectable amount of coca leaves, except coca leaves and
8 extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts
9 have been removed; cocaine salts and their optical and geometric isomers, and salts of isomers;
10 ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture,
11 or preparation which contains any quantity of any of the foregoing substances;

12 (3) More than eight grams [~~but less than twenty-four grams~~] of a mixture or substance
13 described in subdivision (2) of this subsection which contains cocaine base;

14 (4) More than five hundred milligrams [~~but less than one gram~~] of a mixture or substance
15 containing a detectable amount of lysergic acid diethylamide (LSD);

16 (5) More than thirty grams [~~but less than ninety grams~~] of a mixture or substance
17 containing a detectable amount of phencyclidine (PCP);

18 (6) More than four grams [~~but less than twelve grams~~] of phencyclidine;

19 (7) More than thirty kilograms [~~but less than one hundred kilograms~~] of a mixture or
20 substance containing marijuana;

21 (8) More than thirty grams [~~but less than ninety grams~~] of any material, compound,
22 mixture, or preparation containing any quantity of the following substances having a stimulant
23 effect on the central nervous system: amphetamine, its salts, optical isomers and salts of its
24 optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers;
25 phenmetrazine and its salts; or methylphenidate; or

26 (9) More than thirty grams [~~but less than ninety grams~~] of any material, compound,
27 mixture, or preparation which contains any quantity of 3,4-methylenedioxymethamphetamine.

28 2. The offense of trafficking drugs in the second degree is a class C felony.

29 3. The offense of trafficking drugs in the second degree is a class B felony if the quantity
30 involved is:

31 (1) Ninety grams or more of a mixture or substance containing a detectable amount of
32 heroin; or

33 (2) Four hundred fifty grams or more of a mixture or substance containing a detectable
34 amount of coca leaves, except coca leaves and extracts of coca leaves from which cocaine,

35 ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine salts and their
36 optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers,
37 and salts of isomers; or any compound, mixture, or preparation which contains any quantity of
38 any of the foregoing substances; or

39 (3) Twenty-four grams or more of a mixture or substance described in subdivision (2)
40 of this subsection which contains cocaine base; or

41 (4) One gram or more of a mixture or substance containing a detectable amount of
42 lysergic acid diethylamide (LSD); or

43 (5) Ninety grams or more of a mixture or substance containing a detectable amount of
44 phencyclidine (PCP); or

45 (6) Twelve grams or more of phencyclidine; or

46 (7) One hundred kilograms or more of a mixture or substance containing marijuana; or

47 (8) More than five hundred marijuana plants; or

48 (9) Ninety grams or more but less than four hundred fifty grams of any material,
49 compound, mixture, or preparation containing any quantity of the following substances having
50 a stimulant effect on the central nervous system: amphetamine, its salts, optical isomers and salts
51 of its optical isomers; methamphetamine, its salts, optical isomers and salts of its optical isomers;
52 phenmetrazine and its salts; or methylphenidate; or

53 (10) Ninety grams or more but less than four hundred fifty grams of any material,
54 compound, mixture, or preparation which contains any quantity of
55 3,4-methylenedioxymethamphetamine.

56 4. The offense of trafficking drugs in the second degree is a class A felony if the quantity
57 involved is four hundred fifty grams or more of any material, compound, mixture or preparation
58 which contains:

59 (1) Any quantity of the following substances having a stimulant effect on the central
60 nervous system: amphetamine, its salts, optical isomers and salts of its optical isomers;
61 methamphetamine, its salts, isomers and salts of its isomers; phenmetrazine and its salts; or
62 methylphenidate; or

63 (2) Any quantity of 3,4-methylenedioxymethamphetamine.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation
2 Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court
3 proceeding filed in any court in the state in all criminal cases including violations of any county
4 ordinance or any violation of criminal or traffic laws of the state, including an infraction and
5 violation of a municipal ordinance; except that no such fee shall be collected in any proceeding
6 in any court when the proceeding or the defendant has been dismissed by the court or when costs
7 are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents

8 shall be assessed as costs in a juvenile court proceeding in which a child is found by the court
9 to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031.

10 2. Notwithstanding any other provision of law to the contrary, the moneys collected by
11 clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected
12 and disbursed in accordance with sections 488.010 to 488.020 and shall be payable to the
13 director of the department of revenue.

14 3. The director of revenue shall deposit annually the amount of two hundred fifty
15 thousand dollars to the state forensic laboratory account administered by the department of public
16 safety to provide financial assistance to defray expenses of crime laboratories if such analytical
17 laboratories are registered with the federal Drug Enforcement Agency or the Missouri department
18 of health and senior services. Subject to appropriations made therefor, such funds shall be
19 distributed by the department of public safety to the crime laboratories serving the courts of this
20 state making analysis of a controlled substance or analysis of blood, breath or urine in relation
21 to a court proceeding.

22 4. The remaining funds collected under subsection 1 of this section shall be denoted to
23 the payment of an annual appropriation for the administrative and operational costs of the office
24 for victims of crime and, if a statewide automated crime victim notification system is established
25 pursuant to section 650.310, to the monthly payment of expenditures actually incurred in the
26 operation of such system. Additional remaining funds shall be subject to the following
27 provisions:

28 (1) On the first of every month, the director of revenue or the director's designee shall
29 determine the balance of the funds in the crime victims' compensation fund available to satisfy
30 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
31 595.050 and 595.055;

32 (2) Beginning on September 1, 2004, and on the first of each month, the director of
33 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
34 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
35 fund established in section 595.100.

