

Chapter 342

ALCOHOL-RELATED TRAFFIC OFFENSES

Cross Reference—As to reimbursement of certain costs related to arrest under this chapter, see §125.330 of this Code.

Section 342.010. Definitions.

As used in this Chapter, the following terms shall have these prescribed meanings:

DRIVE, DRIVING, OPERATES OR OPERATING — Physically driving or operating a motor vehicle.

INTOXICATED CONDITION — A person is in an *"intoxicated condition"* when he/she is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

LAW ENFORCEMENT OFFICER OR ARRESTING OFFICER — Includes the definition of Law Enforcement Officer in Subdivision (17) of Section 556.061, RSMo., and Military Policemen conducting traffic enforcement operations on a Federal military installation under military jurisdiction in the State of Missouri.

Section 342.020. Driving While Intoxicated.

A person commits the offense of "driving while intoxicated" if he/she operates a motor vehicle while in an intoxicated or drugged condition. No person convicted of or pleading guilty to the offense of driving while intoxicated shall be granted a suspended imposition of sentence for such offense, unless such person shall be placed on probation for a minimum of two (2) years.

Section 342.030. Driving With Excessive Blood Alcohol Content.

- A. A person commits the offense of *"driving with excessive blood alcohol content"* if such person operates a motor vehicle in this City with eight-hundredths of one percent (.08%) or more by weight of alcohol in such person's blood.
- B. As used in this Section, *"percent by weight of alcohol"* in the blood shall be based upon grams of alcohol per one hundred (100) milliliters of blood or two hundred ten (210) 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, RSMo.

Section 342.040. Chemical Test For Alcohol Content — Consent Implied — Administered — When — How — Videotaping of Chemical or Field Sobriety Test Admissible Evidence.

- A. Any person who operates a motor vehicle upon the public highways of this City shall be deemed to have given consent to, subject to the provisions of Sections 577.020 to 577.041, RSMo., a chemical test or tests of the person's breath, blood, saliva or urine for the purpose of determining the alcohol or drug content of the person's blood pursuant to the following circumstances:
1. If the person is arrested for any offense arising out of acts which the arresting officer had reasonable grounds to believe were committed while the person was driving a motor vehicle while in an intoxicated or drugged condition;
 2. If the person is under the age of twenty-one (21), has been stopped by a Law Enforcement Officer, and the Law Enforcement Officer has reasonable grounds to believe that such person was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent (.02%) or more by weight;
 3. If the person is under the age of twenty-one (21), has been stopped by a Law Enforcement Officer, and the Law Enforcement Officer has reasonable grounds to believe that such person has committed a violation of the traffic laws of the State, or any political subdivision of the State, and such officer has reasonable grounds to believe, after making such stop, that such person has a blood alcohol content of two-hundredths of one percent (.02%) or greater; or
 4. If the person is under the age of twenty-one (21), has been stopped at a sobriety checkpoint or roadblock, and the Law Enforcement Officer has reasonable grounds to believe that such person has a blood alcohol content of two-hundredths of one percent (.02%) or greater. The test shall be administered at the direction of the Law Enforcement Officer whenever the person has been arrested or stopped for any reason.
- B. The implied consent to submit to the chemical tests listed in Subsection (A) of this Section shall be limited to not more than two (2) such tests arising from the same arrest, incident or charge.
- C. Chemical analysis of the person's breath, blood, saliva or urine to be considered valid pursuant to the provisions of Sections 577.020 to 577.041, RSMo., shall be performed according to methods approved by the State Department of Health by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health for this purpose.
- D. The person tested may have a physician, or a qualified technician, chemist, registered nurse or other qualified person at the choosing and expense of the person to be tested, administer a test in addition to any administered at the direction of a Law Enforcement Officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test taken at the direction of a Law Enforcement Officer.

- E. Upon the request of the person who is tested, full information concerning the test shall be made available to him/her.
- F. Any person given a chemical test of the person's breath pursuant to Subsection (A) of this Section or a field sobriety test may be videotaped during any such test at the direction of the Law Enforcement Officer. Any such video recording made during the chemical test pursuant to this Subsection or a field sobriety test shall be admissible as evidence for a violation of any municipal ordinance, or any license revocation or suspension proceeding pursuant to the provisions of Chapter 302, RSMo.

Section 342.050. Consumption of Alcoholic Beverages in Moving Motor Vehicle — Prohibited When.

- A. No person shall consume any alcoholic beverage while operating a moving motor vehicle upon the highways.
- B. Any person found guilty of violating the provisions of this Section is guilty of an infraction.
- C. Any infraction under this Section shall not reflect on any records with the Department of Revenue.

Section 342.060. Open Containers of Intoxicating Liquor — Prohibited — When.

- A. No driver or passenger in a motor vehicle shall transport, possess or have within the passenger area of said motor vehicle while on City highways, streets, alleys or other public property in the City any intoxicating liquor, malt liquor or non-intoxicating beer unless such intoxicating liquor, malt liquor or non-intoxicating beer shall be in the original, unopened container with the seal unbroken. The "passenger area" of a motor vehicle shall not include any area of the motor vehicle which is inaccessible to the driver or any other person in such vehicle while it is in motion. In the case of a pickup truck, the area behind the last upright seat shall not be considered accessible to the driver or any other person, provided that no person is occupying, sitting or standing in that area of the vehicle. In the case of a recreational motor vehicle, the living quarters shall not be considered accessible to the driver or any other person. This Section shall apply to any driver or passenger in a motor vehicle while on the above stated public property in the City whether the motor vehicle is parked, stopped or in motion. Provided however, this Section shall not apply to any passenger in a chartered bus where the driver of said bus is never in the possession of and has no ready access to intoxicating liquor, malt liquor or non-intoxicating beer.
- B. No driver or passenger shall consume intoxicating liquor, malt liquor or non-intoxicating beer while in a moving motor vehicle within the City. Provided however, this Section shall not apply to any passenger in a chartered bus where the driver of said bus is never in possession of and has no ready access to intoxicating liquor, malt liquor or non-intoxicating beer. This Section also shall not apply to any passenger in the living quarters of a recreational motor vehicle.