

SECOND REGULAR SESSION

SENATE BILL NO. 983

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6189S.011

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303.025, 488.029, 556.061, 565.252, 577.001, 577.010, 2 577.013, 577.014, 579.065, 579.068, and 595.045, RSMo, are repealed and eleven 3 new sections enacted in lieu thereof, to be known as sections 303.025, 488.029, 4 556.061, 565.252, 577.001, 577.010, 577.013, 577.014, 579.065, 579.068, and 5 595.045, to read as follows:

303.025. 1. No owner of a motor vehicle registered in this state, or 2 required to be registered in this state, shall operate, register or maintain 3 registration of a motor vehicle, or permit another person to operate such vehicle, 4 unless the owner maintains the financial responsibility which conforms to the 5 requirements of the laws of this state. No nonresident shall operate or permit 6 another person to operate in this state a motor vehicle registered to such 7 nonresident unless the nonresident maintains the financial responsibility which 8 conforms to the requirements of the laws of the nonresident's state of 9 residence. Furthermore, no person shall operate a motor vehicle owned by 10 another with the knowledge that the owner has not maintained financial 11 responsibility unless such person has financial responsibility which covers the 12 person's operation of the other's vehicle; however, no owner or nonresident shall 13 be in violation of this subsection if he or she fails to maintain financial 14 responsibility on a motor vehicle which is inoperable or being stored and not in 15 operation. The director may prescribe rules and regulations for the

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 implementation of this section.

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

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

36 (1) Enter an order suspending the driving privilege as of the date of the
37 court order. If the court orders the suspension of the driving privilege, the court
38 shall require the defendant to surrender to it any driver's license then held by
39 such person. The length of the suspension shall be as prescribed in subsection
40 2 of section 303.042. The court shall forward to the director of revenue the order
41 of suspension of driving privilege and any license surrendered within ten days;

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

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

51 (4) For a nonresident, suspend the nonresident's driving privileges in this

52 state in accordance with section 303.030 and notify the official in charge of the
53 issuance of licenses and registration certificates in the state in which such
54 nonresident resides in accordance with section 303.080.

55 4. Nothing in sections 303.010 to 303.050, 303.060, 303.140, 303.220,
56 303.290, 303.330 and 303.370 shall be construed as prohibiting the department
57 of insurance, financial institutions and professional registration from approving
58 or authorizing those exclusions and limitations which are contained in automobile
59 liability insurance policies and the uninsured motorist provisions of automobile
60 liability insurance policies.

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

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

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

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

6 (2) "Affirmative defense":

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

9 (b) If the defense is submitted to the trier of fact the defendant has the
10 burden of 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
13 supported by evidence; and

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

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

21 (5) "Computer", the box that houses the central processing unit (CPU),
22 along with any internal storage devices, such as internal hard drives, and
23 internal communication devices, such as internal modems capable of sending or
24 receiving electronic mail or fax cards, along with any other hardware stored or
25 housed internally. Thus, computer refers to hardware, software and data
26 contained in the main unit. Printers, external modems attached by cable to the
27 main unit, monitors, and other external attachments will be referred to
28 collectively as peripherals and discussed individually when appropriate. When
29 the computer and all peripherals are referred to as a package, the term "computer
30 system" is used. Information refers to all the information on a computer system
31 including both software applications and data;

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

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

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

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

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

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

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

65 (13) "Confinement":

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

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

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

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

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

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

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

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

84 (a) It is given by a person who lacks the mental capacity to authorize the
85 conduct charged to constitute the offense and such mental incapacity is manifest

86 or known to the actor; or

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

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

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

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

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

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

103 (19) "Dangerous felony", the felonies of arson in the first degree, assault
104 in the first degree, attempted rape in the first degree if physical injury results,
105 attempted forcible rape if physical injury results, attempted sodomy in the first
106 degree if physical injury results, attempted forcible sodomy if physical injury
107 results, rape in the first degree, forcible rape, sodomy in the first degree, forcible
108 sodomy, assault in the second degree if the victim of such assault is a special
109 victim as defined in subdivision (14) of section 565.002, kidnapping in the first
110 degree, kidnapping, murder in the second degree, assault of a law enforcement
111 officer in the first degree, domestic assault in the first degree, elder abuse in the
112 first degree, robbery in the first degree, statutory rape in the first degree [when]
113 **if** the victim is a child less than twelve years of age at the time of the commission
114 of the act giving rise to the offense, statutory sodomy in the first degree [when]
115 **if** the victim is a child less than twelve years of age at the time of the commission
116 of the act giving rise to the offense, child molestation in the first or second
117 degree, abuse of a child if the child dies as a result of injuries sustained from
118 conduct chargeable under section 568.060, child kidnapping, **or** parental
119 kidnapping committed by detaining or concealing the whereabouts of the child for
120 not less than one hundred twenty days under section 565.153[, and an]. **A**
121 **"dangerous felony" shall also include any "intoxication-related traffic**

