

## Chapter 342

### ALCOHOL-RELATED TRAFFIC OFFENSES

Cross Reference: As to reimbursement of certain costs related to arrest under this chapter, § 125.070(A)(10) 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 vehicle or vessel.

**INTOXICATED or INTOXICATED CONDITION** — When a person is under the influence of alcohol, a controlled substance, or drug, or any combination thereof.

**INTOXICATION-RELATED TRAFFIC OFFENSE** — Driving while intoxicated, driving with excessive blood alcohol content, driving under the influence of alcohol or drugs in violation of a State law, County or Municipal ordinance, any Federal offense, or any military offense, or an offense in which the defendant was operating a vehicle while intoxicated and another person was injured or killed in violation of any State law, County or Municipal ordinance, any Federal offense, or any military offense.

**LAW ENFORCEMENT OFFICER or ARRESTING OFFICER** — Includes the definition of "Law Enforcement Officer" in 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.**<sup>1</sup>

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

#### **Section 342.030. Driving With Excessive Blood Alcohol Content.**<sup>2</sup>

- A. A person commits the offense of driving with excessive blood alcohol content if such person operates:
1. A vehicle while having eight-hundredths of one percent (0.08%) or more by weight of alcohol in his or her blood; or

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1. Note: As to provisions concerning sentencing and suspended imposition of sentence under certain conditions, see § 577.010, RSMo.

2. Note: As to provisions concerning sentencing and suspended imposition of sentence under certain conditions, see § 577.012, RSMo.

2. A commercial motor vehicle while having four-hundredths of one percent (0.04%) or more by weight of alcohol in his or her 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. Consent Implied; Test Administered.

1. Any person who operates a motor vehicle upon the public highways of this City shall be deemed to have given consent, subject to the provisions of Sections 577.019 to 577.041, RSMo., to 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:
  - a. 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 operating a vehicle while in an intoxicated condition;
  - b. 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 operating a vehicle with a blood alcohol content of two-hundredths of one percent (0.02%) or more by weight;
  - c. 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 (0.02%) or greater;
  - d. 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 (0.02%) or greater; or
  - e. If the person, while operating a vehicle, has been involved in a collision or accident which resulted in a fatality or a readily apparent serious physical injury as defined in Section 556.061, RSMo., or has been arrested as evidenced by the issuance of a uniform traffic ticket for the violation of any State law or County or Municipal ordinance with the exception of equipment violations contained in Chapters 306 and 307, RSMo., or similar provisions contained in County or Municipal ordinances.

2. The test shall be administered at the direction of the Law Enforcement Officer whenever the person has been stopped, detained, or arrested 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 stop, detention, arrest, incident or charge.
  - C. To be considered valid, chemical analysis of the person's breath, blood, saliva, or urine shall be performed, according to methods approved by the State Department of Health and Senior Services, by licensed medical personnel or by a person possessing a valid permit issued by the State Department of Health and Senior Services 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 such person.
    1. "Full information" is limited to the following:
      - a. The type of test administered and the procedures followed;
      - b. The time of the collection of the blood, breath or urine sample analyzed;
      - c. The numerical results of the test indicating the alcohol content of the blood and breath and urine;
      - d. The type and status of any permit which was held by the person who performed the test;
      - e. If the test was administered by means of a breath-testing instrument, the date of the most recent maintenance of such instrument.
    2. "Full information" does not include manuals, schematics or software of the instrument used to test the person or any other material that is not in the actual possession of the State. Additionally, "full information" does not include information in the possession of the manufacturer of the test instrument.
  - 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 at any trial of such person for a violation of any State law or County or Municipal ordinance, and at any license revocation or suspension proceeding held pursuant to the provisions of Chapter 302, RSMo.

**Section 342.050. Consumption Of Alcoholic Beverages While Driving.**

- A. A person commits the offense of consumption of an alcoholic beverage while driving if he

or she operates a moving motor vehicle upon any public thoroughfare for vehicles, including State roads, County roads and public streets, avenues, boulevards, parkways or alleys in the City while consuming any alcoholic beverage.

- B. The offense of consumption of an alcoholic beverage while driving is an ordinance violation and shall not be reflected on any records maintained by the Department of Revenue.