

SECOND REGULAR SESSION

SENATE BILL NO. 1028

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

Read 1st time February 20, 2020, and ordered printed.

ADRIANE D. CROUSE, Secretary.

5533S.011

AN ACT

To repeal sections 577.010 and 577.012, RSMo, and to enact in lieu thereof two new sections relating to community service requirements for certain offenders, with penalty provisions.

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

Section A. Sections 577.010 and 577.012, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 577.010 and 577.012, to read as follows:

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

2. The offense of driving while intoxicated is:

(1) A class B misdemeanor;

(2) A class A misdemeanor if:

(a) The defendant is a prior offender; or

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

(3) A class E felony if:

(a) The defendant is a persistent offender; or

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

(4) A class D felony if:

(a) The defendant is an aggravated offender;

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

(c) While driving while intoxicated, the defendant acts with criminal 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;

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

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

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

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

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

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

91 of community service under the supervision of the court;

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

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

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

577.012. 1. A person commits the offense of driving with excessive blood
2 alcohol content if such person operates:

3 (1) A vehicle while having eight-hundredths of one percent or more by
4 weight of alcohol in his or her blood; or

5 (2) A commercial motor vehicle while having four one-hundredths of one
6 percent or more by weight of alcohol in his or her blood.

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

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

14 (1) A class B misdemeanor;

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

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

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

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

23 (6) A class B felony if the defendant is alleged and proved to be a habitual
24 offender.

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

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

29 years; or

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

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

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

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

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

48 7. A person found guilty of driving with excessive blood alcohol content:

49 (1) As a prior offender, persistent offender, aggravated offender, chronic
50 offender or habitual offender shall not be granted a suspended imposition of
51 sentence or be sentenced to pay a fine in lieu of a term of imprisonment, section
52 557.011 to the contrary notwithstanding;

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

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

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

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

64 (a) Unless as a condition of such parole or probation such person performs

65 at least sixty days **involving at least four hundred eighty hours** of
66 community service under the supervision of the court in those jurisdictions which
67 have a recognized program for community service; or

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

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

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

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

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