122 offense" or "intoxication-related boating offense" if:

123 **(a)** The person is found to be a "habitual offender" or "habitual boating
124 offender" as such terms are defined in section 577.001; **or**

125 **(b) The person causes the death of:**

126 **a. Any person not a passenger in the vehicle or vessel operated**
127 **by the defendant;**

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

129 **c. Any other person while the defendant had a blood alcohol**
130 **content of at least eighteen-hundredths of one percent by weight of**
131 **alcohol in his or her blood;**

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

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

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

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

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

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

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

155 (27) "Forcible compulsion" either:

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

157 (b) A threat, express or implied, that places a person in reasonable fear

158 of death, serious physical injury or kidnapping of such person or another person;
159 (28) "Incapacitated", a temporary or permanent physical or mental
160 condition in which a person is unconscious, unable to appraise the nature of his
161 or her conduct, or unable to communicate unwillingness to an act;
162 (29) "Infraction", a violation defined by this code or by any other statute
163 of this state if it is so designated or if no sentence other than a fine, or fine and
164 forfeiture or other civil penalty, is authorized upon conviction;
165 (30) "Inhabitable structure", a vehicle, vessel or structure:
166 (a) Where any person lives or carries on business or other calling; or
167 (b) Where people assemble for purposes of business, government,
168 education, religion, entertainment, or public transportation; or
169 (c) Which is used for overnight accommodation of persons.
170 Any such vehicle, vessel, or structure is inhabitable regardless of whether a
171 person is actually present. If a building or structure is divided into separately
172 occupied units, any unit not occupied by the actor is an inhabitable structure of
173 another;
174 (31) "Knowingly", when used with respect to:
175 (a) Conduct or attendant circumstances, means a person is aware of the
176 nature of his or her conduct or that those circumstances exist; or
177 (b) A result of conduct, means a person is aware that his or her conduct
178 is practically certain to cause that result;
179 (32) "Law enforcement officer", any public servant having both the power
180 and duty to make arrests for violations of the laws of this state, and federal law
181 enforcement officers authorized to carry firearms and to make arrests for
182 violations of the laws of the United States;
183 (33) "Misdemeanor", an offense so designated or an offense for which
184 persons found guilty thereof may be sentenced to imprisonment for a term of
185 which the maximum is one year or less;
186 (34) "Of another", property that any entity, including but not limited to
187 any natural person, corporation, limited liability company, partnership,
188 association, governmental subdivision or instrumentality, other than the actor,
189 has a possessory or proprietary interest therein, except that property shall not
190 be deemed property of another who has only a security interest therein, even if
191 legal title is in the creditor pursuant to a conditional sales contract or other
192 security arrangement;
193 (35) "Offense", any felony or misdemeanor;

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

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

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

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

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

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

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

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

228 (44) "Serious physical injury", physical injury that creates a substantial
229 risk of death or that causes serious disfigurement or protracted loss or

230 impairment of the function of any part of the body;

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

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

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

240 (48) "Vessel", any boat or craft propelled by a motor or by machinery,
241 whether or not such motor or machinery is a principal source of propulsion used
242 or capable of being used as a means of transportation on water, or any boat or
243 craft more than twelve feet in length which is powered by sail alone or by a
244 combination of sail and machinery, and used or capable of being used as a means
245 of transportation on water, but not any boat or craft having, as the only means
246 of propulsion, a paddle or oars;

247 (49) "Voluntary act":

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

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

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

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

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

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

11 2. Invasion of privacy is a class A misdemeanor [unless] **except in the**
12 **following circumstances, in which case invasion of privacy is a class E**
13 **felony:**

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

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

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

22 (4) The offense was committed by a person who has previously been found
23 guilty of invasion of privacy
24 [in which case invasion of privacy is a class E felony].

