

## Chapter 342

### ALCOHOL-RELATED TRAFFIC OFFENSES

Cross Reference — As to reimbursement of certain costs related to arrest under this chapter, §125.320 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. <sup>1</sup>

A person commits the offense of "*driving while intoxicated*" if he/she operates a motor vehicle while in an intoxicated or drugged 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 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 —

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

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

**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 577.019 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; or
  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; or
  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; or
  5. If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or a readily apparent serious physical injury as defined in Section 565.002, RSMo., and 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 Chapter 306, RSMo., or similar provisions contained in County or municipal ordinances; or
  6. If the person, while operating a motor vehicle, has been involved in a motor vehicle collision which resulted in a fatality or serious physical injury as defined in Section 565.002, RSMo.

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 577.019 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 such person. Full information is limited to the following:
  - 1. The type of test administered and the procedures followed;
  - 2. The time of the collection of the blood or breath sample or urine analyzed;
  - 3. The numerical results of the test indicating the alcohol content of the blood and breath and urine;
  - 4. The type and status of any permit which was held by the person who performed the test;
  - 5. If the test was administered by means of a breath testing instrument, the date of performance of the most recent required maintenance of such instrument.

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 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 ordinance violation.
- C. Any ordinance violation under this Section shall not reflect on any records with the Department of Revenue.

**Section 342.060. Transporting Open Container of Alcoholic Beverages Prohibited — When.** [R.O. 2013 §342.060; CC 1991 §240.150]

- A. No person shall knowingly transport in any vehicle operating upon a public highway, street or alley any alcoholic beverage except in the original container which shall not have been opened and the seal upon which shall not have been broken and from which the original cap or cork shall not have been removed, unless the opened container be in the rear trunk or rear compartment, which shall include the spare tire compartment or any outside compartment which is not accessible to the driver or any other person in such vehicle while it is in motion. In the case of a pickup truck, station wagon, hatchback, or other similar vehicle, the area behind the last upright seat shall not be considered accessible to the driver or any other person.
- B. No driver of a motor vehicle shall allow any alcoholic beverage to be consumed while in a moving motor vehicle, as defined in this Section, nor shall any person consume any alcoholic beverage while in a moving motor vehicle.
- C. Nothing in this Section shall be construed as to prohibit the otherwise legal consumption of alcoholic beverages by passengers on a privately or publicly owned transit authority that has been chartered and is not being utilized for conveyance of the general public where the operation and control of such conveyance is by a person not in possession of or with ready access to such alcoholic beverage.
- D. This Section shall not apply to the living quarters of a recreational motor vehicle as defined in Subsection (G).
- E. It shall be unlawful for any person to be in possession of an alcoholic beverage in an open container when upon or in a public highway, street, alley, public park, public place or public square.
- F. This City shall initiate and develop a program of public information to provide an understanding of, and to insure compliance with, the provisions of this Section.
- G. Definitions used in this Section are as follows:

**ALCOHOLIC BEVERAGE** — Includes alcohol for beverage purpose, alcoholic, spirituous, vinous, fermented, malt, or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented and to also include any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substance, preservatives and adulterants, and having any alcoholic content by weight or volume.

**MOTOR VEHICLE** — Any mechanical device on wheels designed primarily for use on highways, except motorized bicycles and vehicles propelled or drawn by human power, or vehicles used exclusively on fixed rails or tracks or cotton trailers.

**RECREATIONAL MOTOR VEHICLES** — Any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purpose of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle. Nothing herein shall prevent any motor vehicle being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered.

**Section 342.070. Operation of Motor Vehicles Without an Ignition Interlock Device — When.**

[Ord. No. 144-13 §1, 10-8-2013]

- A. It is unlawful for any person, unless expressly exempted by the terms of another Section of the Code of Ordinances, City of Tarkio, Missouri to operate any motor vehicle without a functioning, certified ignition interlock device when that person has been ordered by a court to equip any vehicle he/she operates with such a device.
  - 1. It is not a defense to any charge under this Section that the vehicle is rented, leased or lent by anyone.
  - 2. Missouri Department of Revenue records containing any entry requiring the use of the device, as provided by Sections 577.600 through 577.614, RSMo., shall be presumptive evidence of the requirement to have an ignition interlock device.
- B. It is unlawful for any person to request or solicit another person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle if the driving privilege of the person making the request is restricted pursuant to this Section.
- C. It is unlawful for any person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person whose driving privilege is restricted under Section 577.600, RSMo.
- D. It is unlawful for any person to tamper with, or circumvent the operation of an ignition interlock device.
- E. Any person who violates any provision of this Section is guilty of an ordinance violation.