36 5. The director of revenue or such director's designee shall at least monthly report the
37 moneys paid pursuant to this section into the crime victims' compensation fund and the services
38 to victims fund to the department of public safety.

39 6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this
40 section shall be collected and disbursed as provided by sections 488.010 to 488.020. Five percent
41 of such moneys shall be payable to the city treasury of the city from which such funds were
42 collected. The remaining ninety-five percent of such moneys shall be payable to the director of

43 revenue. The funds received by the director of revenue pursuant to this subsection shall be
44 distributed as follows:

45 (1) On the first of every month, the director of revenue or the director's designee shall
46 determine the balance of the funds in the crime victims' compensation fund available to satisfy
47 the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections
48 595.050 and 595.055;

49 (2) Beginning on September 1, 2004, and on the first of each month the director of
50 revenue or the director's designee shall deposit fifty percent of the balance of funds available to
51 the credit of the crime victims' compensation fund and fifty percent to the services to victims'
52 fund established in section 595.100.

53 7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such
54 audit shall include all records associated with crime victims' compensation funds collected, held
55 or disbursed by any state agency.

56 8. In addition to the moneys collected pursuant to subsection 1 of this section, the court
57 shall enter a judgment in favor of the state of Missouri, payable to the crime victims'
58 compensation fund, of sixty-eight dollars upon a plea of guilty or a finding of guilt for a class
59 A or B felony; forty-six dollars upon a plea of guilty or finding of guilt for a class C ~~[or]~~ , D, or
60 E felony; and ten dollars upon a plea of guilty or a finding of guilt for any misdemeanor under
61 Missouri law except for those in chapter 252 relating to fish and game, chapter 302 relating to
62 drivers' and commercial drivers' license, chapter 303 relating to motor vehicle financial
63 responsibility, chapter 304 relating to traffic regulations, chapter 306 relating to watercraft
64 regulation and licensing, and chapter 307 relating to vehicle equipment regulations. Any clerk
65 of the court receiving moneys pursuant to such judgments shall collect and disburse such crime
66 victims' compensation judgments in the manner provided by sections 488.010 to 488.020. Such
67 funds shall be payable to the state treasury and deposited to the credit of the crime victims'
68 compensation fund.

69 9. The clerk of the court processing such funds shall maintain records of all dispositions
70 described in subsection 1 of this section and all dispositions where a judgment has been entered
71 against a defendant in favor of the state of Missouri in accordance with this section; all payments
72 made on judgments for alcohol-related traffic offenses; and any judgment or portion of a
73 judgment entered but not collected. These records shall be subject to audit by the state auditor.
74 The clerk of each court transmitting such funds shall report separately the amount of dollars
75 collected on judgments entered for alcohol-related traffic offenses from other crime victims'
76 compensation collections or services to victims collections.

77 10. The department of revenue shall maintain records of funds transmitted to the crime
78 victims' compensation fund by each reporting court and collections pursuant to subsection 16 of
79 this section and shall maintain separate records of collection for alcohol-related offenses.

80 11. The state courts administrator shall include in the annual report **form** required by
81 section ~~[476.350]~~ **476.412** the circuit court caseloads and the number of crime victims'
82 compensation judgments entered.

83 12. All awards made to injured victims under sections 595.010 to 595.105 and all
84 appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and
85 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance
86 remaining in the crime victims' compensation fund at the end of each biennium shall not be
87 subject to the provision of section 33.080 requiring the transfer of such unexpended balance to
88 the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund.
89 In the event that there are insufficient funds in the crime victims' compensation fund to pay all
90 claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime
91 victims' compensation fund, then no claim shall be paid until funds have again accumulated in
92 the crime victims' compensation fund. When sufficient funds become available from the fund,
93 awards which have not been paid shall be paid in chronological order with the oldest paid first.
94 In the event an award was to be paid in installments and some remaining installments have not
95 been paid due to a lack of funds, then when funds do become available that award shall be paid
96 in full. All such awards on which installments remain due shall be paid in full in chronological
97 order before any other postdated award shall be paid. Any award pursuant to this subsection is
98 specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime
99 victims' compensation fund.

100 13. When judgment is entered against a defendant as provided in this section and such
101 sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement,
102 payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to
103 such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be
104 paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall
105 be entered on the court record. Under no circumstances shall the general revenue fund be used
106 to reimburse court costs or pay for such judgment. The director of the department of corrections
107 shall have the authority to pay into the crime victims' compensation fund from an offender's
108 compensation or account the amount owed by the offender to the crime victims' compensation
109 fund, provided that the offender has failed to pay the amount owed to the fund prior to entering
110 a correctional facility of the department of corrections.

111 14. All interest earned as a result of investing funds in the crime victims' compensation
112 fund shall be paid into the crime victims' compensation fund and not into the general revenue of
113 this state.

114 15. Any person who knowingly makes a fraudulent claim or false statement in
115 connection with any claim hereunder is guilty of a class A misdemeanor.

116 16. The department may receive gifts and contributions for the benefit of crime victims.
117 Such gifts and contributions shall be credited to the crime victims' compensation fund as used
118 solely for compensating victims under the provisions of sections 595.010 to 595.075.

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