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

27 4. As used in this section, "same course of conduct" means more than one
28 person has been viewed, photographed, filmed, or videotaped under the same or
29 similar circumstances pursuant to one scheme or course of conduct, whether at
30 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
4 separate occasions; or

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

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

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

23 (4) "Court", any circuit, associate circuit, or municipal court, including
24 traffic court, but not any juvenile court or drug court;

25 (5) "Chronic offender", a person who has been found guilty of:

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

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

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

39 (6) "Chronic boating offender", a person who has been found guilty of:

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

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

46 (c) Two or more intoxication-related boating offenses committed on
47 separate occasions where both intoxication-related boating offenses were offenses
48 committed in violation of any state law, county or municipal ordinance, any

49 federal offense, or any military offense in which the defendant was operating a
50 vessel while intoxicated and another person was injured or killed;

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

56 (8) "Controlled substance", a drug, substance, or immediate precursor in
57 schedules I to V listed in section 195.017;

58 (9) "Drive", "driving", "operates" or "operating", physically driving or
59 operating a vehicle or vessel;

60 (10) "Flight crew member", the pilot in command, copilots, flight
61 engineers, and flight navigators;

62 (11) "Habitual offender", a person who has been found guilty of:

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

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

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

76 (12) "Habitual boating offender", a person who has been found guilty of:

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

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

83 (c) Three or more intoxication-related boating offenses committed on
84 separate occasions where at least two of the intoxication-related boating offenses

85 were offenses committed in violation of any state law, county or municipal
86 ordinance, any federal offense, or any military offense in which the defendant was
87 operating a vessel while intoxicated and another person was injured or killed; [or

88 (d) While boating while intoxicated, the defendant acted with criminal
89 negligence to:

90 a. Cause the death of any person not a passenger in the vessel operated
91 by the defendant, including the death of an individual that results from the
92 defendant's vessel leaving the water; or

93 b. Cause the death of two or more persons; or

94 c. Cause the death of any person while he or she has a blood alcohol
95 content of at least eighteen-hundredths of one percent by weight of alcohol in
96 such person's blood;]

97 (13) "Intoxicated" or "intoxicated condition", when a person is under the
98 influence of alcohol, a controlled substance, or drug, or any combination thereof;

99 (14) "Intoxication-related boating offense", operating a vessel while
100 intoxicated; boating while intoxicated; operating a vessel with excessive blood
101 alcohol content or an offense in which the defendant was operating a vessel while
102 intoxicated and another person was injured or killed in violation of any state law,
103 county or municipal ordinance, any federal offense, or any military offense;

104 (15) "Intoxication-related traffic offense", driving while intoxicated,
105 driving with excessive blood alcohol content, driving under the influence of
106 alcohol or drugs in violation of a state law, county or municipal ordinance, any
107 federal offense, or any military offense, or an offense in which the defendant was
108 operating a vehicle while intoxicated and another person was injured or killed in
109 violation of any state law, county or municipal ordinance, any federal offense, or
110 any military offense;

111 (16) "Law enforcement officer" or "arresting officer", includes the
112 definition of law enforcement officer in section 556.061 and military policemen
113 conducting traffic enforcement operations on a federal military installation under
114 military jurisdiction in the state of Missouri;

115 (17) "Operate a vessel", to physically control the movement of a vessel in
116 motion under mechanical or sail power in water;

117 (18) "Persistent offender", a person who has been found guilty of:

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

120 (b) One intoxication-related traffic offense committed in violation of any

121 state law, county or municipal ordinance, federal offense, or military offense in
122 which the defendant was operating a vehicle while intoxicated and another person
123 was injured or killed;

124 (19) "Persistent boating offender", a person who has been found guilty of:

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

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

131 (20) "Prior offender", a person who has been found guilty of one
132 intoxication-related traffic offense, where such prior offense occurred within five
133 years of the occurrence of the intoxication-related traffic offense for which the
134 person is charged;

135 (21) "Prior boating offender", a person who has been found guilty of one
136 intoxication-related boating offense, where such prior offense occurred within five
137 years of the occurrence of the intoxication-related boating offense for which the
138 person is charged.

577.010. 1. A person commits the offense of driving while intoxicated if
2 he or she 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
11 negligence to cause 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
15 negligence to cause physical injury to a law enforcement officer or emergency
16 personnel; or

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

19 (5) A class C felony if:

20 (a) The defendant is a chronic offender;

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

24 (c) While driving while intoxicated, the defendant acts with criminal
25 negligence to cause the death of another person;

26 (6) A class B felony if:

27 (a) The defendant is a habitual offender;

28 (b) While driving while intoxicated, the defendant acts with criminal
29 negligence to cause the death of a law enforcement officer or emergency
30 personnel;

31 (c) While driving while intoxicated, the defendant acts with criminal
32 negligence to cause the death of any person not a passenger in the vehicle
33 operated by the defendant, including the death of an individual that results from
34 the defendant's vehicle leaving a highway, as defined in section 301.010, or the
35 highway's right-of-way;

36 (d) While driving while intoxicated, the defendant acts with criminal
37 negligence to cause the death of two or more persons; or

38 (e) While driving while intoxicated, the defendant acts with criminal
39 negligence to cause the death of any person while he or she has a blood alcohol
40 content of at least eighteen-hundredths of one percent by weight of alcohol in
41 such person's blood;

42 (7) A class A felony if the defendant has previously been found guilty of
43 an offense under paragraphs (a) to (e) of subdivision (6) of this subsection and is
44 found guilty of a subsequent violation of such paragraphs.

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

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

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

55 program.

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

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

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

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

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

69 (1) [As a prior offender, persistent offender, aggravated offender, chronic
70 offender, or habitual offender] Shall not be granted a suspended imposition of
71 sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
72 557.011 to the contrary notwithstanding, **if:**

73 **(a) The offender is a prior offender, persistent offender,**
74 **aggravated offender, chronic offender, or habitual offender; or**

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

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

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

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

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

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

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

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

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

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

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

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

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

577.013. 1. A person commits the offense of boating while intoxicated if
2 he or she 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
11 negligence to cause 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
15 negligence to cause physical injury to a law enforcement officer or emergency
16 personnel; or

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

19 (5) A class C felony if:

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

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

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

26 (6) A class B felony if:

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

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

30 a. A law enforcement officer or emergency personnel; **or**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

70 (a) Unless as a condition of such parole or probation such person performs
71 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
73 service; or

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

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

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

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

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

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

91 (6) Any probation or parole granted under this subsection may include a
92 period of continuous alcohol monitoring or verifiable breath alcohol testing

93 performed a minimum of four times per day.

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

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

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

11 (1) A class B misdemeanor;

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

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

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

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

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

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

25 **(b) Two or more persons; or**

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

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

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

34 (2) In a circuit where a DWI court or docket created under section 478.007
35 or other court-ordered treatment program is available, and where the offense was

36 committed with fifteen-hundredths of one percent or more by weight of alcohol in
37 such person's blood unless the individual participates in and successfully
38 completes a program under such DWI court or docket or other court-ordered
39 treatment program.

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

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

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

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

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

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

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

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

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

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

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

72 service; or

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

76 (4) As an aggravated boating offender, shall not be eligible for parole or
77 probation until 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
79 parole or probation until he or she has served a minimum of two years
80 imprisonment; and

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

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

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

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

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

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

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

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

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

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

31 (9) More than thirty grams [but less than ninety grams] of any material,
32 compound, mixture, or preparation which contains any quantity of
33 3,4-methylenedioxymethamphetamine.

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

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

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

39 (2) Four hundred fifty grams or more of a mixture or substance containing
40 a detectable amount of coca leaves, except coca leaves and extracts of coca leaves
41 from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been
42 removed; cocaine salts and their optical and geometric isomers, and salts of
43 isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any
44 compound, mixture, or preparation which contains any quantity of any of the
45 foregoing substances; or

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

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

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

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

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

55 (8) Ninety grams or more of any material, compound, mixture, or
56 preparation containing any quantity of the following substances having a
57 stimulant effect on the central nervous system: amphetamine, its salts, optical
58 isomers and salts of its optical isomers; methamphetamine, its salts, optical
59 isomers and salts of its optical isomers; phenmetrazine and its salts; or
60 methylphenidate; or

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

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

77 (11) More than thirty grams of any material, compound, mixture, or
78 preparation which contains any quantity of 3,4-methylenedioxymethamphetamine
79 and the location of the offense was within two thousand feet of real property
80 comprising a public or private elementary, vocational, or secondary school,
81 college, community college, university, or any school bus, in or on the real
82 property comprising public housing or any other governmental assisted housing,
83 within a motor vehicle, or in any structure or building which contains rooms
84 furnished for the accommodation or lodging of guests, and kept, used, maintained,
85 advertised, or held out to the public as a place where sleeping accommodations
86 are sought for pay or compensation to transient guests or permanent guests.

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

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

7 (2) More than one hundred fifty grams [but less than four hundred fifty
8 grams] of a mixture or substance containing a detectable amount of coca leaves,
9 except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
10 derivatives of ecgonine or their salts have been removed; cocaine salts and their

11 optical and geometric isomers, and salts of isomers; ecgonine, its derivatives,
12 their salts, isomers, and salts of isomers; or any compound, mixture, or
13 preparation which contains any quantity of any of the foregoing substances;

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

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

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

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

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

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

31 (9) More than thirty grams [but less than ninety grams] of any material,
32 compound, mixture, or preparation which contains any quantity of
33 3,4-methylenedioxymethamphetamine.

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

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

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

39 (2) Four hundred fifty grams or more of a mixture or substance containing
40 a detectable amount of coca leaves, except coca leaves and extracts of coca leaves
41 from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been
42 removed; cocaine salts and their optical and geometric isomers, and salts of
43 isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any
44 compound, mixture, or preparation which contains any quantity of any of the
45 foregoing substances; or

46 (3) Twenty-four grams or more of a mixture or substance described in

- 47 subdivision (2) of this subsection which contains cocaine base; or
- 48 (4) One gram or more of a mixture or substance containing a detectable
49 amount of lysergic acid diethylamide (LSD); or
- 50 (5) Ninety grams or more of a mixture or substance containing a
51 detectable amount of phencyclidine (PCP); or
- 52 (6) Twelve grams or more of phencyclidine; or
- 53 (7) One hundred kilograms or more of a mixture or substance containing
54 marijuana; or
- 55 (8) More than five hundred marijuana plants; or
- 56 (9) Ninety grams or more but less than four hundred fifty grams of any
57 material, compound, mixture, or preparation containing any quantity of the
58 following substances having a stimulant effect on the central nervous system:
59 amphetamine, its salts, optical isomers and salts of its optical isomers;
60 methamphetamine, its salts, optical isomers and salts of its optical isomers;
61 phenmetrazine and its salts; or methylphenidate; or
- 62 (10) Ninety grams or more but less than four hundred fifty grams of any
63 material, compound, mixture, or preparation which contains any quantity of
64 3,4-methylenedioxymethamphetamine.

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

- 68 (1) Any quantity of the following substances having a stimulant effect on
69 the central nervous system: amphetamine, its salts, optical isomers and salts of
70 its optical isomers; methamphetamine, its salts, isomers and salts of its isomers;
71 phenmetrazine and its salts; or methylphenidate; or
- 72 (2) Any quantity of 3,4-methylenedioxymethamphetamine.

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

11 applicable provisions of subdivision (3) of subsection 1 of section 211.031.

12 2. Notwithstanding any other provision of law to the contrary, the moneys
13 collected by clerks of the courts pursuant to the provisions of subsection 1 of this
14 section shall be collected and disbursed in accordance with sections 488.010 to
15 488.020 and shall be payable to the director of the department of revenue.

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

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

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

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

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

43 6. The moneys collected by clerks of municipal courts pursuant to
44 subsection 1 of this section shall be collected and disbursed as provided by
45 sections 488.010 to 488.020. Five percent of such moneys shall be payable to the
46 city treasury of the city from which such funds were collected. The remaining

47 ninety-five percent of such moneys shall be payable to the director of
48 revenue. The funds received by the director of revenue pursuant to this
49 subsection shall be distributed as follows:

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

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

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

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

76 9. The clerk of the court processing such funds shall maintain records of
77 all dispositions described in subsection 1 of this section and all dispositions where
78 a judgment has been entered against a defendant in favor of the state of Missouri
79 in accordance with this section; all payments made on judgments for
80 alcohol-related traffic offenses; and any judgment or portion of a judgment
81 entered but not collected. These records shall be subject to audit by the state
82 auditor. The clerk of each court transmitting such funds shall report separately

83 the amount of dollars collected on judgments entered for alcohol-related traffic
84 offenses from other crime victims' compensation collections or services to victims
85 collections.

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

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

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

113 13. When judgment is entered against a defendant as provided in this
114 section and such sum, or any part thereof, remains unpaid, there shall be
115 withheld from any disbursement, payment, benefit, compensation, salary, or other
116 transfer of money from the state of Missouri to such defendant an amount equal
117 to the unpaid amount of such judgment. Such amount shall be paid forthwith to
118 the crime victims' compensation fund and satisfaction of such judgment shall be

119 entered on the court record. Under no circumstances shall the general revenue
120 fund be used to reimburse court costs or pay for such judgment. The director of
121 the department of corrections shall have the authority to pay into the crime
122 victims' compensation fund from an offender's compensation or account the
123 amount owed by the offender to the crime victims' compensation fund, provided
124 that the offender has failed to pay the amount owed to the fund prior to entering
125 a correctional facility of the department of corrections.

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

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

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

Bill ✓

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